

# CASE STUDY 4 — NAB AND WILMAR

## WHO IS WILMAR?

Wilmar International, founded in 1991 and headquartered in Singapore, states it is Asia's leading agribusiness group.<sup>366</sup> The claim is plausible as Wilmar easily dwarfs competitors in the palm oil industry alone — owning vast palm oil plantations and taking first place as the world's leading processor and trader of palm oil.<sup>367</sup> Wilmar's leading role, however, also means it has been at the centre of the maelstrom of controversy that has engulfed the entire palm oil industry over the past decade.

## WHAT IS PALM OIL AND WHY IS IT CONTROVERSIAL?

Palm oil is an edible vegetable oil derived from the fruit of oil palm trees, which can only grow in tropical regions. As those regions are home to emerging economies, the palm oil industry is particularly susceptible to the broader problems facing the agricultural commodities industry in emerging economies. The palm oil industry itself has attracted specific allegations from environmental organisations that it is responsible for large-scale deforestation, extensive carbon emissions and the critical endangerment of species such as the Sumatran orangutan, elephant and tiger. It is this aspect of the palm oil industry that has received the most attention in Australia, with independent Senator Nick Xenophon leading a campaign on the issue since 2008.<sup>368</sup> However, the environmental concerns regarding palm oil are more than matched by social issues, with allegations of land grabbing and human rights abuses across the industry.<sup>369</sup>

Investors, such as the World Bank were not the only corporations to act on social and environmental concerns in the palm oil industry. Such concerns led to a proliferation of attempts to transform the industry, of which the multi-stakeholder initiative, the Roundtable on Sustainable Palm Oil (RSPO), has been the most prominent.<sup>374</sup>

### Box 7: Investors beware — The World Bank and the International Finance Corporation run into trouble with palm oil

In 2007, a complaint regarding Wilmar was submitted to the International Finance Corporation's (IFC) Compliance Advisor Ombudsman, kicking off an extraordinary chain of events at one of the world's most experienced lenders in emerging economies.<sup>370</sup> The 2007 complaint alleged adverse environmental and social impacts of Wilmar's palm oil operations in Indonesia, which had been financed with the support of the IFC.<sup>371</sup> The complaint led to an internal audit which scathingly concluded that the IFC had failed to apply its own standards and that its actions were counterproductive to its mission, mandate and its commitment to sustainable development.<sup>372</sup> With regard to IFC's Wilmar investments, the audit report found that commercial pressures were allowed to influence the scope and scale of IFC's environmental and social due diligence.<sup>373</sup> The fallout from this internal audit was astounding, with the World Bank Group President in 2009 instructing the IFC and entire World Bank Group to suspend financing of palm oil projects until a comprehensive and specific palm oil strategy had been developed. It took until 2011 for such a strategy to be developed and financing for palm oil to be restarted.

## WHAT HAVE BEEN THE SPECIFIC CONCERNS IN RELATION TO WILMAR?

As noted by other NGOs,<sup>375</sup> as one of the largest players in the palm oil industry, the sheer number of conflicts and controversies surrounding Wilmar's operations and those of its many subsidiaries are virtually impossible to document.

Since 2007, three complaints<sup>376</sup> have been submitted to the IFC's Compliance Advisor Ombudsman (CAO) against Wilmar's operations in Indonesia alleging the company cleared land without appropriate community approvals, legally required permits, or completed Environmental Impact Assessment processes, in violation of national laws and RSP0 principles. The most recent complaint, filed in 2011, alleged the company called on government forces to dismantle a community settlement on disputed land. In 2013, Wilmar sold its stake in the operation — the subject of the 2011 complaint — and the new management withdrew from the CAO's mediation process. In February 2013, a new complaint was filed with the RSP0<sup>377</sup> (of which Wilmar is a member) against a Wilmar subsidiary operating in Indonesia. The complaint alleged the company failed to comply with all relevant local, national and ratified international laws and regulations; did not mitigate the environmental impacts of the development; encroached into areas classified as High Conservation Value Forests and breached parts of the RSP0 Code of Conduct.<sup>378</sup> That complaint is now in bilateral negotiations.

Wilmar has also faced complaints to the RSP0 for its operations outside of the Asia-Pacific region. In 2012, a complaint was filed with the RSP0 regarding Wilmar's operations in Nigeria.<sup>379</sup> The complaint alleged that the company failed to reach an agreement with landlord communities, and disputed the legality of the concession agreement and the subsequent land acquisition in the concession area.<sup>380</sup> The RSP0 appointed a prominent law firm from Nigeria to give a legal opinion on Wilmar's compliance with the applicable laws pertaining to the land development, and that case is listed by the RSP0 as closed for monitoring.<sup>381</sup>

