

## **UNITED NATIONS GLOBAL COMPACT WILMAR AND HUMAN RIGHTS**

### **Global Compact Principle 2: Businesses should make sure that they are not complicit in human rights abuses**

#### **Introduction**

It is often the case that businesses can find themselves being complicit in a human rights abuse rather than directly responsible for it. The participation of the company need not actually cause the human rights abuse. Rather, the company's assistance or encouragement has to be to a degree that, without such participation, the abuses most probably would not have occurred to the same extent or in the same way.

Understanding complicity in order to avoid complicity in human rights violations, represents an important challenge for business. As the dynamics between governments, companies, and civil society organizations is changing, so too does our understanding of when and how different organizations should take on responsibilities for human rights issues.

In 2007, Wilmar was involved in a community land conflict which was partly caused by unclear land permits and a lack of legal frameworks protecting customary and indigenous rights in Indonesia. Based on this experience Wilmar enhanced its land dispute resolution procedures, including developing a multi-stakeholder approach to new land development and claims settlement, based on the concept of free, prior and informed consent (FPIC). This has helped the company address accusations that it could be complicit in human rights abuses.

#### **Company Profile**

Wilmar International is headquartered in Singapore, but has operations in more than 20 countries across four continents, with a primary focus on Indonesia, Malaysia, China, India and Europe. The company is among the world's leaders in oil palm cultivation, edible oils refining, oilseeds crushing, consumer pack edible oils processing and merchandising, specialty fats, biodiesel manufacturing, and grains processing and merchandising.

## **Account of the case study**

Wilmar stresses that it is committed to establishing progressive and sustainable communities wherever it operates. Its philosophy is that business success can only be achieved if the local communities grow in tandem with its own growth. However, Wilmar's recent experiences in Indonesia highlighted areas where such policies required major changes in policy implementation to safeguard protection of human rights.

To some extent, land rights and tenure agreements in Indonesia still reflect the imposition of Western tenure systems on existing customary systems, influencing how rights to natural resources are distributed between the state and indigenous communities. Land in Indonesia is predominantly state-owned; companies and individuals are given land use rights by the local government under licensed areas for which fees or royalties are payable. Exemption to this is traditional village land, usually small plots on which villagers grow subsistence and cash crops.

Disputes may arise from overlapping claims to the same land, or through lack of provable land titles and claims of traditional rights. As a consequence, conflict over land in Indonesia has increased, and companies operating in the country can find themselves at the centre of conflicts around land rights and human rights, despite complying fully with national and local legislation.

In 2007, Wilmar was challenged by a group of international and grassroots NGOs, representing communities objecting to Wilmar's plantation development in Kalimantan, Indonesia. This affected the company's reputation with customers and reduced investor confidence. The conflict was resolved through a multi-stakeholder process involving NGOs, lenders and extensive consultation with the affected communities.

On the basis of this experience, Wilmar realised that it needed a more proactive approach, which could prevent accusations of complicity in land conflicts and human rights abuses. This new approach ensures that customary and indigenous rights are always respected, and that communities are empowered to give their free, prior and informed consent (FPIC) to development.

Wilmar has strengthened its procedures to ensure that it does not inadvertently contribute to the disenfranchisement of indigenous populations, or breach customary rights. The company has developed a number of policies and procedures to ensure that that all mutual

agreements with communities and individuals in Indonesia are clearly defined, documented and legally established, thus demonstrating clear evidence of long-term land use rights for its land.

The approach is as follows:

- Wilmar's policy is to not develop oil palm in areas where local communities are not supportive, are divided or where they dispute development. This is done through the use of the FPIC framework for all new developments.
- Implementation of FPIC is secured through negotiations directly with individual landowners, local community landowners and local community leaders.
- This entire process is witnessed by local officials, and is documented by Wilmar.
- The company pays statutory compensation to the local community leaders for the existing crops, together with a full notarization of agreements documenting ownership of land rights.
- In areas where the Group's presence is welcome, and communities are happy with the benefits it may bring, Wilmar will continue to play an active role in enhancing socio-economic development, especially through employment and plasma small-holder schemes.
- Aside from monetary compensation, Wilmar also offers employment that enables the villagers to earn a long term income.
- In cases where local occupants are unwilling to give up their land, those areas will be delineated as social enclaves for community use.

In cases where there are existing conflicts, Wilmar uses a similar approach, based on Free and Informed Consent (albeit Post rather than Prior). The company's Land Claims Resolution System encompasses an inclusive multi-stakeholder approach, working closely especially with local civil society organizations.

### **Conclusions and lessons**

While Wilmar is clearly committed to respecting and protecting international human rights, the legal development of land in disputed areas can endanger the company through accusations of complicity in denying communities their traditional land rights. Wilmar has found the FPIC framework useful and has helped to provide guidance for companies operating in land-based industries, and in areas where customary and indigenous rights are not fully reflected in national legal frameworks. Although the FPIC framework should ideally be used to *prevent* conflicts through prior consent, Wilmar's experience shows that the

framework can also be helpful in resolving existing conflicts.

Wilmar's approach to land acquisition and development has improved significantly as a result of the changes described, and the company believes that this will not only be of benefit to communities, but will also strengthen Wilmar's commercial relationships with lenders and customers. In addition to these direct benefits, Wilmar is also committed to sharing its experiences through increased transparency and accountability to help communities and other companies operating in ambivalent legal environments.

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Wilmar International Limited, founded in 1991 as a palm oil trading company, is today Asia's leading agribusiness group. The company is amongst the largest listed companies by market capitalization on the Singapore Exchange.

Overall organisation size: 70,000 employees

Wilmar is a signatory of the Global Compact