

WALHI and Friends of the Earth US Response to Verification Report by Astra Agro Lestari and Eco Nusantara on Environmental and Human Rights Violations in Sulawesi, Indonesia

November 2023

In March 2023, Astra Agro Lestari (AAL) [announced](#) that it had hired consultant group Eco Nusantara to conduct an investigation into allegations of environmental and human rights violations by its subsidiaries and that it had finalized the Terms of Reference (TOR) for the investigation. In October 2023, AAL's consultants shared the resulting verification report from the investigation, entitled: *Verification of Complaints Against PT Mamuang, PT Lestari Tani Teladan and PT Agro Nusa Abadi, Raised by Friends of the Earth–US (FoE-US) and Walhi*. This analysis illuminates the inadequacy and inaccuracies in the report's narrow focus and findings, and reveals critical flaws in the investigation. The inadequate and inaccurate results of the investigation and verification report constitute profound missteps toward the goals of resolving protracted land conflicts, redressing grievances, and ensuring remedy for harm done to communities in Sulawesi impacted by AAL and its subsidiaries' operations.

In sum, AAL's investigation and resulting verification report:

- (i) Followed a flawed, unilaterally-dictated process and TOR that ignored civil society inputs, despite AAL's consultants requesting such feedback and providing assurances that it would be taken into account;
- (ii) Failed to examine a number of critical allegations first documented in the March 2022 report published by WALHI and FOE US, including permitting irregularities by AAL subsidiaries, environmental degradation to rivers, and several cases of criminalization;
- (iii) Failed to examine whether AAL and its subsidiaries ever attempted to gain the Free, Prior Informed Consent (FPIC) of impacted communities (notably FPIC is completely absent from the 2023 verification report);
- (iv) Failed to focus the investigation on AAL, thus continuing to place the burden of proof on Indigenous, customary, and peasant communities;
- (v) Produced incomplete, inadequate, and in some places, inaccurate findings; and
- (vi) Revealed its bias toward maintaining the status quo by failing to acknowledge violations by AAL and its subsidiaries and issuing recommendations rooted in a development model that places peoples' wellbeing in the hands of private companies instead of recognizing rightsholders' agency and self-determination.

This analysis is intended to provide concerned stakeholders, including government agencies, AAL's buyers and shareholders, consumer goods companies, civil society, and communities, with the necessary context to understand specific shortcomings in the verification report as well as the consistent missteps in AAL's response to communities' grievances and demands for meaningful remedy and redress.

A flawed, unilaterally-dictated process

Prior to AAL's March 2023 announcement, Unilever, which had been engaging AAL on environmental and human rights violations documented in the [March 2022 report](#) *No Consent: Astra Agro Lestari's Land Grab in Central and West Sulawesi Indonesia*, informed FOE US that AAL was in the process of hiring

consultants to conduct an investigation into the allegations published by WALHI and FOE US. Unilever assured FOE US that the TOR would not be finalized without civil society input. Despite these assurances, on 31 March 2023 AAL [announced](#) a finalized TOR for the investigation without sharing the TOR with WALHI or FOE US, the original complainants in the case. WALHI and FOE US [publicly responded](#) to this failure of consultation on 5 April 2023.

FOE US proceeded to request AAL's consultants Robertsbridge to share the finalized TOR on 6 April 2023, in order to understand the path AAL was pursuing. The finalized TOR was eventually shared on 17 April 2023 – nearly three weeks after the announcement of its finalization. After review, WALHI and FOE US found the TOR to be significantly flawed and biased. Concerns were shared in an email to AAL's consultants Robertsbridge on 25 April 2023, detailing many gaps in the TOR, including: the implication that AAL was the rightful owner of land and communities did not have pre-existing land rights; the suggestion that communities must prove their land rights using positive law thus ignoring critical context regarding customary land rights in Indonesia; and the preemptive suggestion of delivering redress through a partnership model between communities and AAL, despite communities never requesting such an outcome, amongst others. (See Annex 1 for feedback provided to AAL's consultants on original TOR in April 2023.)

Neither AAL nor its consultants consulted with impacted communities or civil society on what should be included in the TOR prior to its finalization, which was apparent in the terms decided for the investigation. In May 2023, AAL published a [progress update](#) on its website inaccurately stating that it had received buy-in from WALHI to carry out its investigation under the flawed and contested TOR. Once again, WALHI and FOE US issued a [public response](#) clarifying that the proposed investigation and TOR were problematic and insufficient.

