Case Study: Business Risks and Human Rights
Reputational Risks in Wilmar’s Palm Supply Chain

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An investigative report released in November 2016 by Amnesty International alleged significant human rights abuses, including child labor and forced labor, on Wilmar’s own plantations as well as within its supply chain. Coverage of the report included widespread media attention and articles by outlets such as Reuters, The Guardian, Mongabay, and Sustainable Brands. The coverage by advocacy media exposed Wilmar to reputational risk due to inadequate supplier policies and deficient supplier monitoring and verification. The company responded by undertaking internal reviews and external collaborations for assessments of labor practices in upstream operations in 2017.

The historical insufficiency of land rights processes has resulted in claims of land grabs by civil society organizations and other land issues. These claims exposed Wilmar to a variety of business risks, including litigation and disruption to operations. Wilmar incurred legal costs in its defense against complaints and expenses for development and implementation of its internal preventative programs.

Due to its strategic position within the global palm oil supply chain and its role as the world’s largest trader of palm oil, Wilmar has an important role to play in advancing reforms on social issues in the wider palm oil industry by demonstrating compliance with human rights norms committed by its NDPE (No Deforestation, No Peat, No Exploitation) policy within both its own operations and those of third-party suppliers.
Wilmar International

Founded in 1991, Wilmar International Limited is one of the largest publicly listed palm plantations in the world, and the largest global processor and merchandiser of palm and lauric oils.\(^1\) Wilmar is a vertically integrated agribusiness, with business activities ranging from cultivation, to refining, to manufacturing of consumer products. While palm oil-related businesses account for a significant portion of Wilmar’s revenue, its businesses extend into oilseeds, grains, and sugar.

Wilmar is one of the world’s biggest oil palm plantation owners, with a total planted area of 228,443 hectares (as of 30 Sep 2018), 66 percent of which is in Indonesia and 25 percent in East Malaysia.\(^2\) It has over 500 manufacturing plants, distributes to more than 50 countries and employs about 90,000 people worldwide.\(^3\)

The company has certifications from the four major sustainable palm organizations: International Sustainability & Carbon Certification (ISSC), Indonesian Sustainable Palm Oil (ISPO), Malaysian Sustainable Palm Oil (MSPO) and the Roundtable for Sustainable Palm Oil (RSPO). As of 2017, Wilmar reported 28 mills and more than 80 percent of planted area across Malaysia, Indonesia and Ghana being RSPO-certified.\(^4\)

For fiscal year 2017, the company posted an 5.9 percent increase in annual revenue to US$43.85 billion. Its tropical oils division, which comprises the company’s entire value chain of palm oil assets, generated over $18 billion in revenue in fiscal year 2017.\(^5\) Wilmar lists 19 key subsidiaries, eight of which are palm oil cultivation, milling or refining operations in Indonesia.

Wilmar benefits from optimistic growth outlooks for the global demand palm oil in both food and non-food applications. Wilmar’s stock would mostly be found in sector- and region-specific portfolios. Archer Daniels Midland (ADM) has been gradually increasing its ownership of Wilmar and is reported as having a 24.89 percent interest in the company as of March 13, 2018.\(^6\) ADM views its ownership of Wilmar as a key part of its Asia strategy.\(^7\)
Social Issues in Palm Oil

Civil society actors have identified human rights violations and land disputes within Wilmar’s extended palm supply chain.

1. Working Conditions

Many companies within the palm oil industry have been implicated in violations of workers’ rights for decades, as advocacy media and civil society actors together have raised awareness on these issues.

In December 2016, Amnesty International published *The Great Palm Oil Scandal* highlighting labor rights violations in Indonesia’s palm oil industry, based on its investigation of Wilmar’s supply chain. Amnesty International conducted 120 interviews with workers at Wilmar’s PT Milano and PT Daya Labuhan Indah subsidiaries and unaffiliated Wilmar suppliers for the extensive, more than 100 page report. A sample of the labor rights violations uncovered include:

**Exploitation via wages and production targets.** Researchers found that companies had complex systems to calculate workers’ wages based on time worked and output per worker. Companies set output targets and, in at least one example, harvester salaries would be reduced if production targets were not met. Production targets were static regardless of season, crop yield, and number of hours worked.

