

**FIP Indonesia: Continuing unanswered questions and concerns, violations of FIP criteria  
Seeking immediate response from the World Bank and International Finance Corporation**

**To :**

Ms. Joyita Mukherjee, Senior Operations Officer, IFC  
Dr. Michael Brady, East Asia Forestry Program Manager at IFC,  
Dr. Gerhard Dierterle, Forests Advisor, Agriculture and Rural Development,  
the World Bank Focal Point for the Implementation of the Forest Investment Program (FIP)  
Mr. Werner Kornexl, Senior Climate Change Specialist World Bank

October 30, 2013

For over two years we have closely monitored the development of the Forest Investment Plan in Indonesia. This plan, in addition to creating a serious potential threat to the environment and forest-dependent peoples, also directly and clearly violates FIP criteria (safeguards) namely: (1) the prohibition of FIP support for "industrial logging" in the natural forests, and (2) the FIP requirement for a process of eight stages of consultation comprising free and prior complete information, including in the design stage of the investment strategy. (See Annex II.)

Since early 2011, CSOs in Indonesia have been attempting to find information and provide feedback on the development of FIP and FIP documents through mail and at various meetings both in Indonesia and abroad. But until now it is still very difficult to obtain information that is clear, accurate, comprehensive and timely.

On 5 November 2012 in Istanbul, the Indonesian FIP was endorsed by the FIP Sub-Committee. The FIP Sub-Committee stated as part of its endorsement:

*"In particular, the Sub-Committee requests the Government of Indonesia and the MDBs to review and address the concerns raised by civil society organizations, indigenous peoples groups and local communities in Indonesia in the further development of projects and programs, and to ensure a continuous dialogue with interested stakeholder groups as those projects and programs are being developed."*

However, almost one year after the approval of the FIP Sub-Committee, we have still not received information on how the concerns raised by the civil society, including violations of FIP safeguards and guidelines, have been responded to and followed up with improvements of the investment plan document. There is also no response given to concerns about the flawed consultation process and transparency (including documentation of FPIC) in the process of designing FIP, FIP site selection and "partner" selection. These concerns were delivered via a formal letter addressed to the FIP team in February 2013, but there has never been a written response from the World Bank or IFC.

We request a direct response from the World Bank and the IFC, as public financial institutions supported by the taxpayers in many countries. The Bank and IFC must clarify about the various things that have been asked, especially about what has been done in Indonesia. Moreover, FIP standards and safeguards require that the World Bank and IFC indeed must implement public consultation and access to information in a manner that is as open and transparent to the public as possible.

We reiterate that we are still waiting for an answer in written form from the World Bank and International Finance Corporation to the questions that were raised earlier, mainly on the aspects which are stated in Annex I.

Please respond to all who are on the cc list via email.

Thank you, in advance, for your kind attention.

Sincerely,

Puspa Dewy, Solidaritas Perempuan (Women's Solidarity for Human Rights)

Rio Ismail, The Ecological Justice (Lembaga Keadilan Ekologi)

Stephanie Fried, Ulu Foundation

CC:

Executive Directors of the World Bank and IFC  
Tim Reiser, Senate Appropriations Committee  
Jon Stivers, House Democratic Leader Pelosi  
Dan McGlinchey, House Committee on Financial Services  
FIP Secretariat  
FIP CSO Observers  
FIP Sub-Committee Members  
US State Department

**Annex I:  
Questions for the World Bank and International Finance Corporation**

**First**, the FIP documents presented by the Indonesian FIP team in the meeting in Bogor, Indonesia, June 27 to 28, 2013, stated that the timeframe for the World Bank to prepare its forestry investment project would be in accordance with the following schedule:

<b>Stages</b>	<b>Steps</b>	<b>Indicative dates</b>
Preparation	Preparation Mission Preparation of Project Documents	December 2012 March 2013
Evaluation	Multilateral Review of documents	June 2013