In June 2023, following further requests for feedback on the TOR by AAL's consultants, WALHI and FOE US directly shared and published an [in-depth analysis](#) of the TOR which provided suggestions on how the investigation should take place, namely by shifting the focus onto AAL's land acquisition processes, permitting history, and business operations. AAL's consultants responded favorably to the June 2023 analysis and stated that they were committed to designing the investigation in a way that was inclusive. AAL consultants assured WALHI and FOE US that there would be no issues addressing several of the points raised in the June 2023 analysis, including analyzing AAL's permitting irregularities, seeking evidence that AAL received FPIC from impacted communities, and examining the breadth of AAL's environmental impacts. However, on 25 September 2023, AAL's consultants informed FOE US that the verification report based on the original TOR was nearly complete.

The investigation proceeded based on the initial, problematic TOR without taking into account any of the suggestions or recommendations provided, despite assurance that this feedback was valuable and the investigation would address many of the points presented. AAL's consultants' failure to incorporate civil society feedback into the TOR and subsequent investigation underlies the inadequacies in the resulting verification report.

A failure to examine permitting irregularities, environmental degradation, and criminalization

The opening paragraphs of the summary and introduction of the 2023 verification report state that, “The issues raised by FoE US and Walhi, especially regarding allegations of land grabbing and criminalization of farmers, are the issues of greatest concern to stakeholders.” For the purposes of this case, it is important to understand that “land grabbing” means the acquisition and occupation of lands without either the proper legal permits or the free, prior and informed consent of rightsholders, or both; and “criminalization” means use of police and security agents to use state power to suppress dissent.

However, the investigation and resulting 2023 verification report does not fully analyze these issues, as well as numerous other allegations first documented in WALHI and FOE US’s [March 2022 report](#), including the lack of permits held by AAL’s subsidiaries in order to operate legally, the environmental impacts of AAL’s operations on rivers in Central and West Sulawesi, and the critical issue of free, prior, informed consent (FPIC).

Instead of examining the breadth of allegations documented in the March 2022 report, AAL’s investigation selectively picks and chooses which allegations to examine, while omitting many others, including numerous findings presented in the March 2022 report (see pages 11-13).

Regarding PT LTT, the 2023 verification report states it focused on:

- 1) PT LTT seizes 100 ha of Farmers' Land in Rio Mukti Village and Towiora Village;
- 2) PT LTT illegally claimed 1,505 hectares of community land and operated outside the 321 hectare HGU permit;
- 3) Community demands for plasma plantations of 20% of the HGU area;
- 4) Environmental pollution (Environmental Service’s laboratory test results No. FPP/7.8.2 dated November 20, 2020);
- 5) The price of Fresh Fruit Bunches (FFB) produced by farmers is determined unilaterally by the company to the detriment of farmers.

However, this completely omits a number of findings from the March 2022 report (see page 11 of *No Consent*):

- There is no evidence in the public domain that PT LTT ever secured location, environmental, or timber utilization permits, raising questions about whether these permits were ever acquired.
- When PT LTT began clearing land in Rio Pakava District in 1993, both PT LTT and PT Mamuang are suspected of taking over 182 hectares of transmigration land in Polanto Jaya Village.
- In 2004, PT LTT, assisted by the Mobile Brigade Corps (BRIMOB), a paramilitary unit of the Indonesian National Police, seized community land in the villages of Towiora, Minti Makmur, Tinauka, and Rio Mukti. Rightsholders allege that the land-grabbing was carried out with violence, intimidation, indiscriminate shooting, and kidnapping. Three residents were criminalized and sentenced to four months in prison.
- PT LTT cleared land and planted oil palm trees on the banks of the Lariang River, widening the river and increasing the threat of flooding. Lands on the outskirts of the Lariang River are slowly eroding, and every year, flooding inundates settlements, according to residents. In May 2019, approximately 40 houses were flooded.

Regarding PT Mamuang, the 2023 verification report states it focused on:

- 1) PT Mamuang has seized 50 hectares of land belonging to farmers in Panca Mukti Village in Rio Pakava, Central Sulawesi;
- 2) PT Mamuang has repeatedly criminalized farmers in Panca Mukti Village.

