

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

First, in the World Bank FIP documents there are still many items which are unclear. We wish to ask the following questions:

1. World Bank FIP projects, programs and investments are likely to have a significant impact on forests, indigenous lands, indigeneous and other forest dependent peoples, including women.

Does the Bank recognize the right of affected people, including Indigenous Peoples, to accept or reject the project (consent)? If so, 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, FPIConsultation, safeguards of the WB, and the consultation requirements of FIP Design document (attached Annex II)?

We ask this because the Presidium Director of the National Forest Council (DKN), the body that the Bank has chosen to interact with the public and CSOs, stated that the DKN should not to be “trapped” by “pro” and “con” attitudes toward the FIP and announced that, “regardless, the FIP, as a formal program of the Indonesian Government will continue to be implemented in accordance government plans.”¹ This seems to indicate that the DKN and GOI have no intention of seeking or securing consent – a process which includes the right of a community to say “yes” or “no”.

2. On May 14, 2013, the **Indonesian Supreme Court recognized the rights of Indigenous Peoples to their forest territories**. How will the Bank ensure that Bank projects do not interfere with indigenous rights to forest areas, in accordance with the Supreme Court ruling.
3. The FIP Design Document requires an **eight-part consultation process** (see Annex II) for each investment *strategy* (the FIP is a strategy), program or FIP project. But until now these requirements have not been met, whether by the WB or FIP team. **Please explain in detail, for each part of the eight steps of the FIP consultation requirements, complete with materials proving that the consultation requirements have been fulfilled, how the Bank has met its consultation obligations to date under the FIP**, including throughout the FIP development process. See Annex 2 for the FIP Design Document for the eight requirements for consultation for investment strategies. The document titled, “Information Sharing and Outreach Events for the FIP” contains information on information sharing and outreach but does not contain proof of compliance with consultation requirements.
4. Will World Bank FIP projects, programs and investments be brought to the World Bank Board for approval? Do the Executive Directors have the right to approve (accept or

¹ National Forest Council, Activity Report, Focus Group Discussion Following-Up on the FIP Indonesia National Dialogue, hosted by the National Forest Council, [DKN, Laporan Kegiatan, Fokus Group Diskusi Menindaklanjuti Dialog Nasional Program Investasi Kehutanan di Indonesia, Diselenggarakan oleh Dewan Kehutanan Nasional (DKN)], Hotel Grand Aston, Yogyakarta, 19 July 2013, page 3

reject) these projects which have a high risk of significant impact? On what date will the documents be presented to Bank Management and Bank Board? Or will the Bank's FIP projects be approved solely by Management without Board oversight?

5. 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:

Stage	Level of Activity	Indicative Date
Preparation	Preparation Mission	December 2012
	Preparation of Project Documents	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
Approval by WB Management	Submission to WB Management	January 2014
	Signing of grant agreement with GOI	March 2014

Referring to the above schedule, please explain:

- a. What parts of this schedule have been implemented by the World Bank so far? Please clarify any changes.
- b. In the schedule presented at the DKN meeting in Bogor 28 June, 2013, the following activities are mentioned: preparation, evaluation, project approval by the FIP Team and World Bank management but there is nothing about any public consultation or FPIC process. **Please provide a revised schedule which includes public consultation in the calendar. Otherwise lack of such scheduling seems to prove that there is still no intent to consult with the public in any meaningful manner.** On what dates will the preparation, evaluation and draft proposal documents be published and consulted widely and openly in accordance with the terms and safeguards of WB and FIP, prior to submission to the SC FIP?
- c. On what date will the first draft proposal document of the World Bank project and any draft operations manual be available for comment? How will it be distributed -- in what language and manner - to receive inputs from indigenous communities, CSOs, and other observers of the project? How long will the public comment period be on the first draft?
- d. What is the mechanism for the handling of public inputs according to the terms of FIP and WB safeguards, according to the requirements of the FIP Committee and 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)
- e. What date will the *second draft* of these documents, **revised after public input into the first draft**, be available for public consultation? How long will the public comment period be? How much time is allocated for the process of integrating public

comment on the second draft prior to submission to the SC FIP, Bank management and Board?

- f. What date will the project design documents be submitted to the SC FIP?
6. Is the signing of the grant agreement between the World Bank with the Partnership for Governance Reform to prepare documents and an “operations manual” on 14 February 2014 a separate process from the rest of the FIP? If not, why has this been implemented prior to public consultation about the design of the FIP and the design of this process? If separate, please describe the consultation process.

