

BRIEFING DOCUMENT: CONCLUSIONS OF FSC COMPLAINT AGAINST THE KORINDO GROUP AND KEY EXCERPTS FROM THE THREE INVESTIGATIVE REPORTS

Korindo Group's violations of the FSC 'Policy for Association'

5 November 2019

Overview

On 11 May 2017, Mighty Earth lodged a formal [complaint](#) with the Forest Stewardship Council (FSC) against the Korindo Group's violation of the FSC's 'Policy for Association', which is *'aimed at protecting the reputation of FSC, and all entities associated with it, by acting as a safeguard against organizations involved in unacceptable activities.'*¹

The complaint covers Korindo's involvement in the following 'unacceptable activities' in its oil palm operations in Indonesia:

- a) The 'significant conversion of forests to plantations or non-forest use' (ie the *'conversion of more than 10,000 ha of forests under the organization's responsibility in the past 5 years'*)
- b) the *'conversion of High Conservation Value Forests'*
- c) Violation of traditional and human rights

The FSC-appointed Complaints Panel (CP) finalised its report on 29 March 2018, of which the key conclusions can be found below. However, while the full report was at least 110 pages (given that the Social Analysis report cites the CP report up to page 110), the FSC decided to only release a 1-page summary of the final report following its receipt of a "cease and desist" letter from Korindo.

The Panel concluded that Korindo violated the FSC Policy of Association through the following 'unacceptable activities':

'Significant conversion of natural forests on the basis of evidence beyond reasonable doubt by carrying out large scale conversion';

'Significant conversion of natural forests on the basis of clear and convincing evidence in that the forest conversion took place in High Conservation Value Forests';

'Violation of Indigenous Peoples' rights on the basis of clear and convincing evidence in Papua in the way in which it obtained access to land and timber resources.'

The FSC Board of Directors reviewed the Complaints Panel's findings at its August 2018 Board meeting, where a decision was taken to *'conduct an additional analysis of the Korindo case to seek clarifications*

around the specific allegations of destruction of high conservation values and the violation of traditional and human rights in forestry operations in relation to the current Policy for Association case.’²

This additional analysis was concluded in February 2019. FSC redacted significant portions of the public versions of these reports, stating: *‘Due to a disagreement with Korindo, FSC is not in a position to publish the full document.’*

A full history of the complaint against the Korindo Group can be found in the Appendix.

Korindo's violations of the FSC Policy for Association

Investigation #1: Key findings of the FSC-appointed Complaints Panel

'The complaints panel investigation identified the following unacceptable activities in relation to Korindo's operations:

1. 'Violation of Indigenous Peoples' rights on the basis of clear and convincing evidence in Papua in the way in which it obtained access to land and timber resources.'

*'The panel has also concluded that it is **on the balance of probabilities** that Korindo is **supporting the violation of traditional and human rights** by directly benefitting from inability of communities to express dissatisfaction in relation to their operations due to the company's deficient stakeholder engagement practices, by failing to provide communities with sufficient information to enable making informed decisions and by providing unfair compensation rates to communities, among other issues'.*

2. 'Significant conversion of natural forests on the basis of evidence beyond reasonable doubt by carrying out large scale conversion.'

'The conversion was deemed to be significant among others due to its scale of more than 30,000ha in the last five years, due to the failure to protect adequate areas of natural vegetation, and due to the impact that it has had on local communities and in particular the failure to compensate landowners adequately for the timber taken.'

3. 'Significant conversion of natural forests on the basis of clear and convincing evidence in that the forest conversion took place in High Conservation Value Forests.'

'Korindo's activities involved the clearing of substantial areas of Southern New Guinea Lowland Rain Forest which is considered endangered/critical in the Global 200 classification. This renders the conversion significant and is also likely to have contributed to the damage of HCVs. In addition, the conversion most likely destroyed some areas that provided critical resources for local communities.'