However, this completely omits a number of findings from the March 2022 report (see page 13 of *No Consent*)

- PT Mamuang illegally occupies 255 hectares of Indonesia's protected Forest Zone.
- There is no evidence in the public domain that PT Mamuang ever secured location, environmental, or timber utilization permits, raising questions about whether these permits were ever acquired.
- PT Mamuang's concession appears to overlap with the neighboring PT LTT concession.
- Land conflicts between PT Mamuang and farming communities in Rio Pakava subdistrict are common. In one instance, 68 farmers from Rio Mukti village claim that PT Mamuang seized 128 hectares of land.
- Beginning in 2017, four farmers from Polanto Jaya village—Jufri Alias Upong Bin H. Laujung, Suparto Alias Baris, Mulyadi, and Sikusman—were criminalized for harvesting palm oil fruit bunches from their own lands, for which they held legal Land Registration Certificates (SKPT) and Freehold Certificates (SHM) demonstrating their ownership. After several court hearings, each side in the dispute was ordered to show documentation of their rights to the land. PT Mamuang failed to provide documentation of its legal rights to the land; nevertheless, the Pasangkayu District Court sentenced the four Polanto Jaya residents to prison for four to seven months.

Regarding PT ANA, the 2023 verification report states it focused on:

- 1) PT ANA, operates without an HGU permit and only based on a location permit;
- 2) PT ANA has seized farmers' land in Molino, Bungintimbe, Tompira and Bunta villages covering an area of approximately 5,000 hectares.

However, this completely omits several findings from the March 2022 report (see page 10 of *No Consent*):

- A permit provided to PT ANA was reissued in 2014 to an area of land only one-third of its original concession size, calling into question the legality of ongoing operations.
- PT ANA's Plantation Business Permit was illegally awarded in 2007, one year ahead of its Environment Permit (issued in 2008).
- PT ANA has reportedly built embankments along the Mintai River resulting in high water levels in community plantations, preventing farmers from harvesting their crops.
- Agrochemical contamination from fertilizers that may be linked to company operations has caused the failure of seaweed crops around the mouth of the Mohoni River.
- Poorly processed palm oil mill waste leaks into the Mintai River estuary and is contaminating community ponds.

These significant gaps in the investigation and resulting verification report are clear. The investigation did not seek to investigate whether AAL's subsidiaries received the required legal permits to operate and received them in the proper order, except for examining PT ANA's lack of a HGU. For stakeholders closely watching this case, it is important to understand whether AAL and its subsidiaries are complying with Indonesian laws and regulations – or circumventing them. The need for this investigation to examine AAL's permits was clear from the allegations published in the [March 2022 report](#), as well as in WALHI and FOE US's [June 2023 gap analysis](#) which was shared directly with AAL's consultants and published online.

Given the persistent refusal and inability of AAL to demonstrate the legality of its operations, shareholders and buyers may reasonably assume that AAL's subsidiaries do not have the required permits and/or did not receive permits in the proper legal order until and unless the company can demonstrate otherwise.

The investigation also did not investigate the impacts of AAL's operations on important water bodies, namely rivers, despite these allegations being published in the [March 2022 report](#). This includes environmental impacts to the Lariang and Mintai Rivers and associated livelihoods impacts to communities living around those watersheds, as well as communities living around the Mohoni River. Once again, the need to examine AAL and its subsidiaries' impacts was clear from the March 2022 report and June 2023 gap analysis of the TOR.

While the verification report states that, "allegations of land grabbing and criminalization of farmers, are the issues of greatest concern to stakeholders," the investigation and resulting verification report fails to fully examine communities' claim land claims and instances of land grabbing, several cases of criminalization documented and publicized by WALHI (including the arrests of four farmers from Polanto Jaya village, Sudirman and Gusman from Bunta village, and Dedi from Kabuyu village), and is entirely silent on whether AAL and its subsidiaries attempted to gain, and succeeded in receiving, the free, prior, informed consent of impacted communities (this last point is discussed further immediately below).

The selective focus of the investigation and resulting verification report suggests that AAL's consultants cherry-picked which issues to examine and which to ignore, entirely disregarding multiple requests from civil society to look at AAL subsidiaries' permitting irregularities, environmental degradation to rivers, criminalization of community leaders and environmental human rights defenders, and FPIC.

