

Resolution Plan by IOI Pelita regarding Land Dispute in Long Lapok, Tinjar, Miri, Sarawak

Background

IOI-Pelita is a joint venture (JV) between IOI Group and Sarawak Land Custody and Development Authority (PELITA). A land dispute case with the local community was submitted in 2010 to the RSPO Dispute Settlement Facility (DSF) for resolution. After several failed attempts at mediation, the case was transferred to the Complaints Panel in 2016.

To begin with, IOI-Pelita Sdn Bhd inherited this community dispute when IOI Group acquired shares from a Joint Venture Company (JVC), Rinwood-Pelita Sdn Bhd, in 2006. The dispute's origin dates back to 1997 when one of the community filed a writ of summons against the JVC & State Government claiming Native Customary Rights (NCR) over Lot 3 and Lot 8, in Dulit Land District. After several court cases, the Malaysian Appeals Court, in 2013, ruled no Native Customary Right (NCR) over the two Provisional Leases issued to IOI Pelita Plantation Sdn Bhd for the development of an oil palm plantation.

IOI is committed to an open and transparent approach to resolving this outstanding grievance, with the involvement of affected stakeholders. IOI will ensure that all stakeholders follow the letter and spirit of Free, Prior and Informed Consent (FPIC) and the RSPO P&C related to dispute resolution. This Resolution Plan incorporates valuable input from all affected communities, Grassroots and other NGOs, local authorities, and the Complaints Panel.

Objectives and Scope

- 1) Provide clear and comprehensive action plan on the steps leading to resolution of the land dispute between IOI Pelita and the affected communities.
- 2) Substantiate IOI's commitment to undertake actions aimed at assisting affected communities in addressing their internal land disputes.
- 3) Ensure that the resolution process from the very start is transparent, inclusive and follows the FPIC process and RSPO P&C on dispute resolution.
- 4) Ensure that the resolution process involves all nine affected communities and disputed land (please refer to Table 1 and Map 1 below).

