



## STAKEHOLDERS' RESPONSES TO ECONUSANTARA'S INDEPENDENT REPORT INTO GRIEVANCES RELATED TO THREE OF AAL'S SUBSIDIARIES

Econusantara (ENS) received detailed responses from key stakeholders for which they are grateful. ENS recognise the time and effort that went into this. This document takes the headline issues raised or commented on and provides answers insofar as is possible at this stage, in order to continue the process of complete transparency. Readers should note that both ENS and PT Astra Agro Lestari Tbk (AAL) remain open to the provision of any and all new evidence which may help resolve some of the issues raised here.

In various places, where more detail is needed, the report is referred to. It is strongly recommended that the Report is used as the main reference, as it contains all supporting facts and data.

ENS and AAL look forward to further constructive dialogue with all relevant stakeholders and we are committed to collaboratively addressing these important issues.

The following points are the top line issues raised and the responses have been provided by AAL and ENS.

1. **Comment:** The verification report followed a flawed process relying on terms of reference (TOR) that ignored civil society inputs.

**Response:** ENS respects the views of all stakeholders and the comment here, but disputes the notion that the process was flawed. The assessment was conducted in eight months and considered all proffered or found or researched evidence.

Of course, ENS welcome any further evidence from stakeholders to support their comments. On the record, ENS and AAL have made clear from the outset that our door was open to any and all stakeholders including civil society to offer information, or new strands of investigation, to sit down with AAL or with ENS, and work through what they felt might be missing so that that could be attended to. In fact, our understanding is that ENS did offer to discuss the field verification process at a pre-arranged kick off meeting on May 25, 2023 in Palu to build a common understanding of stakeholders. Regrettably, members of civil society organisations decided to pull out from the discussion and therefore did not provide their input into the methodology.



ENS and AAL hope that the report will be a basis to openly re-engage with civil society and NGOs. We re-extend our offer to sit down and discuss evidence that may be relevant to ENS's findings.

2. **Comment:** The report failed to examine a number of critical allegations first documented in March 2022 including permitting irregularities by AAL subsidiaries, environmental degradation and criminalisation.

**Response:** Every single allegation that had evidential back up was examined. Without evidential back up, ENS could not examine or substantiate any allegations. ENS remain willing to review and act on any new actual evidence from any member of civil society or communities or any other stakeholder.

3. **Comment:** The report failed to examine whether FPIC (Free, Prior and Informed Consent) was ever gained from communities.

**Response:** Free, Prior, and Informed Consent ("FPIC") is a principle that has evolved over time. It was not in existence at the time of a large number of the points of land conversion. However, AAL complied scrupulously at all times with all the applicable regulatory requirements of community consultation, a fact that is noted in the ENS report. In the past, to obtain an HGU permit, socialisation and dialogue with the community were steps that must be taken to ensure that plantation planning is supported by surrounding communities and no community's land is built without the land owner's consent. Compensation can only be conducted if the community has provided their consent. Without this, HGU permit will not be given.

4. **Comment:** The report failed to investigate AAL itself and placed the burden of proof on indigenous communities.

**Response:** AAL and ENS believe that this is not the case. Where proof of any allegations against the company is missing, we believe it is because those members of civil society involved have not yet provided evidence to AAL or to ENS, which can be used to assess the allegations to see whether they are substantiated. ENS examined every allegation in respect of which evidence



was available. AAL willingly provided all relevant documentary references. ENS also examined any other evidence that was available to them from relevant stakeholders. What is in the report is a reflection of the assessment of all this evidence. If there is other evidence that needs to be examined, it will be independently reviewed. It should be noted that ENS analysed data and information using triangulation to determine what lay beneath seemingly opposing evidence from different sources.

The study sought to involve all relevant stakeholders, with data collection on land claims carried out by: (a) in-depth interviews, including identifying the perceptions of parties relevant to the alleged problem; (b) collection and tracing the legality of documents (SKT, SHM, etc.) and tracing the history of land ownership; and (c) to ensure data quality, some validation was carried out by the relevant government authority together with the parties. ENS remain willing to further review and decide on appropriate actions should new evidence be provided and validated.

5. **Comment:** The findings in the report are incomplete, inadequate, and in some places inaccurate.

**Response:** ENS are confident that the report is complete and accurate. However, ENS and AAL remain open to discuss any perceived shortcomings in the report with any and all stakeholders and are willing to address those if stakeholders are able to provide evidence that the report is incomplete or inaccurate.

6. **Comment:** The report revealed a bias towards maintaining the status quo by failing to acknowledge violations by AAL.