Failure to investigate FPIC

Notably, the 2023 verification report completely ignores the question of whether AAL and its subsidiaries attempted to obtain the free, prior, informed consent (FPIC) of communities whose land and livelihoods are impacted by company operations. FPIC is the crucial factor in distinguishing between legitimate land acquisition and land grabbing. There is no mention of AAL's FPIC processes related to PT ANA, PT LTT, or PT Mamuang in the 2023 verification report. AAL's lack of FPIC is a central focus of the March 2022 report (directly featuring in the report's name: *No Consent*) and is discussed in-depth throughout the report. Subsequent communications from WALHI, FOE US, and international civil society consistently named the importance of ensuring AAL respect FPIC, including a [September 2022 open letter](#) from Indigenous Peoples and civil society organizations on AAL, the [June 2023 gap analysis](#) of the TOR for the

investigation, and numerous public and private correspondence with AAL’s consultants, buyers, and other concerned parties.

The significance of whether AAL and its subsidiaries received communities’ free, prior, informed consent should be clear, as FPIC is an internationally recognized right, consistently appears in palm oil traders and consumer goods companies’ NDPE policies, and features in investors’ guidelines. Importantly, [AAL’s 5-Year Sustainability Plan \(2021-2025\)](#) states a commitment to respecting FPIC and says that “Standard operating procedures for FPIC processes have been updated in collaboration with relevant experts prior to the commencement of any new operation.”

While the operations of the three AAL subsidiaries that are the focus of this case are not new operations, it is important to clarify that FPIC is intended to be an ongoing process throughout the term of a concession agreement and AAL’s subsidiaries should have sought to receive the free, prior, informed consent of communities at some point and sought to maintain that consent. There seems to be a misconception amongst AAL and its consultants regarding this aspect of the right to FPIC, specifically that AAL and its subsidiaries were not required to seek and receive the free, prior, informed consent of communities because of when operations began.

Notably, Eco Nusantara’s [August 2022 verification report](#) mentions FPIC several times, indicating that there is – or at least was – an understanding of the significance of FPIC to various stakeholders and concerned parties. Page 3 of the [August 2022 verification report](#) provides the background that Procter & Gamble hired Eco Nusantara to conduct field investigations and verifications into alleged violations by AAL’s subsidiaries and states, “P&G is currently paying particular attention to policies related to land rights, including Free, Prior and Informed Consent (FPIC), and environmental, human and labor rights protection, and human rights defenders.” Page 9 of Eco Nusantara’s [August 2022 verification report](#) states, “EcoNusantara suspects that the unclear location boundaries for permits issued by the government and the absence of the FPIC process have triggered the above problems.” While FPIC was clearly part of the context of Eco Nusantara’s first investigation into AAL’s subsidiaries violations in Sulawesi, it is conspicuously absent from the 2023 verification report. AAL’s attempts – and apparent inability – to obtain FPIC is not mentioned once in the report.

The closest the 2023 verification report gets to examining AAL subsidiaries’ attempts to gain the consent of communities is a short discussion of PT ANA’s socialization attempts in 2007. However, socialization is not the same as receiving consent. In sum, it seems apparent that PT ANA, PT LTT, and PT Mamuang lack the formal consent of communities to operate on their lands.

A failure to investigate AAL

Since AAL’s [March 2023 announcement](#), there was a stated civil society concern that the focus of the investigation was to examine communities’ land claims without examining whether AAL and its subsidiaries were operating legally and were responsible for environmental and human rights violations.

As recommended in WALHI and FOE US’s June 2023 gap analysis:

Despite the mounting evidence in the public record of environmental and human rights violations by AAL and its subsidiaries, and the subsequent decisions of numerous companies and investors

to suspend business with AAL based on this evidence, the terms of reference of the investigation seek to place the burden of proof on communities that have suffered years of abuse. At this juncture, the onus should be on AAL to: (i) provide evidence that it received the free, prior, informed consent of communities on contested lands, (ii) provide evidence of all legal permits in accordance with Indonesian law, (iii) investigate and meaningfully address documentation of environmental degradation and water contamination, and (iv) meaningfully address allegations of its use of violence, intimidation, and criminalization of community leaders and environmental human rights defenders.

Unfortunately, it seems that these initial concerns were justified as the 2023 verification report reveals that there was little effort to *investigate AAL*, specifically regarding permitting irregularities, FPIC, and land grabbing. Instead, the investigation and resulting verification report asked communities to show documentation for their land claims, while not requiring the same level of proof and documentation from AAL and its subsidiaries. Such a process ignores the power asymmetries between rural communities and powerful companies, as well as ignores the complicated reality of land rights recognition in Indonesia.