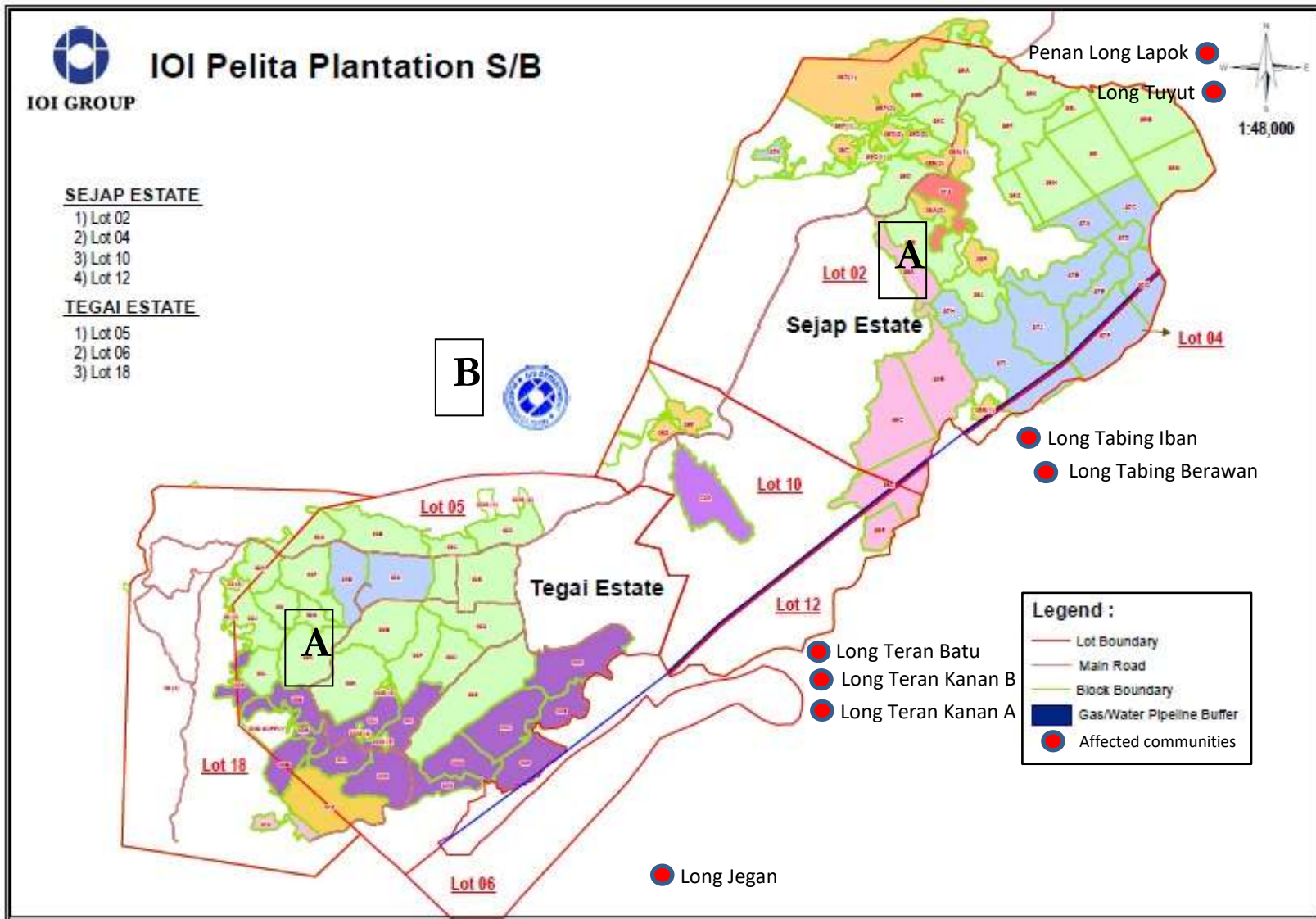
No	Communities	Ketua Kaum
1.	Long Teran Kanan B	Malang Lenjau
2.	Long Tabing Iban	Joben Sigai
3.	Long Jegan	Francis Ubi
4.	Long Tuyut	John Mato
5.	Long Tabing Berawan	Jarau Ponyang
6.	Long Teran Batu	Joslee Teging Ruth
7.	Long Teran Kanan A	Lah Anyie
8.	Long Tabing Berawan	Clement Anak Lukuk
9.	Long Tabing Iban	Nuang Anak Philip
10.	Long Lapok (Penan)	Agnes Ngarega

Table 1: List of ten affected communities.

Challenges

The Resolution Plan presented below cannot factor in all unforeseen developments and complications. It can only serve as a framework agreement among the stakeholders on the process and key activities, participants' roles, milestones and timelines. For the resolution process to succeed, stakeholders will have to adjust the course of action whenever it is necessary. Furthermore, the resolution process must be made as simple as possible because the affected communities, even with external help, might not be able to cope with a high level of complexity.

IOI team will monitor the effectiveness of the implementation and whenever unforeseen circumstances arise, IOI will adjust the Resolution Plan accordingly and inform all stakeholders.



Map 1: Preliminary demarcation consisting of Planted Area (A) and Unplanted Area (B) of IOI Pelita Miri

Resolution Plan

IOI-Pelita

(Key actions, milestones and timeline)

