

Breakout Session 6: Complaints - From Every Angle



**SCALING UP THE SUSTAINABLE PALM OIL
VALUE CHAIN THROUGH COLLECTIVE ACTION**



About the Speaker: Carl Dagenhart

- Carl's career encompasses two decades in international development (IFC/World Bank Group) and 12 years in palm oil industry (Sime Darby, IOI, Goodhope), managing sustainability, stakeholder relations, and corporate communications.
- Carl's particular area of interest and expertise is in land- and community-related conflict resolution. He oversaw a successful resolution of high-profile disputes in Liberia and, more recently, in Sarawak (Malaysia). Currently, Carl leads sustainability at Goodhope Asia Holdings.

IOI Pelita: Land Dispute with Local Communities

Challenges and Lessons Learned

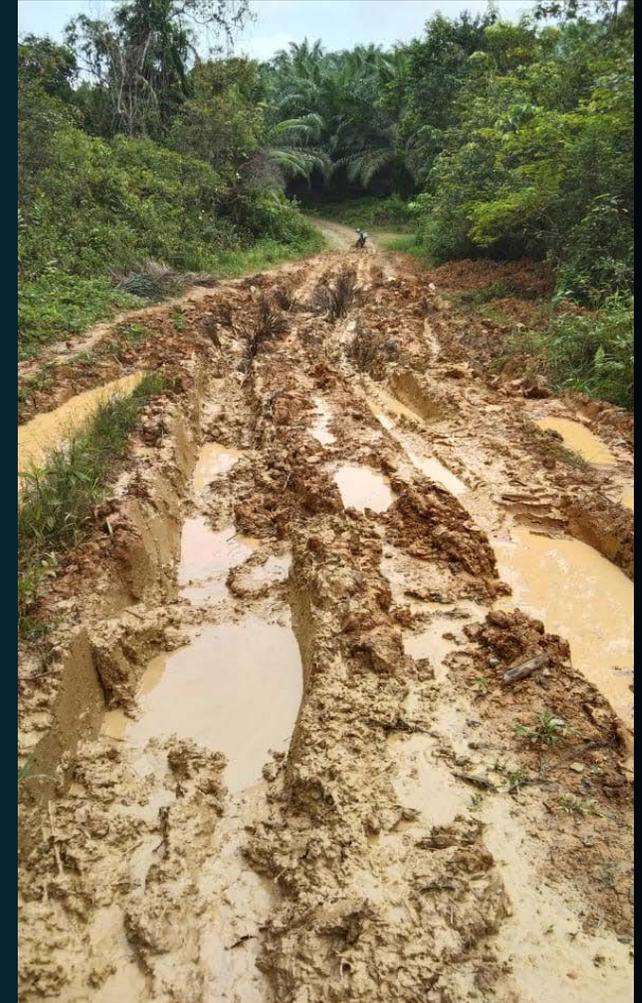
Presented by Carl Dagenhart
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25-year-old land dispute in Sarawak, Malaysia

- 1996** Rinwood-Pelita JV formed and provided Provisional Lease of 9,000 ha of land in Tinjar, Sarawak
- 1997** Court case filed by four farmers from LTK community, claiming Native Customary Rights (NCR)
- 2006** IOI bought out Rinwood's shares, and IOI Pelita was formed
- 2010** Complaint against IOI launched by 11 NGOs
NCR recognized by High Court
- 2011** Mediation by Pax Populus
- 2013** High Court decision reversed by Court of Appeal
RSPO DSF in charge of the case
- 2015** Government-led mediation by Regent of Miri
- 2017** RSPO Complaints Panel in charge and directing IOI to lead the resolution process
- 2018** IOI's Resolution Plan implementation begins

What made the road so difficult?

- 8 communities, 4 ethnic groups involved
 - with conflicting interests and overlapping land claims
 - having both communal and individual land claims
- Communities' distrust towards IOI Pelita
- Civil Society's distrust toward State Government and vice-versa
- Pessimism - across the board - that the case can ever be resolved