There is little to no explanation provided in the 2023 verification report for how AAL and its subsidiaries PT ANA, PT LTT, and PT Mamuang acquired the land they are operating on. How was this land transferred from communities to these companies? The investigation failed to critically examine AAL's operations, permits, and land acquisition process while placing the burden of proof on Indigenous, peasant, and customary communities. The reality is that poor palm oil governance from AAL and its subsidiaries are responsible for long-running land conflicts, environmental degradation, and structural poverty.

Incomplete, inadequate, and inaccurate findings

In large part due to the limited and selective focus of the investigation, the 2023 verification report contains a number of incomplete, inadequate, and inaccurate findings. While we will spotlight a number of these inaccuracies directly below, it is clear that a comprehensive understanding of the issues leading to ongoing land conflicts and environmental degradation was not captured by the investigation or resulting 2023 verification report. Overarchingly, the report fails to examine how each subsidiary – PT LTT, PT Mamuang and PT ANA – entered the areas of operations and acquired communities' lands.

PT LTT

- Page 9 of the 2023 verification report states that Towiora Village officially requested the return of 14 hectares through the village head. While this request may have been made, the report inaccurately implies that this request represents the totality of the community's land claims. As documented in WALHI and FOE US's March 2022 report, there is a total of 1,505 hectares of community-owned land under Land Registration Certificate (SKPT). Community members are still claiming the return of 1,505 hectares of community-owned land under land certificates and have made a request for 14 hectares of land for public use. The investigation seems to be confused about these respective claims.
- Page 16 of the 2023 verification report states that "some residential areas are within PT LTT's HGU." Page 18 of the 2023 verification report shows in an overlap map that Towiora Village falls

within PT LTT concession area. However, the report does not follow up on this finding or direct AAL or PT LTT to recognize the village's land claims and remove the village from the HGU. Furthermore, the investigation fails to examine whether the residential areas that fall within PT LTT's concession include the 1,505 hectares communities are claiming through Land Registration Certificates (SKPT).

- Page 15 of the 2023 verification report states that there are different HGU permits being used in WALHI's documentation and what was found by the investigation. The report rightly suggests that both documents should be shared and AAL and Eco Nusantara should make the government version of the HGU available to WALHI. Keeping this document private contributes to ongoing confusion about which documents are accurate.
- Page 31 of the 2023 verification report states that there are differences in results between the water testing conducted by the Donggala Environmental Agency and water testing commissioned by PT LTT. WALHI stands by the testing conducted by the responsible government agency and other results should be submitted and validated by this agency. Furthermore, it should be noted that the results of testing for water quality depend on when samples are taken, as results can vary by season and climate. The appropriate recommendation would be for AAL and PT LTT to regularly conduct water testing to ensure operations are not contaminating communities' water and soil as part of their larger responsibilities.

PT Mamuang

- Page 45 of the 2023 verification report states that, "Ketut Myofi Sofok received IDR 5,000,000 for compensation for 2 Ha of land." However, Pak Ketut has stated that he has not received a penny from the company and these claims of compensation are false. This testimony raises further questions about the claims of compensation provided to farmers in the Sinar Rio Jaya Farmers Group (KT-SRJ) and others in Lalundu village.
- The discussion of Hemsis's case in the 2023 verification report is confusing. Notably in Eco Nusantara's 2022 verification report, its investigation concluded that "Hemsi legally own the land based on SHM that he owns." The 2023 verification report acknowledges that Hemsis's father was awarded legal rights to land that is now disputed in block C26 of PT Mamuang's plantation. If legal rights have been awarded to Hemsis's family, this is not the fault of Hemsis or his father. Rather, these legal rights granted to disputed land should be seen as supporting evidence for their land claims, especially as community members such as Hemsis have received legal certificates for their land by fulfilling the necessary administrative requirements.
- The 2023 verification report states that Hemsis's father never formally submitted a legal challenge over the disputed land between his family and PT Mamuang without acknowledging how difficult it is to file a lawsuit, incorrectly implying that anyone can navigate legal procedures in Indonesia. The reality is that Indonesia's legal system makes it difficult for communities and farmers to navigate the legal process, which means fighting for their land through advocacy is often the only means they have.
- The 2023 verification report failed to examine two cases of criminalization linked to PT Mamuang brought forward by civil society: i) the 2017 arrests of four farmers from Polanto Jaya village—Jufri Alias Upong Bin H. Laujung, Suparto Alias Baris, Mulyadi, and Sikusman, as

documented in WALHI and FOE US's March 2022 report and ii) the March 2022 arrest of five farmers, including Dedi from Kabuyu village by Pasangkayu police in West Sulawesi based on allegations made by PT Mamuang, as documented in the [September 2022 open letter](#) from Indigenous Peoples and civil society organizations.