Investigation #2: FSC Investigation report, 'Retrospective Review of Potential HCV Korindo Group, February 2019:

Conclusions

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'The evidence provided by the complaints panel investigative team, FSC, the data from the Korindo HCV/HCS reports and analysis of the multispectral and multitemporal satellite imagery all support the conclusion that land use change and conversion by Korindo has caused the destruction of HCV's in both [the company's] PT PAL and PT GMM concession areas.' [The destruction of High Conservation Values (HCVs) is an additional category of violations of the FSC Policy for Association.]

*'The evidence is clear and convincing that these HCV's were for all intents and purposes, destroyed. Rehabilitation efforts would stimulate recovery, but in an ecological context, **the landscape has been irreparably altered by Korindo's commercial activities.'***

Destruction of High Conservation Values at PT PAL:

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'We consider the following as evidence that destruction of HCV took place in PT PAL:

- 1) The satellite imagery of the PT PAL concession area prior to clearing showed no indication of significant land use change that would suggest that it had been logged or degraded by human activities (this is supported by comments from the HCS review panel).*
- 2) The PT PAL area was included in the 2013 IFL [Intact Forest Landscape] classification. **After the clearing by Korindo began in 2015, the area was removed from the 2016 IFL classification due to land use changes in the Korindo concessions.***
- 3) Indonesian Forestry Department maps classified the PT PAL area as "primary forest" prior to clearing.*
- 4) **The PT PAL area is in a WWF Global 200 ecoregion and was partially cleared of the endangered natural forest.***
- 5) The HCV Assessment team directly observed and identified approximately 17 endemic species of fauna and 44 species which are listed under CITES, the IUCN Redlist, and/or Indonesian Regulations in the forest adjacent to the cleared area. The remaining forests are proxies for the forest which was cleared. Therefore, **it is beyond reasonable to conclude that the forest which was cleared was the habitat of many of these species.***
- 6) The area was classified as high-priority [High Carbon Stock forest] HCS (following the decision tree) in the Korindo HCS report. The primary data in that report, supports the conclusion that the remaining forest is HCS [High Carbon Stock] and the historical imagery indicates that it would be a suitable proxy for the forest which was cleared by Korindo.*
- 7) **Drone imagery of the area acquired during the clearing of the Korindo concession at PT PAL depicts destruction of riparian areas, logging, and clearing of the forest which corroborates the information from other sources and validates the use of the remaining***
- 8) **The SRTM terrain data depicts much of the area which was cleared as central to the watershed which then feeds water and nutrients into the lakes outside the concession.***
- 9) **The AMDAL which (unlike the HCV Assessment) was prepared prior to clearing, indicated that the watershed was important and should be protected.***
- 10) **The WWF Global 200 Ecoregions reference the unique diversity and importance of Papua's rivers and streams.***

11) There is no evidence that Korindo attempted to clear the area with reference or regard to the riparian areas. The entire estate is blocked out in rectangular fields common to oil palm estates but not indicative of any regard for avoiding riparian zones.

12) **The satellite imagery of the area after clearing depicts a landscape which was cleared without regard to the riparian areas. There are no riparian buffers visible**

13) **The erosion and runoff from the area Korindo cleared is visibly increased inside and outside the PT PAL concession after clearing.** The runoff, sediment, and debris from the rivers flowing north into the lake from the concession are clearly visible in multiple satellite images.

14) As of January 2019, there are no visible signs of riparian buffer zone restoration or mitigation of the erosion and sedimentation within the concession. **The rivers are visibly damaged and degraded.**

15) **The extent of the destruction and degradation to the upper portion of the watershed is significant because it affects the rest of the hydrology and aquatic ecosystems.**

16) **The clearing of the riparian areas (streams, rivers, springs, and adjacent to lakes) is not consistent with Indonesian law.**

'The above are a sampling of the clear, concise (often visible) evidence from multiple sources, including detailed information and images of the area before, during and after clearing, **all of which support the conclusion that Korindo's clearing in the PT PAL concession caused the loss of HCV 1 (destruction of RTE habitat and forest), HCV 2 (reduction of the IFL) and HCV 4 (destruction of the watershed).** The destruction of HCV is defined as "significant damage of the attributes that constitute high conservation values in a way that they no longer exist or cannot be repaired". **The evidence is clear and convincing that these HCV's were for all intents and purposes, destroyed.** Rehabilitation efforts would stimulate recovery, but the landscape has been irreparably altered by Korindo's commercial activities.'