**Forced labor.** The large number of penalties (which can be applied at the employer’s discretion) and the lack of clarity and transparency on deductions from wages make workers vulnerable to pressure from their supervisors, who can extract work under the threat of loss of pay or loss of employment. The ILO Committee of Experts has said these kinds of practices amount to forced labor.

**Child labor.** The investigation uncovered instances of children assisting parents on plantations to help meet production targets, sometimes by carrying heavy loads of palm fruit or by transporting fruit via wheelbarrows. In some cases, children as young as eight dropped out of school to help their parents.

**Health and safety issues.** Amnesty International researchers found evidence that Wilmar suppliers were using a highly toxic, paraquat-based herbicide called Gramoxone. Workers who spray and prepare the chemicals and fertilizers were not provided sufficient protective gear and have experienced regular inhalation and contact-based poisoning effects, including fingernails rotting out.

**Gender discrimination.** Researchers found that women were routinely denied permanent employment status and benefits, including health insurance and pensions. Women were hired as casual day laborers while men were hired as harvesters with permanent employment contracts.

As detailed in the *Risk Mitigation* section, Wilmar has taken steps to address the abuses published in the Amnesty International report. Wilmar was also subject to numerous additional special independent assessments in 2017 under the RSPO and ISCC certification schemes arising from the Amnesty International report. These assessments have found no non-compliance in relation to the RSPO Principles and Criteria, which many of the allegations refer to. However, NGO reports and recent independent investigations into labor violations by the RSPO Complaints Panel have revealed widespread illegal labor abuses on RSPO-certified plantations, indicating that regular RSPO audits are not properly detecting or reporting on labor non-compliance.
2. Land rights

Wilmar International has experienced land disputes with local communities over several of its sites, which have been described as land grabs by activists. Forest Peoples Programme (FPP) has been one of the predominant critics of Wilmar for its land acquisition practices, including its investigative report on the Jambi province of Indonesia in November 2011.10

In November 2012, FPP reported that a Wilmar subsidiary, PT Mustika Sembuluh, was slow in settling ongoing land disputes in Central Kalimantan.11 In October 2013, FPP highlighted conflict with local communities in Southern Merauke, West Papua. FPP claimed that Wilmar subsidiaries co-opted tribal leaders and convinced villagers to sell their lands.12 According to a report issued by Profundo, FPP claimed the subsidiary “did not get consent to land conversion from some members of the community, and the community gave their consent to land conversion based on deceptive information and restricted freedom of choice.”13 Wilmar has not proceeded with plantations in West Papua.

Another land dispute involves the Kapa community of West Sumatra, who filed a complaint with the RSPO in October 2014. The complaint alleges that Wilmar failed to obtain Free, Prior and Informed Consent (FPIC) with the local community before establishing a plantation on Kapa land, in violation of both RSPO Indonesian standards.14 After a two-year process leading up to their ruling, the RSPO found that Wilmar International had taken over Kapa lands without their consent.15 In April 2017, the RSPO Complaints Panel agreed to review the decision on the case,16 but the case was eventually settled later in the year with consensus to implement processes determined by the Action Plan of the initial decision, including participatory mapping and stakeholder engagement.17 This complaint case has been closed as of September 2018.18 As detailed later in the Risk Mitigation section, land rights issues are now recorded in the company’s Grievance Procedure.19
Risks

Wilmar International is exposed to several business risks arising from issues related to land rights and labor conditions. The next section highlights some of these risks by drawing upon the framework established in Engage the Chain.