- In its discussion of the Kaili Tado Indigenous community, the 2023 verification report puts forth contradictory and incomplete analysis. Page 49 of the 2023 verification report inappropriately states that, “in Kabuyu Hamlet, there is no longer any Tado people. ... It should be noted that indigenous peoples are people or communities who have local wisdom in managing their natural resources, and this is no longer found in Kabuyu Hamlet. So it is not appropriate to use the Indigenous Community approach to Kabuyu Hamlet.” However, on the same and following page the verification report goes on to find, “the Tado people still have traditional institutional structures, traditional ceremonies, customary laws, cultural sites, and ancestral graves” and “if the Tado traditional community survives in Kabuyu hamlet, this indicates that there has been a Tado civilization there for a long time.”
- Page 50 of the 2023 states that, “250 hectares of land belonging to the Tado people in Kabuyu Village has been sold to immigrants from Bali and Bugis.” However, there is no supporting evidence to back up this claim. If the land was sold, then what evidence of land transfer can be shown to support this claim? The report contains none.
- Furthermore, the 2023 verification report states that the Kaili Tado community's claim is limited to 250 hectares, which ignores the fact that customary land claims are not limited to where dwellings or residential settlements are located, but extend to include ancestral lands used for farming, foraging, or other livelihood or cultural purposes.

PT ANA

- The 2023 verification report repeats what the 2022 verification report and March 2022 *No Consent* report found: PT ANA has been operating without a HGU – the certificate legally required to cultivate land. However, within the 2023 verification report, there is no acknowledgment that PT ANA is operating illegally and or recommendations for what actions the Indonesian government should take to hold the company accountable.
- While the 2023 verification report provides an in-depth examination of PT ANA's licensing process and reports that PT ANA has been in the process of buying and selling land and establishing plasma plantations, this does not mean PT ANA's operations are legal, as the company still lacks a HGU. Companies that establish partnerships, plasma, and CPO factories must also have core plantations.
- Communities impacted by PT ANA's operations raised ongoing land conflicts with the provincial government, which formed a conflict resolution unit to investigate claims. This process has only been completed for two villages, with four other villages still to go through the process. Communities in these other villages continue to raise claims to the provincial government. While PT ANA says they have completed the land acquisition process, mapping still needs to be conducted in four other villages, which means the findings in the 2023 verification report are incomplete.

- Research by WALHI in Tompira, Bunta, Bungintimbe, and Toara villages found evidence of communities' claims of 600 hectares of land based on Land Registration Certificates (SKPT). These claims are from members of the Petasia Farmers Union with potential other claims from other villages pending.
- The 2023 verification report failed to examine the criminalization of brothers Sudirman and Gusman, residents of Bunta villages, who were arrested and accused of stealing palm oil fruit from PT ANA on lands contested between communities and the company. The arrests were [raised by WALHI in a press release in March 2023 and highlighted by FOE US](#). The two brothers were subsequently found guilty by Poso District Court and sentenced to over two years in prison. In May 2023, KOMNAS HAM (Indonesia's Human Rights Commission), visited Sudirman and Gusman in jail and are looking into the case. Unfortunately, this is another case of criminalization that the 2023 verification report does not acknowledge or examine.

Biased recommendations that maintain the status quo

The recommendations provided in the 2023 verification report attempt to absolve AAL and its subsidiaries of any responsibility for resolving land conflicts, redressing grievances, or remedying harm. While several recommendations vaguely state that AAL subsidiaries should improve or establish good relationships with impacted communities and individual rightsholders, an essential ingredient to land conflict resolution is missing. There can be no reconciliation without truth and the reparation of harm. The 2023 verification report fails to recommend that PT ANA, PT LTT, or PT Mamuang return land back to communities that was taken without their consent or on which they are operating illegally. Returning land back to Indigenous and other customary communities is necessary in order to meaningfully address land and agrarian conflicts.