Second, 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, IFC is planning a new FIP program to support industrial logging in intact forests with an area of up to 700,000 hectares in Kalimantan , 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 which, according to World Bank Group officials, is binding upon the WBG².

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 .

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. What steps have been and will be taken to cancel this proposal ?
2. IFC FIP projects, programs and investments are likely to have a significant impact on forests, indigenous lands, indigeneous and other forest dependent peoples, including women. **Does the IFC recognize the right of affected people, including Indigenous Peoples, to accept or reject the project (consent)?** If so, 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, Performance Standards of the IFC, and the consultation requirements of FIP Design document (attached Annex II)?

² Panel discussion, World Bank Civil Society Forum, “Safeguarding Forests and Forest Peoples in the Context of the Safeguards Review: Lessons Learned”, sponsored by Ulu Foundation, Urgewald, Friends of the Earth/USA, Ecological Justice. April 11, 2014. The Bank’s FIP representative underscored that FIP documents are binding upon the Bank.

We ask this because the Presidium Director of the National Forest Council (DKN), the body that the Bank has chosen to interact with the public and CSOs, stated that the DKN should not to be “trapped” by “pro” and “con” attitudes toward the FIP and announced that, “regardless, the FIP, as a formal program of the Indonesian Government will continue to be implemented in accordance government plans.”³ This seems to indicate that the DKN and GOI have no intention of seeking or securing consent – a process which includes the right of a community to say “yes” or “no”.

3. On May 14, 2013, the **Indonesian Supreme Court recognized the rights of Indigenous Peoples to their forest territories**. How will the IFC ensure that IFC projects, programs and investments do not interfere with indigenous rights to forest areas, in accordance with the Supreme Court ruling.
4. The FIP Design Document requires an **eight-part consultation process** (see Annex II) for each investment *strategy* (the FIP is a strategy), program or FIP project. But until now these requirements have not been met, whether by the IFC or FIP team. **Please explain in detail, for each part of the eight steps of the FIP consultation requirements, complete with materials proving that the consultation requirements have been fulfilled, how the IFC has met its consultation obligations to date under the FIP**, including throughout the FIP development process. See Annex 2 for the FIP Design Document for the eight requirements for consultation for investment strategies. The document titled, “Information Sharing and Outreach Events for the FIP” contains information on information sharing and outreach but does not contain proof of compliance with consultation requirements.
5. Will IFC FIP projects, programs and investments be brought to the IFC Board for approval? **Do the Executive Directors have the right to approve (accept or reject) these projects which have a high risk of significant impact?** On what date will the documents be presented to IFC Management and IFC Board? Or will the IFC’s FIP projects be approved solely by Management without Board oversight?

IFC Project/Program/Investment Schedule

Stage	Level of Activity	Indicative Date
Preparation	Preparation mission	December 2012
	Preparation of project documents	February 2013
Evaluation	Review of multilateral documents	March 2013
	Refinement of project documents	April 2013
Approval by SC IFC	Submitting request for project approval	April 2013
Approval by IFC Management	Submission to IFC Management	May 2013
	Signing of grant agreement with Indonesian Government	
	Agreement with forest companies	June 2013 and onwards

³ National Forest Council, Activity Report, Focus Group Discussion Following-Up on the FIP Indonesia National Dialogue, hosted by the National Forest Council, [DKN, Laporan Kegiatan, Fokus Group Diskusi Menindaklanjuti Dialog Nasional Program Investasi Kehutanan di Indonesia, Diselenggarakan oleh Dewan Kehutanan Nasional (DKN)], Hotel Grand Aston, Yogyakarta, 19 July 2013, page 3

- a. What parts of this schedule have been implemented by the World Bank so far? Please clarify any changes.
- b. In the schedule, the following activities are mentioned: preparation, evaluation, project approval by the FIP Team and IFC management but there is nothing about any public consultation or FPIC process. **Please provide a revised schedule which includes public consultation in the calendar. Otherwise lack of such scheduling seems to prove that there is still no intent to consult with the public in any meaningful manner.** On what dates will the preparation, evaluation and draft proposal documents be published and consulted widely and openly in accordance with the terms and safeguards of IFC and FIP, prior to submission to the SC FIP?
- c. On what date will the preparation documents, evaluation documents or first draft proposal document or draft operations manual of the IFC project be available for comment? How will it be distributed -- in what language and manner - to receive inputs from indigenous communities, CSOs, and other observers of the project? How long will the public comment period be on the first draft?
- d. What is the mechanism for the handling of public inputs according to the terms of FIP and IFC Performance Standards, according to the requirements of the FIP Committee and 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).
- e. On what date will the *second draft* of these documents, **revised after public input into the first draft**, be available for public consultation? How long will the public comment period be? How much time is allocated for the process of integrating public comment on the second draft into the final draft prior to submission to the SC FIP, IFC management and Board?
- f. On what date will the project design documents be submitted to the SC FIP?

