

## **Malaysian Overseas Foreign Direct Investment in oil palm land bank**

### **Scale and sustainability impact**

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# Executive Summary

The Malaysian government has encouraged the country's industries to expand overseas for nearly a quarter of a century, resulting in a turn-around in 2007 when the country became a net source of Foreign Direct Investment. Whilst the Malaysian palm oil industry takes a modest position in terms of total overseas investment volume among other sectors, its sustainability impact is without doubt most significant of all.

The expansion of the oil palm industry in Malaysia, Indonesia and third countries is among the top most vibrant subjects of global sustainability discourses on tropical forests, climate change, human rights and global consumption patterns. As the main global player in this industry, Malaysia plays a key role in these discourses. Palm oil represents a strategic economic commodity for the country and substantial resources are invested in developing know-how, as well as defending the industry's good reputation.

Against this background, Sahabat Alam Malaysia (the Malaysian chapter of Friends of the Earth) requested Aidenvironment to gather information about Malaysian overseas investment in oil palm plantation land bank, and compile case studies that illustrate why the public questions the industry's good reputation. Aidenvironment compiled a database of overseas plantation estate companies that are controlled by Malaysian company groups and selected of cases that illustrate the sustainability conflicts that resulted from investment in a variety of countries.

The study identified 50 separate Malaysian company groups that have acquired over 200 estate companies that hold some form of rights over a total overseas land bank of 3.4 million hectares. The dominant recipient is Indonesia (54%), followed by Papua New Guinea (29%) whilst third countries account for the remaining 18%. The bulk of this overseas land bank remains to be planted, as many estate companies have yet to secure full legal and social license to operate. The ten Malaysian groups with largest overseas land banks are Sime Darby, Kuala Lumpur Kepong, WTK Holdings, Genting Plantations, Wah Seong, Prosper Oil Palm, Rimbunan Hijau, Joinland Group, Sazean Holdings and TSH Holdings. Jointly, they account for 64% of Malaysia's overseas plantation land bank.

Whilst recognizing that Malaysian Overseas Foreign Direct Investment (OFDI) in oil palm can have positive impacts on recipient national and local economies, the case studies presented in this report reflect and affirm civil societies' observation that there are serious legal, environmental and social injustices associated with Malaysian overseas investments, such as:

- Encroachment in protected forestland, and other forms of illegal logging;
- Plantation development without approved Environmental Impact Assessments;
- Encroachment in and occupation of land without consent of local communities;
- Failure to develop smallholder plots as required by law;
- Paying local villagers and plantation workers for hunting protected species, such as orang-utans;
- Paying special police forces for security services.

Affected stakeholders often find themselves as good as powerless in seeing their concerns duly addressed, both in their home countries and in Malaysia. Rampant land grabbing has nurtured anti-Malaysian sentiments in various recipient countries. Excesses have led the governments of Indonesia, Papua New Guinea, Liberia and Cambodia to declare moratoria on plantation development. Unfortunately, these moratoria represent soft policies that can be and are circumvented, also by Malaysian investors. The case studies presented in this report reaffirm that existing national and international governance and accountability mechanism are seriously inadequate to address the sustainability issues associated with overseas foreign direct investment.

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# Acronyms

APDA	Aceh Plantation Development Authority
Bapedalda	Badan Pengendalian Dampak Lingkungan Daerah (Regional Environmental Monitoring Agency)
BOPDL	Bewani Oil Palm Development Limited
BOPPL	Bewani Oil Palm Plantations Limited
BPN	Badan Pertanahan Nasional (National Land Agency)
CoI	Commission of Inquiry (PNG)
COP	Centre for Orang-utan Protection
CPPL	Collingwood Plantations Pte
CSR	Corporate Social Responsibility
ELC	Economic Land Concessions (Cambodia)
FDI	Foreign Direct Investment
FGV	Felda Global Ventures
GLC	Government Linked Company (Malaysia)
Ha	Hectare
HCVF	High Conservation Value Forest
HGU	Hak Guna Usaha (Land Use Rights permit)
IMF	International Monetary Fund
ISO	International Standards Organization
KLK	Kuala Lumpur Kepong
LFIB	Lion Forest Industries Berhad
MPOC	Malaysian Palm Oil Council
NAFAS	National Farmers Association (Penubuhan Pertubuhan Peladang Kebangsaan)
NBPOL	New Britain Palm Oil Limited
NCP	National Contact Point (OECD)
NESB	Nafas Estates S/B
OFDI	Overseas Foreign Direct Investment
PCB	Public Complaints Bureau
PKPS	Perbadanan Kemajuan Pertanian Selangor (Selangor Farming Development Agency)
PNG	Papua New Guinea
Pte	Private limited
PUPs	Private Use Permits (Liberia)
PT AUS	PT Anugrah Urea Sakti (linked to MKH Berhad)
PT BNS	PT PT Berkat Nabati Sejahtera (IOI)
PT BSMI	PT Barat Selatan Makmur Investindo (Chin Teck and others)
PT KAM	PT Khaleda Agropima Malindo (MKH Berhad)
PT LIP	PT Lampung Inter Pertiwi (Chin Teck and others)
PT LKI	PT Lampung Karya Indah (Chin Teck and others)
PT MJD	PT Malindo Jaya Diraja (ex PKPS)
PT SKS	PT Sukses Karya Sawit (IOI)
RSPO	Roundtable on Sustainable Palm Oil
SABL	Special Agriculture and Business Lease
S/B	Sendirian Berhad (incorporated)
SPN	Serikat Petani Nasional (National Farmers Union)
Tbk	Terbuka (Public Listed company)
THP	Tabung Haji Plantations
YaPEIM	Yayasan Pembangunan Ekonomi Islam Malaysia (Islamic Economy Development Foundation Malaysia)