Resolution Process

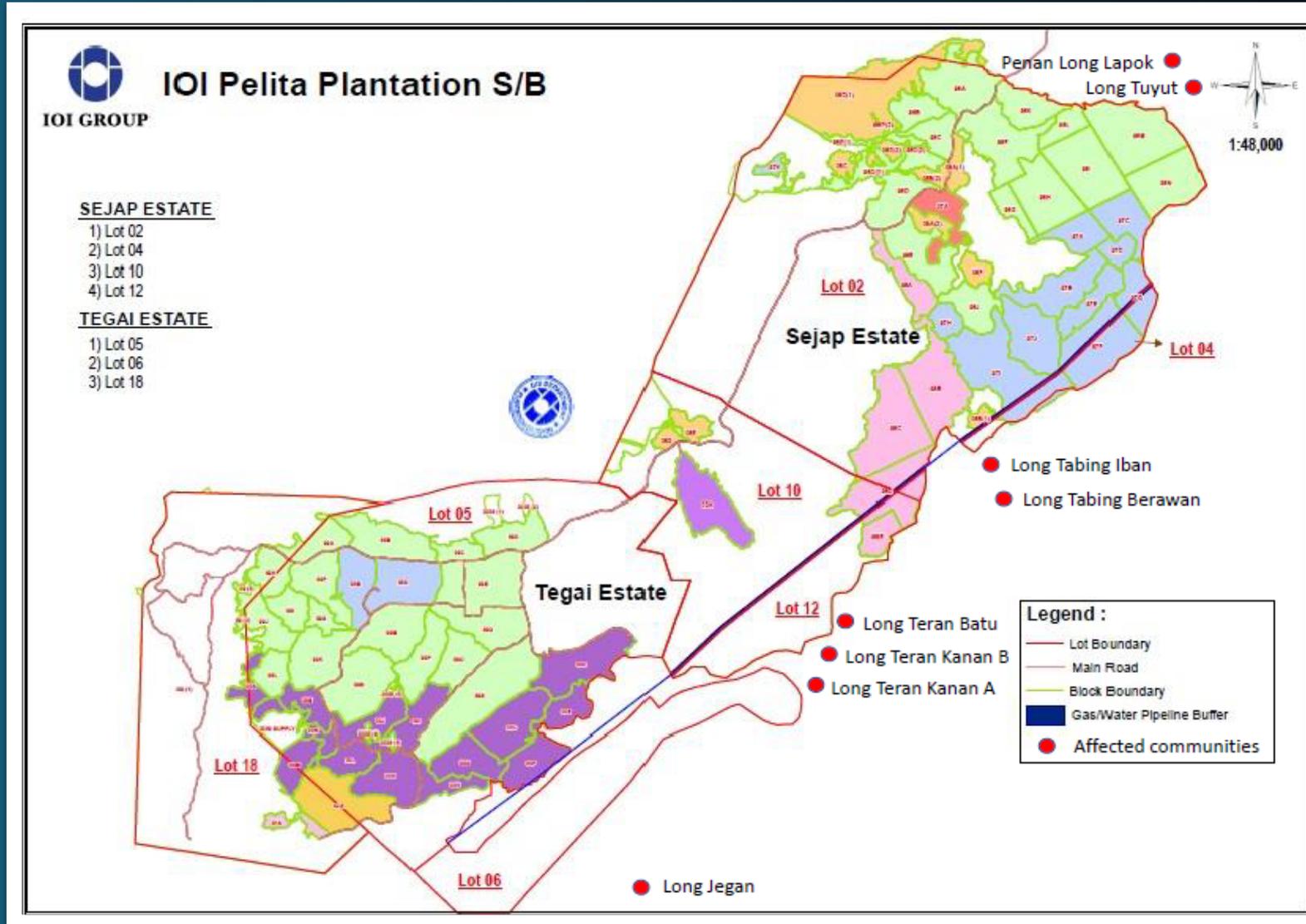
Resolution Plan (launched in 2018):

- Developed by IOI in consultation with communities and Civil Society
- Endorsed by RSPO
- Based on principles of FPIC, transparency and inclusiveness

Three stages:

1. Community Capacity Building (led by Civil Society)
2. Community Participatory Mapping (led by Civil Society)
3. Negotiations (witnessed by stakeholders)

IOI Pelita Plantation Map



Settlement Agreement

(signed on 30 May 2022)

- IOI Pelita agreed to excise 4,600 ha and return it to Government (lease-owner);
- Sarawak State Government agreed to gazette the area as Native Communal Reserve for the use of all 8 communities for agricultural purposes;
- Subsequent division of the land, if any, to be conducted by communities themselves, based on native customary law (ADAT);
- IOI Pelita kept its planted area (approx. 4,400 ha out of 9,000 ha);
- Farmers who had valid claims against IOI Pelita planted land and who have not obtained ex-gratia payment for it, received it; and
- Valid and reasonable claims presented by individual communities have been negotiated and satisfied by IOI Pelita.

Lessons Learned

- Address & resolve issues early on while they are still manageable;
- You may win a court case, but it will not solve the problem;
- Mediation and DSF may not work when a case is complicated;
- What is needed is a dedicated team and ample time for building:
 - a) mutual understanding
 - b) trust
 - c) readiness for compromise
- Lots of patience is necessary as you need to provide enough time for each community to achieve the right level of comfort towards each decision, each step they are making (and they all move not at the same pace)

Lessons Learned (cont'd)

- Regular, effective, well-documented communication and stakeholder engagement are key
- Thinking out of the box and challenging established believes. Three such believes turned out to be main stumbling blocks:
 1. “IOI must return the land directly to communities”
– legally not possible because IOI Pelita is only a leaseholder
 2. “IOI must resolve the intercommunal disputes, including allocate land to communities and individuals”
– not a proper role for a company
 3. “Government can’t play a constructive role”
– it did play a key and positive role; without its support this dispute could not be resolved

Final Thoughts

Success was possible, at the end, because each key stakeholder did their part and contributed what was possible within their power and competence, and thus a complete and lasting solution was achieved.

IOI Pelita	agreed to excise more than half of the land
Sarawak State	agreed to gazette the area as Native Customary Land
Communities	agreed to resolve intercommunal disputes themselves
Civil Society	built communities' capacity and verified their claims
RSPO	provided guidance and support to the entire resolution process

Settlement Agreement Signing Ceremony



Thank You