Stage 1: Building Capacity, Awareness and Support Structure

#	Activity	Description	Implementing Party	Timeline	Status
1.1	Strengthening of IOI-Pelita team	Hire additional staff to support community liaison function and conduct mapping exercises.	IOI	June 2018	Done
1.2	Select and appoint Lead Facilitator	<p>The scope of Lead Facilitator's role is to:</p> <ul style="list-style-type: none"> • provide overall facilitation for the Resolution process; • facilitate discussions and negotiations whenever necessary; and • witness and document whenever necessary. <p>Note: The cost of this service will be borne by IOI</p>	IOI with RSPO's guidance	July – August 2018	Done
1.3	Establish and utilize External Stakeholders Panel	<p>The purpose is to ensure that the views of the local stakeholders are well represented. It will be a small group of people representing mostly local stakeholders other than complainants/communities and the respondent. The suggested members include Resident of Miri, District Officer, Land and Survey Department Official, and a couple of local NGOs (such as JOAS). The panel members, acting on a voluntary basis, will witness the resolution process and provide their feedback, local insights and guidance, when necessary.</p> <p>The views of this body will not be binding and only serve as inputs representing various local interests and perspectives. Therefore, the role of this panel will not be duplicating the role of the CP.</p>	IOI and facilitator	July 2018 – April 2019	Done
1.4	Selection of Lead NGOs and independent experts	Secure services of <ol style="list-style-type: none"> 1) Identify Lead Advisor, 2) Identify Participatory Mapping expert, 3) Identify Communities' legal advisor/s, 4) Identify NGOs to provide capacity building to affected communities, and any other third party that might be required. 	IOI, with RSPO's guidance	July – August 2018	Done

1.5	Establish and maintain communications protocol	This protocol will cover all aspect of communications including periodic public updates on progress, and direct communication between IOI and other key stakeholders involved.	IOI and facilitator	July - September 2018	Done
1.6	Communities' capacity building	To be done inclusively for all 9 communities. Key areas: FPIC, legal, governance, including election by each community of their representatives empowered to negotiate on communities' behalf.	IOI, NGOs and independent experts	March – May 2019	Done
1.7	Socialization of Resolution Plan with local authorities	To inform Pelita, Resident of Miri and District Officer about the Resolution Plan and seek their input.	IOI	July – September 2018	Done
1.8	Consultation and Socialization of Resolution Plan with communities	<p>Consultation and socialization session will be conducted with each of 11 communities and in presence of key stakeholders. If consent is given, the Resolution Plan will be submitted to the CP for final endorsement, after which IOI will start implementation.</p> <p><i>Note: There were 11 communities as of June 2018. However, the number got reduced to 9 communities as the three LTKA communities decided to merge into one in July 2018.</i></p>	IOI and other stakeholders	July – September 2018	Done
1.9	Grievance mechanism	<p>IOI's existing internal grievance mechanism will be used to address any grievances during the dispute resolution process and also after the final settlement agreement is reached.</p> <p>All grievances pertaining to IOI-Pelita case will be transferred to Stakeholder Engagement team for further action.</p>	IOI	July 2018	Done
1.10	Individual Land Plot Survey* *This mapping exercise will be conducted as soon as possible to allow for the ex gratia payment to be	<p>IOI will conduct this mapping exercise jointly with local communities and their leaders (Ketua Kaum and Land Committees).</p> <p>The purpose is to: Establish exact size and location of individual plots within the planted areas in Sejap and Tegai for the purpose of ex gratia payment to those farmers who have not been compensated yet. This mapping exercise will also identify plots with overlapping claims. The plan for</p>	IOI and community	July 2018 – March 2019	Done

	done and for IOI Pelita to resume operations on all planted areas	this mapping exercise and ex gratia will be shared with affected communities to seek their feedback before implementation. Once the mapping is done and remaining ex gratia paid, IOI plans to resume its operations on all 4,000 ha of planted land and offer more jobs and CSR to adjacent villages.			
1.11	Preparation for Ex Gratia Payment	Based on the results of the Individual Parcel survey, a detailed data will be collected and used to identify remaining plots of land for which ex-gratia has not been paid yet. Ex- gratia payment will be calculated and distributed according to rates and procedures established by IOI	IOI	August 2018 – June 2019	Done

Stage 1 Milestones:

1. All stakeholders engaged, aligned, and committed to the resolution process and FPIC (Achieved) ;
2. All 9 communities having sufficient capacity and support to understand and engage in the resolution process effectively (to fully exercise their right to FPIC);
3. Grievance procedure and communications protocol in place (Achieved);
4. Consent of each of 9 community groups for Resolution Plan implementation; and
5. Once Individual Land Plot Survey completed, next stage is to set for ex gratia payment.