Several of the recommendations provided in the 2023 verification report state that AAL and its subsidiaries should improve the welfare of impacted communities. While perhaps well-intentioned, recommending that private corporations should be responsible for communities' development is inappropriate. Indigenous Peoples and other communities should be the deciders of the paths of development and self-determination they seek to pursue, as enshrined in numerous international laws and covenants. Furthermore, recommendations that AAL and its subsidiaries increase their welfare programs ignore the important aspect of consent – and the apparent fact that AAL and its subsidiaries have not received FPIC from impacted communities.

Regarding PT ANA, the verification report recommends that, "It would be best for PT ANA and AAL, after ensuring that the permit area is clear and clean and referring to the applicable laws and regulations, to immediately complete the processing of the Rights to Cultivate (HGU)." However, this is tautologic reasoning. If PT ANA's presence on communities' lands and its inability to receive consent of communities to operate is the reason why conflicts between PT ANA and communities persist, then why and how can conflicts be resolved in order for the company to receive the permit to operate? The fact that the company does not have the legal permit to cultivate should be grounds for the company to cease its operations until it can resolve ongoing land conflicts and receive legal authorization to operate.

This line of reasoning is consistent with the initial bias present in the TOR which failed to focus much of the investigation on AAL itself, and pre-emptively suggested partnerships between communities and the company. In the objectives presented on page 5 of the 2023 verification report, it states:

the issues verified can lead to the development of two conflict resolution strategies, namely: (a) Collaboration, and (b) Compromise. Collaboration is used when all stakeholders are assertive and cooperative, and contribute to creating a joint solution that can be supported by all stakeholders. Meanwhile, the concept of compromise is that each stakeholder gives up a little of what they want, and no one gets everything they want. The perception of the best outcome when working with the concept of compromise is “splitting the difference.” A compromise is considered fair, even though no one may be happy with the final result.

These suggestions fail to acknowledge the severe power asymmetries between rural communities and AAL. Suggesting each side ‘compromise’ assumes that the company and communities are on equal footing. Suggesting ‘collaboration’ without AAL’s acknowledgement or respect for communities’ rights and the harm they have endured ignores this power imbalance, accepts AAL’s apparent inability to obtain FPIC, and continues to deny communities’ legitimate land rights

Conclusion

In conclusion, we reiterate communities’ demands that AAL: return land back to communities that was taken without their consent; provide compensation to farmers for loss of lands and livelihoods; conduct environmental restoration to damaged and degraded rivers and waterways; work to clear the good names of community leaders and environmental and human rights defenders that have been criminalized; and issue a public apology for harm done.

The Indonesian government should ensure just resolution to ongoing conflicts through meaningful redress and remedy. We call on concerned stakeholders including AAL’s buyers and shareholders, and consumer goods companies to use their leverage and platforms to advocate for AAL to resolve land conflicts, redress grievances, and remedy harm done, consistent with communities’ demands.

Annex 1: Initial Feedback from WALHI and FOE US on TOR for AAL/ENS Investigation – shared April 2023

Misconceptions, Gaps, and Corporate Bias in AAL/Eco Nusantara TOR

In March 2022, WALHI and Friends of the Earth US published the report [No Consent: Astra Agro Lestari's land grab in Central and West Sulawesi](#). The report provided detailed evidence regarding how AAL and its subsidiaries PT Agro Nusa Abadi, PT Lestari Tana Teladan, and PT Mamuang were responsible for environmental and human rights violations, including forcibly taking communities' land without their consent, pollution of community water sources, environmental degradation, and criminalization of community leaders and environmental human rights defenders. Following the publication of the report, Procter & Gamble commissioned Eco Nusantara to conduct an investigation into the allegations in the *No Consent* report. Eco Nusantara published a [verification report](#) in August 2022, broadly affirming many of the allegations, namely that AAL and its subsidiaries were operating on communities' lands without Free Prior Informed Consent.

Since March 2022, nine consumer goods companies (Colgate-Palmolive, Danone, Friesland Campina, Hershey's, L'Oréal, Mondelez, Nestle, PepsiCo and Procter & Gamble) have partially or fully suspended palm oil sourcing from AAL, following growing [international pressure](#). Despite mounting evidence in the public record and consumer goods companies' suspensions, AAL has repeatedly, publicly stated that the allegations of environmental and human rights violations are "baseless." While AAL fails to take responsibility for the destructive impacts of its operations, communities continue to be intimidated and criminalized. In March 2023, [fully-armed paramilitary police](#) threatened community members on contested lands controlled by PT ANA.