# 1. Introduction

## 1.1 The 2013 haze episode

Between June and August 2013, Southeast Asia's population around the Malacca Straits suffered from a severe air pollution spell, popularly known as 'haze'. This phenomenon is closely related to farm expansion in the region. Over the past three decades, Southeast Asia has significantly expanded its agricultural land bank, primarily for commercial farms and in particular oil palm plantations. Much of this expansion came at the expense of peatlands. Compared to mechanical land clearing, open burning is cheaper and a more practical to remove deforestation debris, especially on peat. However, once cleared, peat fires are hard to control and cause particularly dense smog.

Easy access to investment capital attracted increasing numbers of plantation companies to open up ever-larger tracts of peatlands, especially in Riau and Jambi provinces. Sumatra's close proximity to Peninsula Malaysia and wind patterns eased the movement of the burning smog across the Malacca Straits. Over the past fifteen years, transboundary haze episodes occurred in 1997, 1998, 1999, 2001, 2002, 2003, 2005, 2006, 2009, 2010, and 2012 and again in 2013.<sup>1</sup>

*Figure 1 Map showing extent of 2013 Southeast Asian haze as of 23 June 2013<sup>2</sup>*



The 2013 haze episode (see Figure 1) was more severe than in previous years and led to the closure of kindergartens and schools, suspension of commercial services and restricted outdoor recreational activity. On 23 June, Malaysia's Prime Minister Najib declared a state of emergency in two districts, Muar and Ledang. On the morning of 25 June, the Air Pollution Index value hit a record of 487 ("Very Unhealthy") in Port Klang. The haze forced the opening ceremony of the 13<sup>th</sup> Parliament session in Kuala Lumpur to be held indoors for the first time in Malaysian history.

As in previous years, Malaysian media and politicians called in 2013 for swift and harsh action against those companies responsible for the haze, even if Malaysian plantation companies were involved.<sup>3</sup> In July, Indonesia's President Susilo Bambang Yudhoyono apologized to Malaysia and Singapore for the haze and promised that measures would be taken. On 25 June 2013, the Indonesian police reported to have detained eight farmers "caught red-handed."<sup>4</sup>

Earlier on, Indonesia's Environment Minister Balthasar Kambuaya had mentioned the names of 14 companies that were believed to contribute to the forest fires in Riau, among which eight were believed to be Malaysian-owned: PT Langgam Inti Hiberida, PT Bumi Reksa Sejati, PT Tunggal Mitra Plantation, PT Udaya Loh Dinawi as well as PT Jatim Jaya Perkasa, PT Multi Gambut Industri, PT Mustika Agro Lestari and PT Adei Plantation. Remarkably, the Malaysian companies that the Minister accused of open burning were exactly the same as those listed in August 2005.<sup>5</sup>

An investigation by the Roundtable on Sustainable Palm Oil (RSPO) in 2013 found that most of the Riau based subsidiaries the Malaysian company groups had indeed already since long fully developed their estates in 2013.<sup>6</sup> It would thus be unlikely that they set fire to existing oil palm plantations.

However, the situation is not all that simple. In July 2013, the Indonesian police had named PT Adei Plantations, a subsidiary of Kuala Lumpur Kepong (KLK) as one of the Malaysian companies suspected of open burning.<sup>7</sup> KLK published a substantiated denial of involvement in the fires on the same day.<sup>8</sup> The Malaysian daily, New Straits Times, spread the word that "PT Adei Plantations maintained that it has never engaged in any illegal slash-and-burn activities at its estates."<sup>9</sup>

That claim is not entirely true. In 2001, the manager of KLK's PT Adei, a Malaysian national named Goby, was found guilty of open burning. Between 1999 and 2000, when the company was opening up forest for the plantation estates, authorities at the Riau Environmental Impact Management Agency (Bapedalda) found 17 fires in Adei's plantation areas. Officials estimated fire had engulfed some 3,000 hectares of Adei's plantation land. In early 2001, prosecutors took the case to court in Pekanbaru and the District Court sentenced Goby to two years in jail. In appeal, the Riau High Court sustained the verdict but lowered Goby's sentence to eight months and fined him Rp 100 million. According to local environmental activists, Goby fled back to Malaysia and never served his jail sentence. Media later reported that Bapedalda and KLK settled on a US\$1.1 million penalty.<sup>10</sup> However, Kuala Lumpur Kepong's annual reports have never mentioned a word about the court case and settlement. It may be against this background that KLK managers were banned from exiting Indonesia whilst police investigations into PT Adei's alleged open burning in 2013 were investigated. They were arrested in December 2013.<sup>11</sup>



*Figure 2 In 2013, Indonesian immigration sent out orders to prevent two KLK's managers from leaving the country. The two under police investigation for having allowed and helped villagers to clear land by the use of fire<sup>12</sup>*

Local activists are familiar with PT Adei, describing it as an old company in the area, known to burn land each year, as well as to destroy peatlands and trigger land conflicts with local people. With the first court hearings held early 2014, it surfaces

that the management of PT Adei is held accountable for allowing and facilitating farmers from a smallholder cooperative associated to the company to use fire in land preparation.<sup>13</sup>

## 1.2 Seeing through the haze

The recurring haze problem has made millions of Southeast Asians more aware of the impact of foreign direct investment in palm oil plantations overseas. As it is, however, the haze is the only one environmental impact that Malaysians and Singaporeans directly experience. There are many other sustainability problems associated with irresponsible plantation development, some of which have temporary local effects (river pollution caused by a palm oil mill wastewater spill) while others have global impacts. For example, deforestation contributes to the loss of globally unique biodiversity. Oil palm development on continuously drained peatland significantly contributes to climate change, and rising sea levels would have significant consequences for the coastlines of Malaysia and Singapore.