Timeline: June 2019

Stage 2: Identifying (Reconfirming) Issues, Concerns and Grievances

#	Activity	Description	Implementing Party	Timeline	Status
2.1	Settlement of Ex gratia Payment	Based on the results of the Individual Land Plot Survey, a detailed data will be collected and used to identify remaining plots of land for which ex gratia has not been paid yet. Ex gratia will be calculated and distributed according to rates and procedures established by the government.	IOI with guidance from local authorities	August 2019	
2.2	Community Participatory Mapping **In February 2020, in the course of the participatory mapping, two communities decided to re-	Participatory Mapping will be conducted by local communities assisted by a qualified independent expert, with an objective to identify, analyze and map interests, needs, concerns and grievances of all 9 communities. Depending on individual community's concerns and circumstances, Participatory Mapping can include social,	Communities and Lead NGO	August 2019 – September 2020	*By mid-March 2020, six out of nine affected communities had their surveys done. Unfortunately, at that point, the corona virus outbreak

	join their original longhouses for the purpose of negotiations.	<p>economic and environmental dimensions. It will be conducted in two stages, traditional mapping to be done first and then Geographic Information System (GIS) experts to provide the exact location coordinates. IOI to be an observer in this process.</p> <p>As a result of this mapping exercise, two streams of concerns and issues will be identified: one that IOI-Pelita and communities can address and resolve between themselves and the second which communities need to address jointly with the local authorities (with IOI's support).</p>			reached Sarawak and the government issued Movement Control Order. The Community Participatory Mapping had to be put on hold.
2.3	Socialization of Community Participatory Mapping results	Inform each community about Participatory Mapping results and seek their feedback in preparation for dispute settlement negotiations to be conducted with IOI-Pelita	IOI, lead NGO, Lead Advisor & relevant parties	September – November 2020	

Stage 2 Milestones:

1. All issues, concerns and grievances identified and mapped for all ten communities;

Timeline: November 2020

Stage 3: Dispute Settlement

#	Activity	Description	Implementing Party	Timeline	Status
3.1	Establishing dispute settlement format	Stakeholders, most importantly 7 affected communities, to agree on how final settlement between communities and IOI-Pelita will be achieved.	IOI, Lead Facilitator and other stakeholders	Done	TOR for Stage 3 negotiations finalized and endorsed by all stakeholders by March 2020
3.2	Negotiations & Dispute Settlement	IOI and each community to engage in negotiations, following an agreed format. Affected communities to have full support of NGOs and legal and other experts during that process. RSPO and all other stakeholders to witness the process.	IOI, Lead Facilitator and other stakeholders	January - March 2021	

3.3	Implement Dispute Settlement Agreement	IOI to implement the dispute settlement agreement and make a public announcement on the process and results of dispute resolution.	IOI and stakeholders	March 2021	
3.4	Post – Settlement Monitoring	A monitoring procedure will be established to make sure the dispute settlement agreement is implemented as agreed.	IOI and stakeholders	April 2021 onwards	
3.5	Corporate Social Responsibility (CSR) program	IOI will embark on a long-term, strategic CSR program to benefit the affected communities. This program will be guided by communities' needs identified through the resolution process.	IOI and affected communities	Continuous effort	
3.6	Internal land dispute resolution	Internal land disputes are beyond IOI's remit but IOI will take lead in providing the following assistance to the communities: a) Engage with the Sarawak state government and communities to determine the scope and methods of the internal dispute resolution b) Establish a platform through which communities will be able to engage with local authorities c) Provide communities with financial and legal support d) Monitor the internal dispute resolution process	IOI and local authorities	To be conducted con-currently with or after #3.2	

Stage 3 Milestones:

1. Dispute settlement format established;
2. Settlement agreement reached;
3. Monitoring mechanism in place; and
4. Information on the resolution process and its outcomes issued to public.