1. Operational risk

Land conflict is an issue that affects all plantation companies and therefore can present material business risk. If production is compromised when injunctions are imposed, these issues can be considered operational risks. While it hasn’t happened with Wilmar, there is a possibility that local governments could put a halt to operations. As noted by Rights and Resources, an NGO based out of Washington, D.C., “Insecure [land] rights also threaten companies’ bottom lines and long-term financial success. Disputes over land between companies and local communities frequently lead to conflict, work stoppages, and stalled investments.”

The impact of land conflicts can be long-term in nature, as more than half of 288 land-related conflicts reported after 2001 in the Tenure and Investment in Southeast Asia report between companies and communities were still unresolved in 2017. This study also cites that these conflicts are more difficult to resolve in Southeast Asia than any other region in the world, partially due to unclear and/or unenforced property rights. The Indonesian palm oil monitoring group SawitWatch has identified 660 land disputes between palm oil companies and local communities in Indonesia — though the actual number may be higher than this.

2. Litigation risk

Litigation risk refers to the risk of legal sanctions stemming from a company’s failure, or alleged failure, to comply with laws, regulations, rules, related self-regulatory organization standards, and codes of conduct. Wilmar International not only incurred more than three years’ worth of legal counsel costs in its defense against the Kapa community land disputes (which was ruled in Wilmar’s favor at the Indonesian Supreme Court), but it also risks scrutiny from RSPO and other certification organizations if reputable and egregious claims against it continue to arise. Additionally, findings of forced labor in Wilmar’s extended supply chain could leave the company open to litigation if imported goods were proven to have been produced using forced labor.

3. Reputational risk

Issues related to working conditions and land conflict both pose reputational risk for Wilmar when left unattended. Reputational risk is the risk that adverse publicity regarding [a company’s] business practices and associations, whether accurate or not, will cause a loss of confidence in the integrity of the institution. For the issues highlighted previously, the company faced significant reputational risk due to media and advocacy group scrutiny on its supply chain. Dozens of articles by media and activist organizations focusing on Wilmar and abuses within its supply chain were posted in the nine months following the release of the Amnesty International report in December 2017. The alleged human rights abuses were covered in articles by leading advocacy media organizations including Mongabay, One Green Planet, Eco-Business, and Sustainable Brands.

4. Market risk

Wilmar’s social issues present market risks on two levels. First, with each major allegation of human rights abuses or illegal land acquisition, relationships with major buyers may be adversely affected. As the Amnesty International report pointed out, major brands are clients...
of Wilmar — including Colgate-Palmolive, Kellogg, Nestlé, Unilever, and Procter & Gamble. A number of other major brands also source from Wilmar including PepsiCo, Mars, Mondelez, General Mills, and Johnson & Johnson.26 As each of these brands has their own sustainable supply chain policies and are members of sustainable palm organizations, they run their own reputational risk if Wilmar as supplier violates their standards. The resulting market risk is that these brands could terminate, reduce or suspend supply contracts with Wilmar. Importantly, land rights and labor conditions are not the only source of business risk shared with their customers. The parallel issue of deforestation cases, including the current Leuser ecosystem situation, exposes Wilmar to market risk.27

Second, as Wilmar continues to peg its financing to sustainability metrics, the most favorable interest rate may not be achieved if the company fails to achieve certain targets. These sustainable financing commitments include facilities with ING, DBS, and OCBC Bank, and the announcement for each of these garnered coverage by the broad financial press, such as Nikkei Asian Review, The Business Times, and Global Trade Review.

Risk Mitigation

Wilmar has made advances in addressing social issues within its supply chain. Over the past several years, the company has sought to address working conditions and land conflict issues with internal reviews and external collaborations with several consultants and NGOs, including TFT, BSR and Verité. (Details can be found in Wilmar’s two-year progress report on labor practices).

Engagement with stakeholders and implementation of new processes mitigated imminent reputational risk. In January 2015, Wilmar launched an online transparency tool which was hailed as an important step towards transparency at its time by civil society organizations. The Dashboard featured include information on Certification Progress, Traceability & Supply Chain, as well as the Grievance Procedure.