	Improvement of project documents	September 2013
Approval by FIP SC	Submission of request for project approval	November 2013-10-29
Approval by WB Management	Submission to WB Management Signing of grant agreement with GOI	January 2014 March 2014

Referring to the above schedule, please explain:

1. What parts of this schedule have been implemented by the World Bank so far?
2. Has the Bank recognized the right of affected people to accept or reject the project (consent) and what is the mechanism for communities to exercise their right to decision making (accept/reject) about projects in indigenous (adat) forests or surrounding forests, in accordance with the principle of FPIC, safeguards of the WB, and the consultation requirements of FIP Design document (attached Annex II)?
3. The FIP Design Document requires an eight-part consultation process ( see Annex II ) for each investment strategy plan, program or FIP project. But until now these requirements have not been met, whether by the WB or FIP team. How can the WB claim that every step has been fulfilled? Please explain in detail, one by one, for each part of the eight steps of the FIP consultation requirements, complete with materials proving that the consultation requirements have been fulfilled.
4. Why is public consultation / FPIC not included in the schedule above?
5. Will the WB/ FIP project be submitted to the Board of the WB for approval?
6. What date will the project design documents be submitted to the SC FIP?
7. What date will the documents be published and consulted widely and openly in accordance with the terms and safeguards of WB and FIP?
8. What is the mechanism for the handling of public inputs according to the terms of FIP and WB safeguards, particularly with the FIP requirement which states that "conclusions and recommendations resulting from consultations should be integrated in the design and implementation of investment strategy , program or project" ? ( See Annex II )
9. What date will the document be submitted to Bank Management and the Board ?
10. When the draft document of the World Bank project is available, please make sure that the draft is distributed to receive inputs from indigenous communities, CSOs, and other observers of the project long before the documents are sent and approved by the FIP SC Board or the Management Board and the World Bank .
11. What date will the second draft be available for public consultation or to receive comments from the public?

### **Project Preparation Process in International Finance Corporation**

In the FIP Design Document there is a prohibition of FIP support for "industrial logging". In part VI of the criteria for strategies, programs and FIP investments projects, there is a requirement to maintain the integrity of the natural forest . Consistent with its objectives , FIP shall protect natural forests and must not support the conversion, deforestation or forest degradation through industrial logging, conversion of natural forests to plantations, forest conversion for other large scale agriculture programs. In particular, the FIP should protect the high conservation value of the forests .

According to the FIP Indonesia document, the total area which will be used as the FIP project area is estimated at about 1,950,000 acres. In a meeting in Bogor , East Asia Forestry Program Manager at IFC , Michael Brady , admitted that nearly half a century IFC did not support industrial logging in Indonesia. Nevertheless, IFC in Indonesia is planning a new FIP program to support industrial logging

in intact forests with an area of up to 700,000 hectares in Sumatra , Kalimantan , Java , Sulawesi and Papua , including in high- conflict areas such as West Papua .

This support for industrial logging in intact forests clearly means that the IFC FIP proposal violates FIP safeguard/ criteria.

To date, the IFC has not provided information to the public about to the investment regions or about their proposed 'large scale' private sector partners. According to the schedule in the matrix below , it can be concluded that the design phase of the project should have been completed .

Stages	Steps	Indicative dates
Preparation	Preparation mission	December 2012
	Preparation of documents	February 2013
Evaluation	Multilateral review of project documents	March 2013
	Refinement of project documents	April 2013
Approve by SC IFC	Request for project approval	April 2013
Approve by IFC management	Submission to IFC Board	May 2013
	Sign agreement with GOI	June 2013 and so on

This invites the following questions:

1. Proposal to support industrial logging in an area up to 700,000 hectares of natural forest is in clear violation to FIP requirements. Given the fact that this is a large -scale violation, what steps will be taken to cancel this proposal ?
2. Please explain what steps have been completed with regards to the schedule above. If the schedule is changed ,what are the changes? Please provide the correct dates.
3. Why is there no scheduled public consultation process / FPIC on the agenda?
4. If there already is a draft project document , please publish the draft in order to seek comments or input from Indigenous Peoples , CSOs , and other observers long before the project is sent for approval of the FIP SC .
5. At a meeting in Bogor 27 to 28 June 2013, the IFC representative Michael Brady and Harris Nasution said that the IFC has conducted preliminary discussions with 20 large-scale companies. What are the names of those companies? Were the company involved in the discussions with the IFC screened to ensure that they were free of forestry law violations , tax evasion , money laundering, human rights violations including women's rights ?
6. Can the IFC can prove that there is no problem of " governance " , corruption , violation of human rights , indigenous rights , women's rights , land rights and conflicts within the project area such as West Papua , Sulawesi , Kalimantan and Sumatra which were mentioned as potential FIP areas ?
7. Since most of the IFC project could have a significant impact on the environment , forests , indigenous lands and the indigenous and local communities , including women , who depend on the forest, to what extent has the principle and mechanism of FPIC and the FIP requirements found in the FIP Design Document have been fulfilled? There are eight consultation requirements for each investment strategy , program or FIP project. ( Attached Annex II ) . Please explain one by one with the fully documented evidence , that each of the eight stages of consultation has been carried out in the design of the FIP investmentstrategyfor Indonesia and specifically for the IFC program .
8. Is there a recognition ( in writing ) the right of communities to accept / reject the FIP investment strategy, program and project FIP ? , What mechanism is provided for the community to exercise their right to make decisions or accept / reject projects in indigenous

forests and forest around them (in accordance with the requirements of FIP and the principle of FPIC?)

9. Were documents and complete information in a language which can be easily understood and easily accessed by potentially affected peoples provided early - before the meetings were held? 10. What date project plan document will be sent to the SC FIP? How early?
10. What date will the project planning documents be published or consulted widely and openly?
11. What method will be used to handle public input?
12. What date will the second draft be published for consultation and public comment ?
13. What date will the documents be submitted to the Board of Management and IFC World Bank Boards?

**Second**, the FIP Indonesia admits that it is important to avoid private sector partners involved in money laundering and tax evasion, and also underscores the importance of cooperation with the Financial Intelligence Unit/ PPAK:

Enforcement of laws related to financial transactions also plays an important role in addressing illegal logging. Investment could focus on tracing the financial drivers and facilitators of illegal logging, and could utilize anti-money laundering and tax law to carefully examine the financial flows and tax records of those active in forest related activities. Interventions could support international cooperation with Financial Intelligence Agencies to track financial flows to offshore holdings. A sectoral financial audit could be conducted to fully examine the financial flows and tax status of the major companies and conglomerates active in the forest sector. Furthermore, due diligence and sustainability policies of financial institutions investing in activities that impact forests could be strengthened.<sup>1</sup>

According to INTERPOL, the forestry sector in Indonesia is a high-risk sector for corruption, tax evasion and money laundering.

In the Indonesian FIP, IFC has committed to examine and perform due diligence to prevent IFC interaction and partnership with companies involved in money laundering, tax evasion, corruption and other criminal acts. In the FIP meeting in Bogor, IFC has acknowledged preliminary discussions with 20 private companies as potential partners in the context of the IFC FIP Indonesia. According to Indonesian FIP, such companies include PT. Arara Abadi and Sinar Mas Group.

Clarity is needed since there are a number of forestry sector companies involved in cases of tax evasion, corruption, and money laundering. In December 2012, for example, the Supreme Court of Indonesia convicted Asian Agri Group --- a subsidiary of Royal Golden Eagle (RGE) which also owns paper and pulp company APRIL -- of tax evasion and ordered them to pay a fine of U.S. \$230 million. This is the first corporate tax evasion conviction in the history of the country. Asian Agri is one of a number of companies in the forest sector which are now being investigated for being allegedly involved in various cases of forest crime, corruption, tax evasion or money laundering.