The 2013 haze episode has also made more people aware that there is a crying need for better public access to information, more transparency about Malaysia's overseas foreign direct investment (OFDI) and its possible negative sustainability impacts. The question arises whether rogue plantation developers can be held accountable, and how.

Interestingly, the 2013 haze led some Malaysian and Singaporean academics and policy makers to consider whether legislative measures could be taken in their own countries, if Indonesia fails to effectively enforce its own laws. "Before anything else is done, we will have to amend our Environmental Quality Act," Dr Azmi Sharom, from University Malaya's Faculty of Law was cited by The Star. Dr Azmi also suggested a provision to allow for prosecution of Malaysians who commit crimes, namely environmental crimes, overseas. Dr Helena Varkkey of the Department of International and Strategic Studies, University Malaya stated: "Recently, Singapore has been discussing extraterritorial jurisdiction, which is the ability for Singapore to prosecute Singaporean companies for wrongdoings in other countries." Dr Varkkey proposed that Malaysia consider similar actions.<sup>14</sup>

## 1.3 Study objective

Sahabat Alam Malaysia requested Aidenvironment to assess the extent and sustainability impact of Malaysian overseas foreign direct investment in oil palm plantation land bank (this report). As to the question how Malaysian companies can be held accountable for unsustainable activities by their overseas subsidiaries, a separate internal paper was prepared.

## 1.4 Methodology

Aggregated yet adequately detailed information about Malaysia's overseas foreign direct investment in palm oil plantations is not (publicly) available. It was therefore necessary to compile a database about the foreign plantation subsidiaries that each Malaysian company group acquired over the years. Because most Malaysian plantation companies are listed on the Malaysian stock exchange (Bursa Malaysia), they are required to publish information about their assets in their annual reports, which proved a valuable source of information in many instances.

Additional information was compiled from company websites and media reports in Malaysia and investment recipient countries (primarily Indonesia and Papua New Guinea and to lesser extent Cambodia, Congo and Liberia). Several case studies presented in this report rely heavily on the research conducted by human rights and environmental NGOs and NGO networks that focus on particular regions. Their valuable work is credited through references in the endnotes, and is placed in the context of Malaysian Overseas Foreign Direct Investment. As such, this work builds on the approach applied in the 1990s in publications by Forests Monitor and Greenpeace Brazil into the expansion of Malaysian logging companies overseas.<sup>15</sup>

This study focuses on identifying Malaysian overseas estate companies and their localities, and did not consider investment in palm oil processing industries etc. Although a variety of base data were collected, the amount and the localities of land that Malaysian investors control through individual subsidiaries represents the most crucial piece of intelligence from a sustainability perspective. Stakeholders in recipient countries whom are affected by irresponsible activities by plantation companies are usually familiar with the local company names only, much less so with the ultimate controlling mother companies registered in Malaysia. This lack of knowledge has in many cases diminished the chances of local stakeholders seeing their issues addressed, as they are caught up handling matters with local company management, whom is not naturally inclined to inform their headquarters about such conflicts.

For the assessment of sustainability impacts, an illustrative case study approach was chosen. Cases were selected to represent a variety of problems as well as to cover various countries and regions, new developments and plantations that have since long been established. Cases of best practices were not covered. Whilst they exist, they are as such of limited interest to stakeholders active in the fields of environmental and human rights.

As mentioned, the reporting formats of Bursa Malaysia have seriously improved public transparency in relation to its members' overseas activities. However, the information that may be obtained there does not represent the full picture. Although many plantation businesses are publicly listed, there are still many groups that are not. Furthermore, some listed companies conceal their role the activities undertaken by associated unlisted companies. The lack of reliable data about Malaysian investment in Papua New Guinea is particularly problematic.

## **2. Malaysia's overseas plantation investment**

### **2.1 Trends in Malaysian Foreign Direct Investment**

“South to South” foreign direct investment (FDI) has become an increasingly important source of global capital in recent years.<sup>16</sup> Malaysia is no exception. Malaysia's Overseas Foreign Direct Investment (OFDI) flows have consistently surpassed incoming investment since 2007. Between 2001 and 2010, Malaysian OFDI increased 8.3 times to RM 300 billion, whilst portfolio investment grew 16.8 times to RM 110 billion.<sup>17</sup>

In 2010, the top destinations for Malaysian investments were Singapore (17%), Indonesia (13%) and Australia (5.4%). Altogether, 68% of Malaysian overseas investment was destined for developing countries. A significant portion of capital was channelled through so-called tax havens Mauritius, Cayman Islands and British Virgin Islands (14.5%) whilst funds from the Labuan offshore finance centre are excluded from Malaysia's statistics.<sup>18</sup> Most Malaysian company groups use aforementioned investment havens, including Singapore, as intermediaries for their subsidiaries to invest in third palm oil producer countries.