**Response:** ENS is an independent third party. ENS carried out its investigation and assessment and compiled its report at arm's length from the company and its subsidiaries based on evidence available to them. The company's only substantive involvement was to provide evidence or information when requested. The report is an objective, evidence-based assessment of the facts as they were found.



7. **Comment:** Is there a process equivalent to/closest to today's standard of FPIC that these plantation companies went through? Are there proof that these processes took place?

**Response:** FPIC was not in existence at the time of a large number of the points of land conversion. However, AAL complied scrupulously at all times with all the applicable regulatory requirements of community consultation, a fact which is noted in the report. In the past, to obtain an HGU permit, socialisation and dialogue with the community were steps that must be taken to ensure that plantation planning is supported by surrounding communities and no community's land is built without the land owner's consent. Compensation can only be conducted if the community has provided their consent. Without this, HGU permit will not be given.

8. **Comment:** Regarding the methodology of field verification, is there terms of reference as distributed to the community in the Indonesian language? Is there a list of community members selected to participate, indication of who is willing and not willing, and for those who were willing, their informed consent?

**Response:** Terms of reference (TOR) were not distributed to the community. The TOR mostly governs the work being done by ENS, which includes communication with the community to inform them about the investigation and the purpose of the investigation and to invite them to provide relevant information. The focus is on providing comprehensive explanations to all relevant members of the community who participate in interviews and provide information, ensuring they understand the purpose of their interviews, and obtaining their consent. ENS principles include conducting all processes openly, without pressure, and recording them as evidence as appropriate and where consent is granted. All communication with communities and individuals was carried out in the Indonesian language.

As noted above, ENS did offer to discuss the field verification process at a pre-arranged kick off meeting on May 25, 2023 in Palu to build a common understanding of stakeholders. Regrettably, members of civil society organisations decided to pull out from the discussion and therefore did not have input into the methodology.



9. **Comment:** On the map on p. 18, why is there a difference between HGU versions obtained from BPN and HGU obtained from PT LTT?

**Response:** The discrepancy between HGU versions obtained from BPN and PT LTT on page 18's map reflects a fundamental and longstanding issue in Indonesia. This problem of inconsistent data and maps has persisted for more than 15 years. As an illustration of the problem, less than 5% of total villages have definitive boundaries and almost 50% of villages experience conflicts in land boundaries with forest areas (Kantor Staff Presiden, 2017).

10. **Comment:** Why did the letter from the community (p. 20) indicate that PT LTT's HGU specified to already have 1,200 hectares of plasma? If it did not have the obligation to develop plasma. Could this be a source of misunderstanding of obligation (on behalf of the community)?

**Response:** The issue stems from conflicting information between Walhi's report and PT LTT's documents; to date, ENS do not have the data from Walhi and therefore cannot assess its validity. Community data does not give sufficient detail to assess the issue properly, and ENS's examination of the company's HGU documents and data from the National Land Office did not find any evidence to support the mentioned figures. The report notes that there is no legal requirement for the company to develop plasma. The report does, however, confirm the need for PT LTT to undertake productive business activities for the benefit of the local community. The report also confirms that PT LTT has in fact undertaken such activities.

11. **Comment:** On the point of Lariang river abrasion, it was previously mentioned palm oil trees that violated riparian regulations were managed by the community and that following ISPO, they will be eventually cut and not allowed replanting. Why have you not included this (and the proof) in the clarification?

**Response:** The abrasion of Lariang River, as well as the causes and effects, has been analyzed in detail by researchers from Tadulako university.



Floods in Towiora village occur frequently and have been going on for quite a long time. In fact, the flood disaster that struck Towiora village occurred before the development of oil palm plantations. It was confirmed as one of the reasons that the local community relocated from the old village. The community was also becoming more aware that the Lariang River frequently alters its course in Towiora village, threatening residential areas. People sometimes refer to the Lariang River as a "running river" because it often changes its flow.

The Lariang watershed is the longest watershed in the Sulawesi region. From South Sulawesi it passes through several district administrative areas in Central Sulawesi Province, including Poso district and Sigi district and ends up in Lariang village, West Sulawesi. Deforestation and degradation that occurred in the upstream areas, especially conservation areas in Poso Regency and protected areas in Sigi Regency, contribute to the impact of floods that occur downstream, including those that often hit Towiora village.

12. **Comment:** Does PT LTT do regular testing of well water from 2020 to 2023?

**Response:** Yes. ENS also confirmed that PT LTT had carried out such testing. ENS examined the results of routine well testing by PT LTT in 2020, specifically to compare them with the data from Walhi obtained from the same period.

13. **Comment:** In 2006 when the first compensation was attempted with Herman R Rantetondok (Hemsi's father) was it based on the understanding that the permits overlap (compensate for land), or just the planting (compensate for planting/GRTT)? Was the rejection related to the amount of compensation?