Therefore, it becomes relevant to question things as follows:

1. With which companies has the IFC held preliminary discussions? (Names of companies?)
2. What type of due diligence did the IFC implement on these 20 companies? Please provide details about the due diligence process used by the IFC to make a determination that a given company is free of money laundering, tax evasion and corruption.
3. Please provide an explanation of the IFC process of due diligence to determine whether a company is free of other types of crimes, such as in the case of PT. Arara Abadi.
4. As part of its due diligence process, did or will the IFC will analyze in terms of potential money laundering or tax evasion, companies domiciled in secrecy jurisdiction / tax havens an used

---

<sup>1</sup>FIP Indonesia, hal 11, v. Bhs Inggris.

or owned by forest sector companies or conglomerates under consideration for partnership with IFC?

5. To what extent is the IFC using the Asian Agri Supreme Court decision as an important case which allows them to map in detail the practice of tax evasion and money laundering in the forestry sector?
6. Or does the IFC simply depend on the statements of the " large -scale clients" ( " self - assessment" )? Or has the IFC sought or received input on specific clients from CSOs and the community ?
7. Of the 20 companies with which the IFC held " preliminary discussions", for how many did the IFC conduct due diligence on money laundering , tax evasion , corruption ?
8. What was the process ? Did the IFC do any due diligence before contacting potential partners for an initial discussion ? Or did screening only occur after the discussions had already been held?
9. For which companies( company name ) has the IFC conducted due diligence , including on the matter of money laundering , tax evasion , corruption ?
10. Of the 20 companies that have been contacted by the IFC , how many has the IFC found free from money laundering , tax evasion and corruption ?
11. Did the IFC find Sinar Mas Group (listed in the IFC portion of the FIP) free of money laundering , tax evasion and corruption?
12. Did the IFC find Sinar Mas Group and its subsidiariesto be free from involvement in forestry crimes, human rights crimes and other crimes?
13. Which companies( company name ) did the IFC find to be free from money laundering , tax evasion and corruption ?
14. It has been reported that IFC has a " blacklist " of companies that need to be avoided as a result of their FIP research / due diligence. Is the Sinar Mas Group and / or its subsidiarieson the " black list " of the IFC ? Does the IFC report companies on their " black list " to the Financial Intelligence Unit/ PPATK, the Corruption Eradication Commission, the Director General of Taxationor the public? If the IFC determines a suspicion criminal activity , corruption , money laundering , tax evasion , is the IFC not required to report this to the relevant national and international institutions? If so , when has this been/will this be reportedor announced? Since the IFC is a public financial institution , when it will report these findings and the blacklist to the public ?

**Third** , for the last three years the Ministry of Forestry and the Indonesian National Army (TNI) signed a Cooperation Agreement for the rehabilitation of conservation areas , where the Ministry of Forestry has been given the right to provide direct operational funding for the military to conduct operations including establishing the "prerequisites " for the rehabilitation of forests in areas that are difficult to reach and " have conflicts " . Military involvement in forest rehabilitation and in creating the " prerequisites " for forest rehabilitation in different forested areas where there are conflicts between communities and the government and private sector companies are part of a series of REDD + activities in Indonesia. This situation raises the following questions :

1. Can the World Bank and IFC and FIP Team ensure that there is no military/TNI involvement in the FIP project areas?
2. If there such involvement, what action will be taken by the World Bank, the IFC and FIP Team?
3. May FIP funds be utilized to fund military operations?
4. Can the FIP , the World Bank and IFC ensure that their funds which are channeled through the Ministry of Forestry are not flowing to the military ? What monitoring and evaluation is being undertaken to ensure that the FIP, IFC or the World Bank are not paying for military operations through the Cooperation Agreement or other means ?

5. Do areas targeted for FIP, and especially IFC projects in areas in which there is conflict, contain military forces or other armed forces, including the police special forces (BriMob) or the Department of Forestry armed forces?
6. Are the military and elite police / Mobile Brigade (Brimob) and special police forces of the Forestry Ministry / SPORC funded directly or indirectly by the FIP or the IFC or IFC partner companies to secure the investment program?
7. What kind of due diligence steps are the FIP and IFC utilizing to ensure that partner companies do not use armed forces/TNI, Brimob and Forestry armed forces to resolve land use conflicts or disputes with communities?