On March 31, AAL announced the appointment of Eco Nusantara to conduct another investigation into allegations of environmental and human rights violations. WALHI and FOE US [publicly responded](#) to this announcement. Last week, nearly three weeks after the announcement, we received a finalized version of the TOR, despite being told that there was to be a concerted effort to ensure civil society inputs.

From the perspective of impacted communities and civil society, the published reports, documented water tests, community testimonies, court hearings related to criminalization of community leaders, and farmers' certificates of land ownership are more than enough for AAL to act to redress grievances and remedy harm. At the same time, there is a lack of trust from communities that have faced sustained violations at the hands of AAL. Furthermore, there is significant skepticism from impacted communities and civil society regarding whether AAL will comply with international and national laws and take the necessary steps to resolve ongoing conflicts, redress grievances, and remedy harm it has caused. Impacted communities continue to call on AAL to return land back to communities' taken without their consent, provide compensation for loss of lands and livelihoods, clear the names of community leaders and environmental human rights defenders that have been criminalized, and issue a public apology for violations committed.

For the aforementioned reasons, WALHI has rejected the notion of further investigation, instead calling on AAL to provide meaningful grievance redress and remedy consistent with communities' demands.

Last week, WALHI and FOE US received the TOR finalized by AAL and Eco Nusantara and found a number of problematic misconceptions, gaps, and corporate bias in the document, including:

- 1) The TOR states in several places that “the community” needs to request land. This implies that communities want land that is owned by AAL, which is fundamentally wrong and incorrectly cements the notion that AAL has the right to the land and would consider 'giving' some of its land in partnership to communities. This language implies that communities were previously landless and want land owned by AAL, when in reality, the land in question is community land that was forcibly taken from communities without their Free, Prior, Informed Consent.
- 2) The TOR is framed in a way which suggests that communities must prove their existing rights to the land using ‘positive law,’ forcing the community to prove all claims with legal evidence. Understanding the Indonesian national context is essential for proper independent environmental and human rights due diligence, which all companies should be conducting. There are significant gaps in Indonesia regarding the recognition of Indigenous Peoples’ rights to land and customary territories, which are exacerbated when those same lands are claimed by corporations (in this case the lands and territories belonging to Indigenous Peoples and other customary communities are being claimed by AAL). In many areas in Indonesia, communities lack formal legal ownership over their customary lands in the form of certificates. In these cases, the only evidence communities have are the plants, trees, and crops they have grown from generation to generation, customary land acknowledgement from village leaders, and historical land tenure records passed down through generations.
- 3) The TOR mentions the adoption of a ‘partnership model’ between communities/farmers and the company. No community has ever requested a partnership with the company; WALHI or FOE US has never mentioned the need for a partnership. Communities have repeatedly called on AAL to return their land. It is problematic that the TOR is already dictating the terms of redress without beginning the process, let alone receiving community inputs.
- 4) Regarding PT ANA, the TOR states that land identification will be carried out using overlapping company data and community land ownership data. PT ANA does not have an HGU, the legal permit required to cultivate land and thus manage land for oil palm plantations. Without this HGU, what data is going to be overlaid? The company lacks a legal right to operate.
- 5) One of the justifications provided for this second investigation by Eco Nusantara was that the first investigation did not examine the breadth of allegations documented in the March 2022 report by WALHI and FOE US. Yet, the TOR makes no mention of environmental damage, water pollution, and communities’ repeated demands for environmental restoration. The TOR does not address well-publicized human rights violations, namely criminalization and intimidation of community leaders and environmental human rights defenders.
- 6) How are the farmers and communities being identified as the ones to be spoken to/interviewed, especially in Sinar Rio Jaya and Panca Mukti? What about other impacted communities in North Morowali, Pasang Kayu, and Donggala?
- 7) The TOR states its first objective is to: “Comprehensively verify the allegations toward three subsidiaries of PT Astra Agro Lestari, based on Walhi's letter to P&G, October 15, 2020.” The TOR makes no reference here to the March 2022 report published by WALHI and FOE US which



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includes a lot more detailed evidence and documentation of AAL's environmental and human rights violations in Central and West Sulawesi.