In its 2015 annual report, Wilmar described its Grievance Procedure as part of risk management. The grievance procedure “provides stakeholders with an avenue to report suspected sustainability-related breaches and concerns pertaining to its own operations and its suppliers.”28 While most grievances are related environmental issues such as deforestation and peatland clearance, the interactive dashboard enables stakeholders to view a list of grievance cases and their developments.

In addition to the dashboard, Wilmar implemented the Aggregator Refinery Transformation (ART) program, which seeks to strengthen all actors’ practices in their supply chain.29 The program, developed with The Forest Trust (TFT), is a combination of site evaluation and education for suppliers. The mills are prioritized for an audit based on spatial and non-spatial data. Spatial factors using GIS include legally protected areas, key biodiversity areas, and peat; non-spatial factors include mills that have their own NDPE policy, RSPO certification, volumes, public information, and TFT assessment.

At year-end 2017, Wilmar conducted 62 assessments in Indonesia and Malaysia.30 The assessments were then compiled into anonymized reports which were summarized and discussed at regional workshops. The topics of regional workshops also included “guidance on land-use planning, and respecting the rights of workers and indigenous and local communities.”31 The ability of the ART program to zoom into supplier practices based on regional characteristics demonstrates that Wilmar recognizes how land issues impact operational costs and revenues. However, NGO and advocacy groups such as Rainforest Action Network (RAN) called into question the utility of the tool, identifying a lack of overall transparency and strong human rights approach.32
Although the company was an early adopter of a NDPE policy and has invested in several sustainability pilots and programs, Wilmar’s public documentation can be improved to allow for more efficient evaluation by engaged investors. For example, Wilmar’s disclosure of risk can be tied more closely to sustainability issues like the framework established in Engage the Chain and should align with Ceres’ Reporting Guidance for Responsible Palm Oil. In its 2017 filings, the company’s disclosure structure separated its business risk discussion from its sustainability discussion. Wilmar disclosed key performance indicators pertaining to the environment as well as health and safety but did not explicitly frame them within business risk categories.

As a publicly traded company and dominant actor in the global palm supply chain, Wilmar is in a unique position to lead social practices in palm oil production. Continued engagement with stakeholders and enhancements in disclosures can be expected to help Wilmar maintain and improve its value proposition among sustainable investors.

### PALM OIL MATERIALITY MATRIX

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<th>Importance to Wilmar’s Business</th>
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<td>Investment in community infrastructure</td>
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<td>Community relations and conflict resolution</td>
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<td>Wildlife conservation, fire and haze</td>
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<td>Deforestation/High Carbon Stock (HCS) forests, High Conservation Value (HCV) area, supply chain transformation</td>
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<td>Child protection</td>
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</tbody>
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RSPO Complaints Decision on FELDA GLOBAL VENTURES HOLDING BERHAD (FELDA), November 2018, https://askrspo.force.com/Complaint/s/casetracker
18 RSPO. Case Tracker PT Permata Hijau Pasaman 1 (Wilmar International Ltd).
https://askrspo.force.com/Complaint/s/case/50090000028Erz4AAC/detail

19 Direct communication from RAN — Wilmar made a commitment in November of 2018 to align their grievance procedure with the effectiveness criteria for non-judicial grievance mechanisms outlined by the United Nation Guiding Principles on Business and Human Rights.


24 https://www.cbp.gov/trade/programs-administration/forced-labor


PepsiCo: https://www.pepsico.com/sustainability/palm-oil-policy
Nestle: https://www.nestle.com/csv/raw-materials/palm-oil
General Mills: https://www.generalmills.com/~media/Files/Issues/PalmOil%20MasterList%20318.pdf?la=en
Johnson & Johnson: https://www.jnj.com/document?id=00000164-ed97-d1a7-a9e7-ff9f7d0f0001


32 Direct communication from RAN, December 10, 2018
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