The mining sector, including oil and gas was the top destination for Malaysian OFDI in 2010, accounting for some 30% of the stock and 25% of the flows. Investment in agriculture, forestry and fishing accounted for 10% (RM 30.9m) and resource-based manufacturing for 8% (RM 22.7m) of total OFDI stock in 2010.<sup>19</sup> Since 2008, overseas investment in these sectors increased by 220%, more than any Malaysian investment in other sectors. Although aggregated data for oil palm related investment are not available, a substantial portion of Malaysian OFDI volume and growth in the three sectors mentioned above is attributable to investment in overseas plantation land banks and associated industrial facilities.

### **2.2 Malaysian plantation expansion overseas**

The main driver of the expansion of productive oil palm plantations is the steady growth in global demand for vegetable oils, which has been rising by 3 to 4% a year for the last 30 years. Global demand for palm oil has even been growing at a rate of 8% annually. Malaysia currently accounts for 39% of global palm oil production and 44% of total exports.<sup>20</sup> However, as land and labour were considered increasingly scarce at home, Malaysian began to consider developing land bank overseas. Their plans gained traction in the early 1990s, also in the context of an aggressive government campaign to promote the image of Malaysia as an economic leader amongst developing economies.<sup>21</sup> Besides Malaysia, there are approximately 29 tropical countries with soils and climate that would make oil palm plantations possible.<sup>22</sup>

Aidenvironment's research found that 50 different Malaysian company groups hold controlling stakes in over 200 plantation estate companies with a total oil palm plantation land bank of approximately 3.4 million ha outside Malaysia (see Table 1).

Table 1 Recipient countries of Malaysian OFDI in oil palm land bank (2013)<sup>23</sup>

OFDI recipient country	Total land bank (ha)
Indonesia	1,815,000
Papua New Guinea*	973,000
Congo (Br.)	180,000
Liberia	389,000
Cambodia	23,000
Philippines	1,000
Solomon Islands	6,000
<b>Total</b>	<b>3,387,000</b>

\* Excluding 530,000 ha that cannot be traced back to Malaysian company groups

If this land bank were fully planted, it would represent just over two-thirds of Malaysia's own oil palm plantation land (in 2013, just over 5 million hectares had been planted in Malaysia). Based on our estimates, at least half of Malaysia's overseas land bank remains unplanted. The actual development of this land bank depends heavily on due completion of legal requirements and local community consent. Ten out of all identified company groups are members of the Roundtable on Sustainable Palm Oil (RSPO), which sets additional conservation requirements. The total net land bank that may be developed is thus likely to be significantly smaller, that is, assuming that companies comply with applicable laws and are willing to accept that customary rights and conservation priorities may make significant portions of land unavailable for planting.

The top ten largest overseas land bank holders from Malaysia are presented in Table 2 below. Jointly, the top ten represent 64% of Malaysia's overseas oil palm plantation land bank.

Table 2 Malaysian company groups with over 100,000 ha of land bank overseas (2013)

Groups	Indonesia	PNG	Liberia	Congo (Br.)	Total (ha)
Sime Darby	289,000	220,000	0	0	509,000
KLK	144,000	220,000	118,000	0	458,000
WTK Holdings	0	0	220,000	0	220,000
Genting Plantations	193,000	0	0	0	193,000
Wah Seong				180,000	180,000
Prosper Oil Palm	140,000	0	0	0	140,000
Rimbunan Hijau	0	0	126,000	0	126,000
Joinland Group	0	0	118,000	0	118,000
Sazean Holdings	0	0	115,000	0	115,000
TSH Holdings	109,000				109,000
<b>Total</b>	<b>875,000</b>	<b>440,000</b>	<b>697,000</b>	<b>180,000</b>	<b>2,168,000</b>

## 2.3 Malaysian oil palm land bank in Indonesia

According to the Malaysian Ministry of Plantation Industries and Commodities, the total land bank held by 29 Malaysian plantation groups in Indonesia amounted to 890,000 hectares in December 2005.<sup>24</sup> This study found that in 2013, 42 Malaysian company groups hold majority shareholdings in nearly 184

Indonesian oil palm estate companies. Jointly, these companies have a land bank of 1.7 million hectares (see Table 3 and Appendix I).

*Table 3 Malaysian company groups aggregate oil palm land banks in Indonesia (2013)<sup>25</sup>*

#	Malaysian groups	Land bank in hectare
1	Sime Darby/Minamas Gemilang	289,000
2	Genting Plantations	193,000
3	Kuala Lumpur Kepong (KLK)	120,000
4	TSH Resources	109,000
5	Oriental Boon Siew	97,000
6	TH Plantations	84,000
10	Tadmax, Bumimas Raya, Pacific Inter Link, Yakima Dijaya	80,000
11	Pinehill Pacific Resources	73,000
12	CB Industrial Product	68,000
13	IJM Plantations	53,000
14	IOI Corporation	53,000
15	Lion Forest Industries	53,000
16	Trurich Resources (FGV +THP/LTH)	42,000
17	Kulim	41,000
18	Glenealy Plantations	28,000
19	Southern Group	39,000
20	NPC Resources	36,000
21	United Plantations	35,000
22	TDM	30,000
23	Kwantas Corporation	28,000
24	Glenealy Plantations	28,000
25	Low Yat Group (ex AP Land)	27,000
26	Chellam Plantations	25,000
27	Felda Global Ventures (FGV)	23,000
28	Ahmad Zaki Resources	21,000
31	Chin Teck, Timor, NSOP	18,000
32	Kumpulan Fima	18,000
33	MKH Berhad	16,000
34	Delloyd Venture	16,000
35	Golden Land	16,000
36	SADC/PPNP (Perak State government)	15,000
37	NAFAS	14,000
38	QL Resources	10,000
39	Southern Acids	8,000
40	Batu Kawan	6,000
41	Cepatwawasan	5,000
42	Kumpulan Hamodal	0
	<b>Total</b>	<b>1,817,000</b>

The top five largest Malaysian company groups (Sime Darby, Genting, KLK, TSH Resources and the Oriental Boon Siew group) jointly account for almost half (45%) the Malaysian land bank in Indonesia. We loosely estimate that approximately 60% of Malaysian land bank in Indonesia has been planted up.