Degradation and destruction of High Conservation Values at PT GMM:

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'The evidence around the land use/land cover conversion in the PT GMM area supports the conclusion that Korindo's commercial clearing activities caused the loss and degradation of HCVs on the southern end of Halmahera Island, an area of significant importance to the biodiversity of Wallacea.

4) The HCV Assessment team directly observed and identified approximately 9 local or provincial endemic species of fauna and more than 20 species which are listed under CITES, the IUCN Redlist, and/or Indonesian Regulations in the forest adjacent to the cleared and planted areas. The remaining forest fragments were proxies for the forest which was cleared. Therefore, **it is beyond reasonable to conclude that the forest which was cleared was the habitat of many of these endemic species.**

5) A portion of the remaining forested area was classified as high-priority [High Carbon Stock forests] HCS (following the decision tree) in the Korindo HCS report. The primary data in that report, supports the conclusion that the remaining forest is HCS High Carbon Stock] and the historical imagery indicates that it would be a suitable proxy for the forest which was cleared by Korindo.

6) **Photographs of the area from the HCV report were taken during the clearing of the Korindo concession at PT GMM and depict destruction of riparian areas, logging, and clearing of the forest and steep slopes.** These photos corroborate the information from other sources and validates the use of the remaining forest as a proxy for what was present prior to conversion.

7) The SRTM terrain data presented in the HCV and HCS reports identifies steep slopes which are "off limits" for clearing due the high risk of erosion, damage to springs and destruction of the watershed and water resources. The area which was cleared dominates the high ground and is central to the watershed. **There is evidence that the land use conversion at PT GMM has destroyed the upper watershed which supports 20 short rivers and streams which are critical to the surrounding communities.**

8) The WWF Global 200 Ecoregions reference the unique biodiversity and particular importance North Maluku's avifauna.

9) **There is anecdotal evidence that the land use conversion to oil palm has altered the hexapod invertebrate population, particularly the increase of Coleoptera (beetles) which are pests to both oil palm and coconut trees.** Coconuts are traditionally important to the local communities and economy.

10) **There is evidence of dispersed yet widespread land use by local communities for subsistence agriculture which was replaced with oil palm. Very little arable land remains available for diverse small-scale agriculture because the peninsula is dominated by oil palm monocrop.**

11) **While there is evidence that Korindo attempted to avoid some of the riparian areas, this appears to have only been in areas too steep or too wet to clear.** In several pictures of the "riparian areas" in the HCV report, woody debris from clearing, landslides and oil palm are all visible in the photos.

12) **The erosion and runoff from the area Korindo cleared is visibly increased inside and outside the PT PAL concession after clearing. The runoff, sediment, and debris from the rivers flowing north into the lake from the concession are clearly visible in multiple satellite images.**

13) As of January 2019, there are visible signs of repeated land clearing and earthwork (terracing) in areas with steep slopes. **The riparian areas are visibly damaged and degraded.**

14) **The extent of the destruction and degradation to the upper portion of the watershed is significant because it affects the rest of the hydrology. The short-term impacts of the land clearing may have significant impacts on the small streams, rivers and micro-climate**

The nearly complete transformation of the southern peninsula of Halmahera Island from a mixture of Moluccan moist forest interspersed with shifting cultivation and small coconut groves to large-scale production of oil palm monocrop has had a profound impact on the landscape. **The evidence and chronology of the immutable changes to the landscape is very clear and concise.** While we cannot recreate the actual species diversity and population of RTE species in the area, they were known to be present and many were still observed in the small patches of remaining forest fragments. **The loss of HCV 1 should be considered destruction because it is not feasible to restore/rehabilitate the area.**

The conversion of the PT GMM concession presents unique circumstances because it has changed the landscape of entire southern end of the island which also dominates the entire upper portion of the watershed. The HCV assessment identified 20 rivers which originate from what is not the oil palm plantation. **Even if the riparian zones are restored/rehabilitated, the destruction of HCV 4 has occurred due the clearing of steep slopes, damage to the riparian areas and complete conversion of the watershed to an oil palm plantation. The ecosystem services of the moist forest have been destroyed, potentially changing the microclimate and water resources of the area. This should be a focal point of remediation at PT GMM.** The water resources were identified as a critical resource for the surrounding communities. Site surveys and hydrological studies should be done to mitigate the damage and begin restoration of the steep slopes and riparian areas. Since all the streams now originate from within the oil palm concession, it is especially important to mitigate run-off of fertilizer, pesticides and effluent from the mill.'