**Response:** ENS found that PT Mamuang (MMG)'s offers to compensate Herman Rantetondok and others, under facilitation by the then village chief, were rejected in 2006. Please see the report for details, including statement letters from Herman and others.

14. **Comment:** Did PT MMG and LTT overlap in the past?

**Response:** Yes, as detailed in the report.



15. **Comment:** For KT-SRJ, one of the bases of their claim is a letter from PT LTT. Why is this considered “cannot be proven”?

**Response:** The basis for the claim was found to be insufficient by ENS following their verification process. ENS found that:

- a) the claim of transmigration reserve land related to land outside the PT LTT concession;
- b) the letter from PT LTT which was alleged to be the basis of the claim related to the resolution of Lalundu village territorial dispute and there was a statement from the Head of Lalundu Village at that time that the land dispute had been resolved. ENS also found that compensation for the land in question was paid by the company; and
- c) there were 2 (two) irregularities in the issuance of Land Statement Letter (SKT) belonging to 78 KT-SRJ members. First, Mr. I Ketut Sudama as the Village Head who signed the SKT served as Village Head in 2005, while the SKT was issued in 2004 before Mr. Sudama became Village Head. Second, Mr. Andi Abul Azis L.A. Lamarauna, who also signed the SKT as a traditional leader, was a person living in Dampelas (West Coast/Sabang), not a traditional leader living in Panca Mukti Village who has the right to give land.

16. **Comment:** What are the follow-up to the 250 hectares of land allegedly already sold to transmigrants (p.50)?

**Response:** There is little that can be done by PT MMG or other parties since the land sale process is based on the mutual agreement of the involved parties. External intervention to return the land to the indigenous Tado community may face resistance and potentially result in horizontal conflicts among the community. ENS have provided recommendations to AAL on this matter, as outlined in the report.

17. **Comment:** On the point of criminalization – on p.52 it was mentioned that in 2010/2011 Hemsu was allegedly arrested without a warrant and imprisoned without a trial for 3 months. Is this not in line with p. 54, that says “for all actions taken by law enforcement officials ... legal remedies can be taken, including pre-trial legal remedies, appeals, cassation and judicial review ... and Hemsu has gone through a process in accordance ...”?



**Response:** The 2010/2011 arrest of Hemsu, allegedly without a warrant and three months' imprisonment, is based solely on Hemsu's account during a 2022 interview. No additional evidence was provided or made available due to the rejection of ENS investigation by Walhi and Hemsu. Hemsu's statements mainly focus on law enforcement actions during the arrest. It should be noted that Criminalization is a serious and sensitive accusation which would need indisputable proof for the authorities.

18. **Comment:** Just to clarify – PT ANA has only developed areas that fall within its Ijin Lokasi, and has not expanded its IL?

**Response:** Correct, as explained in Figure 4.1 and Table 4.1 in the report.

19. **Comment:** It was previously discussed that PT ANA is trying to get partial/parcel-by-parcel HGU based on parcels that are clean and clear. Is this the case?

**Response:** The submission of HGU per village by PT ANA, as indicated in the Governor of Central Sulawesi's Recommendation Number: 590/412/SEKDAPROV dated November 28, 2022 (P. 69), aims to address overlapping land claims. While there is a recommendation to process PT ANA's HGU application for villages that have been declared clear and clean, there remain disputes between PT ANA and the community. There are also disputes among community members (Figure 4.8, Table 4.10, Table 4.11 in the report) which will need to be resolved before PT ANA can complete the processing of the HGU. Please see ENS's recommendations in the report for this.

20. **Comment:** The case of H. Bakri (p.85) seems to indicate that community members have a chance to get rights to land if only they had access to legal support like H. Bakri. Is this the case? Or is his case different from others?

**Response:** ENS acknowledge the case of H. Bakri and the broader concerns regarding land rights within AAL operational areas. The circumstances surrounding H. Bakri's case may indeed shed light on the challenges community members face in securing land rights, especially when





they have access to legal support. However, each case is unique, and while H. Bakri's experience might suggest a path towards obtaining land rights, it may not represent the circumstances of every community member. AAL is committed to addressing land-related issues in collaboration with local communities and authorities. ENS and AAL's goal is to ensure that all community members have fair and transparent access to legal recourse and support when addressing land-related matters.

21. **Comment:** Is the whole report on PT ANA going to be published, given how critical of the government it may be perceived?

**Response:** Yes, the entire report on PT ANA (Which is the current published report) is slated for publication. ENS believe due to the widespread exposure of this case, particularly since the issuance of the Governor's recommendations in November 2021, makes the report crucial for enhancing public understanding about the complexities of the issues on the ground.