Indonesia has been and continues to be the Malaysian planters' primary choice for land bank expansion. In the early 1990s, Indonesia welcomed Malaysian investment in the sector so many Malaysian companies then made their inroads in Indonesia's oil palm industry on grounds of one basic economic consideration: Indonesia out-competed Malaysia in terms of labour cost by five times and cost of land by four times.<sup>26</sup> Additional considerations are that Malaysia has invested significantly in research and development: its industry is well capitalized and experienced in developing plantation estates and associated industries and infrastructure and as such, it makes sense for Malaysia to apply its expertise abroad. Furthermore, Indonesia is close to Malaysia, physically but also culturally and politically.

Nonetheless, Malaysian investment in Indonesia's palm oil industry has not been without difficulty. After dozens of Malaysian companies had founded joint ventures in the early 1990s, Indonesian nationalists speculated that Malaysian companies had already taken up 3 million ha of plantation land. Their lobby led the Indonesian government to declare a moratorium on foreign investment in the palm oil industry in March 1997. However, the IMF debt relief package that Indonesia had accepted required that the investment ban be lifted in June 1998, although IMF required that a new ban be placed on plantation development in forestlands, valid up to when Indonesia repaid its debts.

Whilst this temporary ban and the 1997-98 Asian financial crisis led to the suspension of numerous investment projects, one Malaysian company scored big in 2001 when it capitalized on the impacts of the financial and political crisis in Indonesia. In a single deal, Kumpulan Guthrie (now Sime Darby) acquired 25 oil palm estates with a 266,000 ha of 'greenfields' and 'brownfields' from the indebted Indonesian Salim Group for 'merely' US\$375 million.

Malaysian foreign direct investment in Indonesia's palm oil industry was uninterrupted ever since, and new land bank acquisitions continue to be announced on a regular basis today. That said, there have been some notable Malaysian divestments from Indonesia as well: Boustead, Tradewinds and VS Industries have all withdrawn from Indonesia over the past few years. Kulim also pulled out, but is now considering a re-entry in Central Kalimantan after six years.<sup>27</sup>

From May 2011 onward, Malaysian investors had to accept that the Indonesian government adopted a two-year moratorium policy that implied that no new location permits over primary forests, conservation forests and peatlands could be issued. The moratorium was extended for another two years in mid-2013, but because the Presidential Instruction applies to new permits only, investors had nearly expired permits renewed. Thus, for example, Genting Plantations was able to acquire 65,000 ha of new land bank in Central Kalimantan in 2012, even though most of this land is deep peat.

## **2.4 Malaysian oil palm land bank in Papua New Guinea**

Until recently, just three players (Cargill, NBPOL and SIPEF) dominated the Papua New Guinea (PNG) oil palm industry. In recent years, numerous new oil palm projects were announced – often under the pretext of 'agroforestry', whereby investors apply for Special Agriculture and Business Leases (SABLs).

Whilst Malaysia's involvement in the SABL issue is unquestionably significant, government authorities and companies involved provide minimal transparency in regards to the ultimate investors behind the 75 SABLs that were issued over nearly five million ha of land in the country. According to a 2012 Greenpeace study, Malaysian company groups control 34 SABLs covering 1.2 million hectares.<sup>28</sup> Our updated review shows that as of late 2013, at least 10 Malaysian company groups were granted as many as 40 SABLs, logging and other rights to develop oil palm plantations in PNG. Based on available data, we estimate that the total Malaysian land bank in PNG amounts to nearly 1 million hectares. The total figure may be bigger because many SABL projects (with a total land bank of 530,000 ha) involve Malaysian individuals that cannot be traced back to a particular group (see Table 4 and Appendix 2).

*Table 4 Malaysian company groups engaged in oil palm plantation projects in Papua New Guinea<sup>29</sup>*

#	Malaysian groups	Land bank (ha)
1	WTK Holdings	222,000
2	Prosper Oil palm / FEH	140,000
3	Rimbunan Hijau	126,000
4	Joinland Group	118,000
5	Sazean Holdings	115,000
6	Kulim	82,000
7	Kayu Mas	74,000
8	KLK, Batu Kawan	44,000
9	Takaso Resources	40,000
10	Felda Global Ventures (FGV)*	12,000
	<b>Total known groups</b>	<b>973,000</b>
	Unknown groups	530,000
	<b>Total</b>	<b>1,503,000</b>

\* Pending acquisition.

Except for the land bank held by Kulim (through NBPOL), most of the Malaysian plantation investment projects in PNG remain at their infancy stage, although land clearing (logging) has already commenced in various controversial cases.