Investigation #3: FSC Investigation report, 'Additional Social Analysis Korindo Group', February 2019:

Conclusions

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'The only possible conclusion that can be drawn is that extensive abuse has occurred of the rights that are part of the FSC system, as well as all similar standards. As set out in section 2, these are land rights, FPIC [Free and Prior Informed Consent] rights, and rights relating to the fulfillment of basic human needs. This is the case whether or not local licensing requirements have been fulfilled, and despite the participation of some community members in the land acquisition process, due to the weight of the evidence relating to the exclusion of others from the process, the serious inadequacies in relation to all aspects of the FPIC process, and the minimal amounts of compensation actually paid, among other violations.'

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*'The experiences of communities that have been set out in detail in this case study of one concession in themselves **provide ample evidence of the multiple rights violations that have taken place. Taken in sum with those of the other communities affected, the repetition of these same violations across the 5 concessions represents a very serious set of abuses indeed by the company.** These violations encompass the whole range of rights that the various Korindo companies named in the complaint should be strongly and fully committed to protect and uphold, as FSC certificate holders, and under the Policy of Association.'*

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'As a result, of these violations, the affected communities have suffered considerable harms. These range from the threat and in some cases use of violence, in an ongoing atmosphere of intimidation (and above and beyond that associated with the prevailing local security setting); the inability to exercise their right to oppose the concession; and the highly disproportionate compensation payments, received by a minority of community members only, and with little knowledge or any participation on the part of many. Just as the CP [FSC Complaints Panel] concluded, this additional analysis thus also finds beyond any doubt that there are strong and sufficient grounds for the disassociation of all the companies associated with these serious violations.'

Recommendations

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*'The recommendations of the CP [Complaint Panel] were set out clearly in the executive summary of their report (pp.8-9): **that Korindo should be disassociated from the FSC due to the clear and convincing evidence of violations of [Traditional Human Rights] THR (as well as of significant conversion).'***

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*'In addition to this process of human rights impact assessment, and the steps set out above on conducting audits and further assessments it is also recommended that the companies should also initiate a formal process of remedy with the communities concerned. **The CP report has clearly and in great detail verified and elaborated on both the broader patterns and the various individual acts of violation, as had previously also been described and compiled with much supporting evidence in the original reports and in the complaint. 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 that is now required, to be based on engagement with the affected communities in response to all the various violations that have been repeatedly identified, in relation to land acquisition, FPIC processes and HCV protection. A remedy process should be initiated with all the affected communities referred to in these documents as having***

expressed unhappiness, ongoing grievances and frustration with the outcomes of the operations, and/or well-substantiated allegations of violations of their THR [Traditional Human Rights]’.

Additional extracts

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*‘The experiences of the communities affected by TSE POP A and POP B clearly do not constitute an adequate rights-fulfilling land acquisition process or a robust and genuine FPIC process, nor do they demonstrate that basic needs have been protected. The opposite is the case, with serious failures to fulfill even the less well-defined or elaborated principles that were in force in the late 1990s, let alone those that now apply. **Members of these communities have experienced serious violations of their land ownership, access and use rights, of their right to a say in the management and continued control of their customary lands, and of their right to give or withhold their consent, freely, prior to the operation commencing, and with full and sufficient knowledge of its nature and of the expected impacts of the planned land use change on various aspects of their own lives.**’*