Wilmar has also faced the direct criticism of prominent environmental NGOs including Greenpeace<sup>382</sup> and Rainforest Action Network<sup>383</sup> who have released lengthy reports and campaigned vigorously in relation to Wilmar and its suppliers.<sup>384</sup> It is important to note that the allegations made against Wilmar have not gone uncontested by the company, it is clear that Wilmar has gone to considerable time and effort to counter allegations<sup>385</sup>, and engage with complaints procedures at both the RSP0<sup>386</sup> and the IFC's CAO.<sup>387</sup>

## WHAT IS THE NAB CONNECTION TO WILMAR?

The NAB has had a significant funding relationship with Wilmar, which, according to the ThomsonOne.com Investment Banking database, began in Nov 2010 when the NAB financed Wilmar to the tune of AUD \$112.59 million.<sup>388</sup> A further loan of AUD \$106.35 million from NAB was made in September 2013 to Wii Pte<sup>389</sup>, a wholly-owned subsidiary of Wilmar International, which holds proprietary investments for the entire Wilmar Group.<sup>390</sup>

It is worthwhile noting that the first loan to Wilmar occurred during 2010, when the World Bank Group had suspended lending to Wilmar and the entire palm oil industry, following the complaint to the IFC regarding Wilmar's operations. The subsequent 2013 NAB loan came after *Newsweek* had ranked Wilmar as the least sustainable company in the world in terms of environmental performance for two years running — in 2011 and 2012.<sup>391</sup>

While many palm oil industry investors, and indeed other investors of Wilmar, joined the RSP0<sup>392</sup> over the last decade in an attempt to move the industry towards improving its social and environmental practices, the NAB did not. While many Palm Oil customers, such as Unilever, Kellogg's and even Australia's Woolworths have made commitments to source Certified Sustainable Palm Oil, the NAB has made no public comment or commitment whatsoever on palm oil, or its exposure to one of the palm oil industry's biggest players. This is despite the NAB making a laudable commitment to the Natural Capital Declaration,<sup>393</sup> and further public commitments to environmental sustainability,<sup>394</sup> that in Oxfam's opinion lead the way for the remaining big four banks.

### Box 8: Wilmar's No Deforestation, No Peat, No Exploitation Policy

1. No Deforestation
  - No development of High Carbon Stock (HCS) Forests
  - No development of High Conservation Value (HCV) Areas
  - No burning
  - Progressively reduce greenhouse gas (GHG) emissions on existing plantations
2. No Development on Peat
  - No development on peat regardless of depth
  - Best Management Practices for existing plantations on peat
  - Where feasible, explore options for peat restoration by working with expert stakeholders and communities
3. No Exploitation of People and Local Communities
  - Respect and support the Universal Declaration of Human Rights
  - Respect and recognize the rights of all workers including contract, temporary and migrant workers
  - Facilitate the inclusion of smallholders into the supply chain
  - Respect land tenure rights
  - Respect the rights of indigenous and local communities to give or withhold their
  - Free, Prior and Informed Consent (FPIC) to operations on lands to which they hold legal, communal or customary rights
  - Resolve all complaints and conflicts through an open, transparent and consultative process.
  - All provisions in this policy, with no exception, apply to all Wilmar operations worldwide, including those of its subsidiaries, any refinery, mill or plantation that we own, manage, or invest in, regardless of stake and all third-party suppliers from whom we purchase or with whom we have a trading relationship.

The policy also commits Wilmar to creating a transparent sourcing network with full traceability.

## HOW WILMAR HAS MOVED BEYOND ITS OWN LENDER

What is extraordinary about the Wilmar story is that on 6 December 2013, following years of NGO campaigning, RSPO and IFC complaints and even open letters from investors<sup>395</sup>, Wilmar moved comprehensively to answer its critics. It went further than its RSPO membership and adopted a broad and comprehensive commitment to a “No Deforestation, No Peat, No Exploitation Policy.”<sup>396</sup> The policy opens with the honest and commendable statement that, “Wilmar International recognizes that while plantation development has contributed significantly to economic development, deforestation and other unsustainable practices have many negative consequences for people and the environment.”<sup>397</sup> Wilmar states further that “In the face of imminent global crises such as climate change, environmental degradation, depleting resources, widening rich-poor divide and so on, Wilmar recognises that sustainable development is the only way forward.”<sup>398</sup>

The comments from Kuok Khoon Hong, Wilmar's chair and chief executive, in launching the new policy are instructive. He stated, “We know from our customers and other stakeholders that there is a strong and rapidly growing demand for traceable, deforestation-free palm oil, and we intend to meet it as a core element of our growth strategy.”<sup>399</sup> Clearly, Asia's leading agribusiness group has not only adopted an ethical position on its practices in relation to social and environmental concerns, it sees financial value in doing so. While Wilmar faces a significant task in cleaning up its supply chain, and ensuring compliance with the new policy across its vast operations, the commitment itself is laudable. The question is, how is its lender, the NAB, so silent, and so far behind its client on this one?