**Fourth**, the process of designing the FIP investment plan and projects is already underway without meeting the eight steps of FIP requirements for consultations. This is certainly not in line with the requirements of the FIP - SC at the time that FIP - Indonesia was endorsed during the meeting in Istanbul.

**Fifth**, in Indonesia FIP (October 2012) there is the statement: "A key goal of the project will be to promote stakeholders' effective participation in spatial planning. To this end, Consultations will be conducted in accordance with the World Bank's indigenous peoples' policy and applicable national law, to the extent that national law may set higher standards."

This statement means that there is a commitment from the World Bank that - for Indigenous Peoples - Indonesian national law will be used only if it contains provisions of a higher standard or more stringent than the standards of the World Bank. This raises the questions as follows:

1. Has or will the IFC also make the same commitment?
2. What is the process to ensure "Equivalency" between the standards of the World Bank and the Indonesian national standards?
3. Will the "Equivalency" evaluation be conducted in accordance with the terms contained in the World Bank's Country Safeguard Systems?
4. Is Indonesia a country that has passed "Equivalency" evaluations according to the conditions contained in the World Bank's Country Safeguard Systems?
5. Is there a requirement/commitment that for any activities in Indonesia FIP, the World Bank and the IFC will only use the national standard if the standard is higher than the standard of the World Bank? Or does this statement only apply to Indigenous Peoples? Or only to Indigenous Peoples under the World Bank project?
6. In the Indonesian FIP, the IFC committed to using the FPIC process for the Indigenous People. Will the World Bank also commit to use FPIC (Free Prior Informed Consent) process for all project affected peoples?

**Sixth**, in the Indonesian FIP, the ADB has committed to ensuring that FIP investments "do no harm" to the affected communities. Do the World Bank and IFC also commit to the same thing? Or do they propose that projects, programs and investment strategies are allowed to do "harm" to communities?

Thus we submit these questions to receive a response from the World Bank and the IFC as a form of transparency and public disclosure of the international financial institutions.

**Annex II:  
Indonesia FIP Planning process in violation to FIP consultation requirement**

**as stated within the FIP Design Document**

**FIP Design Document: Guidelines for Consultations to be carried out in accordance with subparagraph 16(d) of the Design Document for the Forest Investment Program**

1. Consultation with indigenous peoples and local communities likely to be affected by proposed investment strategies, programs and projects should occur freely and voluntarily, without any external manipulation, interference, or coercion.
2. The consultation process should start early and with adequate lead time since decision-making among indigenous peoples and local communities is often an iterative process, and sufficient time is needed to fully understand and incorporate concerns and recommendations of indigenous peoples and local communities in the design of consultation processes, strategies, programs and projects.
3. The indigenous peoples and local communities likely to be affected should have prior access to available information on the intent, design, and scope of the proposed strategy, program or project (including relevant options). Such information should be available and presented in a culturally appropriate and accessible manner, form, and language.
4. Consultation approaches with indigenous peoples and local communities should: recognize their own existing processes, organizations and institutions, including, *inter alia*, councils of elders, headmen, and tribal leaders, as well as indigenous peoples' organizations and institutions; ensure broad community participation; and pay special attention to women, youth, and the elderly.
5. There should be a record of the consultation process and a report on the outcome of the consultation that are publicly disclosed in a culturally appropriate manner, form and language.
6. A consensus reflecting broad community support for the investment strategy, program or project should emerge from the consultations before the strategy, program or project moves forward.
7. In the case of indigenous peoples, such consensus should include support from the community as expressed by their leader(s). In addition, for both indigenous peoples and local communities, the strategy, program or project should not proceed without acquiring broad community support, as set forth in these FIP guidelines.
8. Conclusions and recommendations arising from the consultation should be integrated in the design and implementation of the investment strategy, program or project.