Kulim's subsidiary New Britain Palm Oil Limited (NBPOL) has over the past years strengthened its position as the largest plantation company in the Pacific through strategic take-overs of existing plantation land bank, rather than 'greenfield' acquisition. In the slipstream of NBPOL's success, Rimbunan Hijau, WTK and other Malaysian logging companies have begun to diversify into oil palm in PNG oil palm in recent years, using SABLs to gain access to land and timber resources in PNG. More recently, it has been reported that Felda Global Ventures and Sime Darby are also considering investing in PNG.<sup>30</sup>

Many PNGans recall the grand plans announced by the once Bursa Malaysia listed company Damansara. Back in the late 1990s, this Malaysian company entered Sandaun Province, where it clear-felled 5,000ha, extracted and sold the logs, and then went belly-up.<sup>31</sup> Since then, a rising number of customary land owners realized that their land had been sold off under the SABL mechanism without their consent eventually led the PNG government to appoint a Commission of Inquiry (CoI).<sup>32</sup> After two years of investigations, the Commission's summary report found "widespread abuse, fraud, lack of coordination between agencies of government, failure and incompetence of government officials to ensure compliance, accountability and transparency within SABL process from application stage to registration, processing, approval and granting of the SABL." The CoI recommended that all except four small SABLs studied be revoked.<sup>33</sup>

To enable the CoI's work, the National Executive Council declared a moratorium on the issuance of Special Agriculture and Business Leases (SABLs) in June 2011. Yet, the moratorium did not stop KLK and Batu Kawan from Malaysia from seeing two SABLs gazetted in July 2012, whilst the CoI investigations were on-going (see section 3.9).

## 2.5 Malaysian oil palm land bank in third countries

We estimate the total Malaysian oil palm land bank in third countries at nearly 600,000 ha in 2013 (see Table 5).

*Table 5 Malaysian company groups aggregate oil palm land banks in third countries (2013)<sup>34</sup>*

Malaysian company group	Country	Land bank (ha)
Lion Forest Industries	Cambodia	23,000
Tabung Haji Plantations	Philippines	1,000
NBPOL	Solomon Islands	6,000
Sime Darby	Liberia	220,000
Kuala Lumpur Kepong (KLK)	Liberia	169,000
Wah Seong	Congo (Brazzaville)	180,000
<b>Total</b>		<b>599,00</b>

Most Malaysian oil palm plantation investment projects in third countries remain in the ‘greenfield’ stage. As of 2013, the total planted area was not likely to exceed 20,000 ha.

When Malaysians invest in third countries, the contextual factors are less favourable. Labour costs are often higher, the main constraint to large-scale oil palm expansion in the Amazon region. In 2009, Felda announced plans to develop 30,000-100,000 ha of oil palm plantations in Manaus and Tefe, Brazil. Eight months later, the plan was shelved “for environmental and technical considerations”.<sup>35</sup> In spite of this bad experience, Felda Global Ventures’ website was pregnant with expansion plans for the Philippines, Liberia, Cameroon, Papua New Guinea, Cambodia, Myanmar and Indonesia prior to its public listing in June 2012. Following the 2013 Lahad Datu incident, Felda’s plans to develop 1 million hectares of oil palm plantations in Mindanao, the Philippines effectively evaporated in a complex geopolitical arm struggle involving the late Sultan of Sulu and the national governments of Malaysia and the Philippines.<sup>36</sup>

In recent years, there has been a rise in media coverage about Asian investment plans to (re) introduce large-scale commercial oil palm plantations in Africa. The hype is based on a valid economic observation that edible oils demand in Africa structurally exceeds supply.<sup>37</sup> In 2009, Sime Darby announced that it had been granted a 63-year lease to develop a 220,000 ha oil palm concession in Liberia. The company would nonetheless soon find out that there is more than supply and demand that determines the rule of the game. By May 2011, the company had been able to plant only 8,000 ha as a result of local community resistance.<sup>38</sup> Early 2013, the company publicly acknowledged that:

*“after the first few months of development in Liberia, (Sime Darby) realized that there were gaps in its processes when seeking Free, Prior, Informed Consent (FPIC) from communities due largely to a lack of awareness of local conditions.”<sup>39</sup>*

Whereas Sime Darby demonstrated commitment to take local community interests seriously, Global Witness documented and exposed the practices of a more obscure league of Malaysian investors in Liberia. Allegedly financed by a US\$60 million investment by Samling, Atlantic Resources Limited, a business linked to Sarawak Chief Minister’s cousin Sepawi, saw themselves forced out of the country in January 2013 after an attempt to grab the bulk of 835,040 hectares of forest through 18 Private Use Permits (PUPs) and another 130,000 ha under Forest Management Contract.<sup>40</sup> In response to an investigation into such cases, Liberia’s President Ellen Johnson declared a moratorium on the issuance of such permits to protect the national interest on 4 January 2013.

Early 2011, a media report stated that Sime Darby had plans to develop 300,000 of oil palm plantations in Cameroon. The company denied having closed a deal, but eight months later it announced that it had established a subsidiary (Sime Darby Plantation Cameroon Ltd.; SDPCL) to develop oil palm and rubber in Cameroon.<sup>41</sup> In 2012, the Malaysian daily Berita Harian wrote that Felda Global Ventures (FGV) will develop the Felda model in Africa in a first step “to improve local farming practices”.<sup>42</sup>

Whether Malaysian investors will succeed in Africa remains to be seen. The lack of clear land titles, poor margins and weak yields represent massive stumbling blocks. Belgium’s Siat Group has operated in Africa for 30 years and “got on by with only small profits”.<sup>43</sup> Furthermore, Africans may not be inclined to adopt the Felda model, which is uniquely dependent on Malaysian patronage networks, and as such is an unlikely exportable product.

So far, neither Sime Darby or FGV have reported progress to enter Central Africa, but such is not the case for Malaysia’s newcomer in Africa, Wah Seong, a company group with ties to the Malaysia’s first family. In 2012, the group acquired a majority stake in Atama Resources, which holds a 470,000 ha concession in Congo Brazzaville (see paragraph 3.5).