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*‘Table 7 in Cifor (p.13) sets out **16 natural resource and NTFPs [Non Timber Forest Products] that were previously sourced from the forest, but are no longer available to community members, as part of their food security and livelihoods.** These range from major sources of food (including starch (sago), and protein from hunting and fishing), to a very wide variety of other materials from wood to skins to medicines, and other items also related to their cultural lives. Community members in UK [Ujung Kia] referred to this significant change, as **‘the deprivation of their ability to sustenance and livelihood through destruction of traditional sources and lands.’***

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*‘As set out in Table 3 above on the WIA [Welfare Impact Assessment], affected communities have repeatedly referred to the negative impacts on ecosystem services associated with [Korindo subsidiary PT] TSE, reporting these both to the Cifor study and to the CP [Complaints Panel]. 70% of local inhabitants (landowners and public) reported decreased water quality in 2010, with 57% also reporting decreased water quantity.... **The survey also records increased air pollution reported by 75% of landowners, with 50% also reporting increased human disease due to the plantation. Interviewees of the CP [Complaints Panel] expressed similar concerns about the impacts on the local river system due to run-offs from the plantations (and the mill).**’*

Appendix: History of the Mighty Earth complaint against the Korindo Group

11 May 2017: Mighty Earth lodges a formal [complaint](#) to the Forest Stewardship Council (FSC) against the Korindo Group's violation of the FSC's 'Policy for Association', which is *'aimed at protecting the reputation of FSC, and all entities associated with it, by acting as a safeguard against organizations involved in unacceptable activities.'*³

The complaint – which documents 'unacceptable forest-related activities' conducted by Korindo Group's oil palm companies in Indonesia - covers:

- a) Conversion of more than 10,000 ha of forests under the organization's responsibility in the past 5 years
- b) Conversion of High Conservation Value Forests
- c) Violation of traditional and human rights in forestry operations

2 June 2017: The FSC Secretariat formally accepts the complaint.⁴

18 September 2017: The FSC Secretariat appoints a Complaints Panel to investigate the case.⁵

29 November-12 December 2017: The complaints Panel conducts a field visit in Indonesia, interviewing key stakeholders in Jakarta and Papua and visiting Korindo Group operations and surrounding communities in Papua.⁶

29 March 2018: The Complaints Panel submits its final report and recommendations for the FSC Board of Directors.

5 April 2018: Mighty Earth receives a copy of the Complaints Panel's public summary report from the FSC Secretariat, under a Non-Disclosure Agreement.

20 April 2018: Mighty Earth submits comments on the Complaints Panel's public summary report to the FSC Board of Directors.

7-10 August 2018: The FSC Board of Directors discusses the Policy for Association complaint against Korindo.

4 September 2018: The FSC Director General informs Mighty Earth of the Board's conclusions that an *'additional expert analysis needs to be conducted prior for a decision on the case to be taken.'*⁷

7 September 2018: FSC Secretariat publicly announces decision to *'conduct an additional analysis of the Korindo case to seek clarifications around the specific allegations of destruction of high conservation values and the violation of traditional and human rights in forestry operations in relation to the current Policy for Association case.'*⁸

March 2019: Additional expert social and environmental analysis is concluded.

April 2019: FSC Board of Directors discusses Korindo case at its April meeting but fails to take a decision.

August 2019: FSC Board of Directors decides to maintain association with Korindo conditional upon the Group's compliance with strict requirements towards social and environmental reparations and remedy.

5 November 2019: FSC releases extracts of full reports from the three separate investigations into the Korindo case.

ENDS.

¹ <https://ic.fsc.org/en/news-updates/id/1174>

² <https://ic.fsc.org/en/web-page-/korindo-group>

³ <https://ic.fsc.org/en/news-updates/id/1174>

⁴ <https://ic.fsc.org/en/what-is-fsc/what-we-do/dispute-resolution/current-cases/korindo-group>

⁵ <https://ic.fsc.org/en/what-is-fsc/what-we-do/dispute-resolution/current-cases/korindo-group>

⁶ <https://ic.fsc.org/en/what-is-fsc/what-we-do/dispute-resolution/current-cases/korindo-group>

⁷ <https://ic.fsc.org/en/web-page-/korindo-group>

⁸ <https://ic.fsc.org/en/web-page-/korindo-group>