Timeline: April 2021 (no definite completion date can be established for internal land dispute resolution)

Role of partners:IOI Group:

- Drive an efficient implementation of the Resolution Plan, culminating in the achievement of the Dispute Settlement Agreement, in accordance with FPIC and RSPO P&C on dispute resolution;
- Liaise with other stakeholders and coordinate their actions; and
- Provide needed assistance, including technical and legal, to enable the affected communities to represent their interests effectively.

Affected Communities:

- Actively participate in the process and delegate negotiating authority to elected representatives; and

- Provide regular feedback on the resolution process to stakeholders, including through the grievance procedure, if necessary.

Local Authorities:

- Provide insights and support to the process, highlighting Sarawak state government's concerns, legal ramifications and other factors that may have impact on achieving durable and fair-to-all parties resolution of the dispute.
- Provide assistance in resolving internal land disputes which are beyond IOI's remit.

RSPO:

- Monitor the implementation of the Resolution Plan;
- Support and facilitate the engagement with the Complainants;
- Where deemed necessary, to attend meetings and related activities as an observer;
- Make recommendations and facilitate discussion on selection of independent experts to enable implementation of specific activities; and
- Provide regular inputs as and when necessary or as requested by IOI or the Complainants.

Grassroots:

- Advise IOI on Resolution Plan development to ensure it is coherent, reflects good process and safeguards interests of communities;
- Be a bridge to NGOs and external actors for engagement in implementation of resolution; and
- Monitor progress, provide feedback and ensure implementation meets community needs, respects rights and provides best assurance of a sustainable solution.

Note:

Given Grassroots' 8-year history of active involvement in this dispute and also its excellent international reputation, Grassroots is well-positioned to be an advisor. Its active participation will have a critical impact on the outcome of the resolution process. Grassroots' role is evolving from initially being a complainant during the grievance stage to being an advisor to IOI during the resolution stage of the process. Grassroots has recognized that it does not anymore represent any communities and it is no longer a complainant.

Lead Facilitator:

- Provide overall facilitation for the resolution process;
- Facilitate interactions and engagements among the stakeholders, particularly between IOI and affected communities;
- Witness and document the process, especially important meetings and negotiations;
- Ensure that the discussions and negotiations are constructive, transparent and inclusive;
- Liaise with NGOs and other stakeholders;
- Monitor progress, provide feedback and ensure implementation meets FPIC standards and leads to a fair and long-lasting outcome for all parties involved.

Community's Information and Communication Centre (CICOM) representing local NGOs

- Conduct Community Capacity Building Program (item 1.6 of the Resolution Plan);
- Assist communities in the Community Participatory Mapping exercise (item 2.2);
- Assist affected communities throughout the resolution process, including during the 3rd Stage of the Resolution Plan (negotiations for the final conflict settlement).

Local Stakeholders Panel:

- Act on a voluntary basis and represent mainly local stakeholders such as local authorities and NGOs;
- Be another important witness and contributor of ideas to the resolution process; and
- Provide feedback, local insights and guidance relating mainly to the local context.

Note: The views of the Local Stakeholder Panel will not be binding and only serve as inputs representing various local interests and perspectives. Therefore, the role of this panel will not be duplicating the role of the CP.

Legal Adviser/s:

- Provide legal advice to the affected communities whenever needed.

Independent 3rd Party/ies with expertise in community capacity building:

- Provide necessary training on FPIC and RSPO P&C on dispute resolution;
- Build affected communities' capacity to organize themselves and select leaders to represent them;
- Build affected communities' capacity to manage their internal disputes in an effective and fair manner; and
- Build affected communities' capacity to negotiate effectively with IOI and local authorities.

Independent 3rd Party/ies with expertise in Participatory Mapping (if additional capacity is required):

- Assist affected communities in conducting multidimensional mapping of their economic, social and environmental interests, concerns and grievances in a clear, constructive manner, including producing detailed maps; and
- Provide all technical assistance, including manpower, tools and equipment, needed to support affected communities in the process of Participatory Mapping.