Malaysian plans for oil palm investment in South Asia, Cambodia, Myanmar and Laos progress slowly. In 2007, it was announced that Astral Asia SB, a small plantation group from Pahang, would take up an 85% stake in a 60-year joint venture in Myanmar but the plan was abandoned a half year after it was announced.<sup>44</sup> As far as we know, only one Malaysian company (Lion Forest Industries) has been able to gain tangible foothold in Cambodia.

## 2.6 Development or land grab?

For a Crude Palm Oil mill to secure adequate fresh fruit supply, a land bank of at least 5,000 ha is required. Such is a large tract of land by any standards of local subsistence farmers, even by commercial farmers in many other parts of the world. Malaysian companies strive to acquire much larger land banks in single projects of 15,000 ha and more, and many acquire several such projects. Few companies acquire existing oil palm plantations (*brownfields*) to expand their land banks. Instead, they focus on acquiring “undeveloped land” (*greenfields*). In reality, local communities already use such lands since time memory. Not unlike how plantation land bank was developed in Malaysia, getting customary rights holders to surrender their land to the investors is a *dirty business*.

Although most of the larger Malaysian overseas investors are members of the RSPO, many if not most end up in disputes with local communities and the governments that issued them leases. These failures led some investors to learn to accept that there are limits to expansion, and that they require a social license to operate, as much as it is essential to have all legal permits in place. Nonetheless, plain land grabbing is still often covered up with flowery promises of “development”. Whilst often holding permits of dubious validity, companies arm-twist and bribe local people in need of *public* services to surrendering their land to a *private* company. Typical promises of development benefits include road construction (roads that the company will be using mostly), schools (that give future estate workers at least a basic understanding of following orders) and health services (that serve to keep workers healthy to execute their jobs).

Civil society organizations from every country where Malaysian investors are active consistently report that *opaque deal-making* is the norm in land acquisition for oil palm projects.<sup>45</sup> Yet, in efforts to dismiss any critic, Malaysian mainstream media depict the country’s plantation companies overseas as nothing less than noble heroes on a mission to develop backward local people:

*“Ironically, all this is happening at the onset of oil palm being extensively cultivated in new frontiers such as Africa, Cambodia, Laos and Myanmar with the noble intention of generating income and eradicating poverty among smallholders and farmers.”<sup>46</sup>*

Some Malaysian investors even represent themselves as nothing less but true missionaries, to justify their attempts to gain access to local peoples’ land and logs. In 2012, PNG’s “AgriNews” elaborated on the motivations of the Malaysian managing director of Joinland, a cold storage product retailer from Sarawak, to enter New Hanover Island, as follows:

*“Joinland (PNG) Ltd pledges to seek God ahead of development and therefore support for churches would be eminent in the area. Managing Director Deodatus Hii said in order for the people to have a better future and lifestyle, they must put God first in everything they do. He said the project development is in their hands with God’s blessing and urged them to use their knowledge and wisdom in ensuring the benefits go to the people. Mr Hii said his company plans to build churches first in every community, before building aid posts and schools.”<sup>47</sup>*

Mr. Hii’s message came along with an apparently divine landing of logging equipment on the beachfront of Tabut village on New Hanover Island in 2006. The customary landowners did not consent to what happened on their land. The testimonies put forth by them, including those village leaders whom were tricked into signing contracts, to the PNG CoI on SABL are seriously disconcerting. A Correctional Service officer stated before the recent SABL Commission of Inquiry in New Ireland:

*“I, John Sek, of Tabut village, do submit this statement to the Commission of Inquiry as a clan leader and representing the people, especially of Tabut village. On 19 March 2006, Tutuman Development Limited [a developer linked to Joinland] landed its machineries at the beachfront of Tabut village. People were caught surprised and half of the village were forced to vacate their houses and moved inland. It was saddening that they had to sleep in makeshift houses at their garden sites until proper shelters were built. Until to date, no one of those affected was built a house as promised by Tutuman Development Limited.*

*I stand firm to tell this Commission like this that these Malaysians, Mr Sisi and Mr Deo and their workers that they must not return again to New Ireland and also to New Hanover and this lease - leaseback will have to stop. Get rid of the title from that company, and the other companies that are on the island will have to leave the island. And whatever outstanding that they did not pay for in rental they have to pay up and they have to finish from working or stop working and the company Tutuman will to stop, cease operation. That is all Commissioner.”<sup>48</sup>*

Although not all Malaysian companies misbehave abroad, the case of Joinland’s Tutuman project is still one of many that have created villagers’ anger with Malaysia and Malaysian plantation companies.

### 3. Case studies

#### 3.1 National Farmers Association (Nafas)



The National Farmers Association (Nafas) functions as an apex body for all Farmers Organizations in Malaysia. It was founded in 1972 and operates under oversight of the Farmers Organization Authority Malaysia, a federal government body created in 1973 through the Farmers Development Act.<sup>49</sup> Nafas has over 800,000 members and it operates seven corporate subsidiaries, including Nafas Estates Sdn. Bhd. (NESB). One of NESB's Board members is Dato' Seri Mohamed Nazri bin Tan Sri Abdul Aziz, a politician from the United Malays National Organisation (UMNO) and currently Minister of Tourism and Culture. NESB manages a 600 ha oil palm plantation in Peninsula Malaysia and one Indonesian estate company, PT Nafasindo.<sup>50</sup> Up to 23 November 2007, PT Nafasindo was known as PT Ubertraco. The estate company has been active in Singkil district in Aceh since 1988. Nafas Estates acquired the company on 1<sup>st</sup> of October 1996.<sup>51</sup>