Third, 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/ PPATK:

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.*⁴

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. There are 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 raise the following questions:

1. At a meeting in Bogor 27 to 28 June 2013, the IFC representative Michael Brady and Harris Nasution stated that the IFC has conducted preliminary discussions with 20 large-scale companies. What are the names of those companies? Were the companies 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?
2. 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, human rights violations, and corruption.
3. Has the IFC carried out due diligence to indicate no involvement in money laundering or tax evasion on the companies listed by the IFC in the FIP?⁵ For example, what due diligence was carried out on PT. Arara Abadi. Did the IFC find that Arara Abadi, listed by the IFC in the FIP document, engaged in human rights violations of local communities, engaged in conflict with communities, or used security forces to engage in such conflicts? (Please note that we asked this question in 2013 and received no answer.) Events in 2014 have only heightened our concerns.
4. As part of its due diligence process for the assessment of the potential for money laundering or tax evasion, did or will the IFC will analyze or map companies domiciled in secrecy jurisdiction / tax havens which are used or owned by forest sector companies or conglomerates under consideration for partnership with IFC?

⁴ FIP Indonesia, hal 11, v. Bhs Inggris.

⁵ FIP Indonesia, page 92.

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. 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. For which companies (company name) , including of the companies listed by the IFC in the FIP, has the IFC conducted due diligence , including on the matter of money laundering , tax evasion , corruption ? What was the process ? Did the IFC do any due diligence before contacting potential partners for an initial discussion ? Or did the IFC only carry out screening after the discussions had already been held?
7. Did the IFC find Sinar Mas Group (listed in the IFC portion of the FIP) free of money laundering , tax evasion and corruption? Did the IFC find Sinar Mas Group and its subsidiaries to be free from involvement in forestry crimes, human rights crimes and other crimes?
8. Which companies (company name) , including of the 20 companies listed by the IFC in the FIP, did the IFC find to be free from money laundering , tax evasion and corruption ?
9. 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 subsidiaries on 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 Taxation or the public?
10. If the IFC determines a suspicion criminal activity , corruption , money laundering , tax evasion , isn't the IFC required to report this to the relevant national and international institutions? If so , when has this been/will this be reported or announced? Since the IFC is a public financial institution , when it will report these findings and the blacklist to the public ?

Fourth , 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.

We note that the IFC and the Bank have funded activities linked to violence, such as the violent Dinant palm oil case in Honduras, and Wilmar in Indonesia, the Chad-Cameroon pipeline, involving substantial human rights abuses by armed forces associated with the private sector.

On April 4, 2014 in a presentation to the IFC Executive Directors, the IFC admitted that they underestimated the broader risks involving security forces, had limited ability to address issues of land conflicts and violence and ensured the Board that, in the future, IFC due

diligence would include a focus on the use of security forces in conflict areas.⁶ We see no evidence of any assessment of the use of security forces occurring in Indonesia by either the IFC or the World Bank, something of deep concern to civil society.

This situation raises the following questions :

1. What assessments have the World Bank and the IFC conducted regarding the role of security forces, armed forces, armed thugs (preman) other armed agents in the Indonesian forestry sector, in general, as well as in the areas of planned FIP activities. If there are any such assessments, please make them public. If there are no such assessments, please provide a schedule for conducting these assessments, linked to the FIP project, program and investment schedule and prior to project, program, or investment design.
2. Can the World Bank and IFC and FIP Team ensure that there is no military/TNI involvement in the FIP project areas?
3. If there such involvement, what action will be taken by the World Bank, the IFC and FIP Team?
4. May FIP funds be utilized to fund military operations?
5. If not, how can the Bank, the IFC and the FIP guarantee that support for the Ministry of Forestry or for the private sector will not be used to fund security forces or armed interventions against communities? Please explain the due diligence steps taken to date to ensure this. 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 ?
6. 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?
7. 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 ?
8. 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?

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

⁶ IFC, "IFC's Environmental & Social Lessons Learned" ,Technical Briefing for the Board of the IFC, April 4, 2014. http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability

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 is 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.