PT Ubertraco became entangled in a long and intense conflict with 22 villages as soon as it commenced its operations. Most land in Singkil district is customary rights land, but the company's land use permits over 13,924 ha were issued to the company without due consultation with the villagers.<sup>52</sup> According to local activists, the disputed land concerns about 4,000 hectares of land.<sup>53</sup> Following a major demonstration by some 500 villagers, PT Nafasindo agreed in July 2007 to pay villagers compensation over the land, but only if local people prove their ownership by producing land certificates.<sup>54</sup> However because customary rights land is rarely certified in Indonesia, the land conflict was left unresolved and flared up repeatedly, leading to destruction of company equipment, police reports, villagers' arrests, lawsuits, street demonstrations and an attempt to legally demarcate the estate, even though the land conflict remained unresolved.

In February 2013, the Governor of Aceh attempted to mediate a resolution between the communities and PT Nafasindo.<sup>55</sup> A spokesman for the company stated at the time that the National Land Agency (BPN) caused the conflict because it did not use GPS to measure and map land in the 1980s. A re-measurement revealed a difference of 1,158.2 ha, which included 400 ha of land that was actually owned by the Singkil district government and had been returned. Nafasindo would be willing to compensate the villagers for the remaining 758 ha, but again only if they can legally prove their claim over said land. In addition, there is an area of 1,997.5 ha within the company's concession that was farmed by the villagers at the time the company moved in. According to the spokesman, this land had not been developed for oil palm. PT Nafasindo's director Saripol Bahrien Karim added that the company just wanted to feel safe and comfortable in managing its investment in Aceh.<sup>56</sup> The mediation effort of 22 February 2013 resulted in a deadlock and the conflict remained unresolved.<sup>57</sup>

On 6 May 2013, dozens of students staged a high profile street protest in Banda Aceh in May 2013 (see Figure 3) to call upon the Governor to cancel PT Nafasindo's land rights permit. The demonstration was in part triggered by a mill effluent spill from the company's Crude Palm Oil mill on April 10, 2013, which was the third since 2012.<sup>58</sup> The students' alliance, consisting of seven organizations, listed PT Nafasindo's "Seven Sins" as follows:<sup>59</sup>

1. There has been no tangible settlement of the landgrab even though a map issued by BPN demonstrates that PT Nafasindo continues to occupy community land and developed plantations outside its permit boundaries;
2. Planting oil palm on Singkil peat swamp;

3. Planting oil palm in community watershed;
4. River water pollution caused by palm oil mill waste;
5. The absence of social security for casual workers;
6. The absence of standard workers pay in accordance with Aceh Province's Minimum Wage regulation;
7. The company's failure to allocate CSR funds to communities around the concession area.

*Figure 3 Indonesian students burning of the Malaysian Jalur Gemilang in Banda Aceh during a demonstration calling for the withdrawal of the PT Nafasindo land use permit<sup>60</sup>*



Nafas is one among other Malaysian plantation companies operating in Aceh. Guthrie (Sime Darby/Minamas Gemilang today) have been operating in the province since the 1990s and have faced many challenges during the insurgency that forced the company to pay Mobile Brigade (Brimob) paramilitary police personnel to protect their estate. After the 2005 peace agreement, the then temporary Governor of Aceh, Mustafa Abubakar, discussed the possibility of making special provision for private companies from Malaysia to open up palm plantations in Aceh. At that time 100,000 ha of land in Aceh Besar area was offered to Malaysian investors.<sup>61</sup> Aceh's next Governor Irwady Yusuf continued this open door policy, which was welcomed by Malaysian palm oil companies whom formed the Aceh Plantation Development Authority (APDA) in collaboration with Acehnese business people.<sup>62</sup> Various media reports stated that APDA plans to open 145,000 hectares of oil palm plantations in the province, supported by YaPEIM (Islamic Economy Development Foundation Malaysia). The plantations would supply oil palm kernels to thirteen CPO factories, with a total investment of US\$ 488 million.<sup>63</sup> However, the plan has not been heard of since.

### 3.2 MKH Berhad



Known as Metro Kajang Holdings until 1 April 2011, MKH Berhad (MKH) is a Malaysian investment holding with 48 subsidiaries operating in property development, hospitality services, furniture manufacturing, money lending, recreation, plantations and other sectors. MKH owns and operates several hundreds of acres of oil palm plantations in Peninsula Malaysia and first ventured into the Indonesian palm oil industry when it acquired PT Khaleda Agropima Malindo (PT KAM) in January 2008. PT KAM holds a land use permit (HGU) for 15,942 hectares in Kutai Kartanegara District, East Kalimantan.

The PT KAM estate is divided in a northern and southern section. According to the MKH Annual Report 2012, 98% of the estate had been planted up. Land clearing was thus executed between 2008 and 2011, which involved the clearing and draining of the inland swampland with patches of degraded forest and brush. The immediate surroundings of PT KAM include swamplands where the village of fishing village of Puan Cepak is located. PT KAM engaged this community back in 2007 to reach an agreement whereby PT Anugrah Urea Sakti (PT AUS) would be made responsible for the development of smallholder (*plasma*) lots. The Sendowan Oil Palm Cooperative holds a 1,356 ha concession area just southwest of the PT KAM and PT AUS concessions.

#### Orang-utan killings

In 2011 and 2012, MKH's investment in East Kalimantan attracted international media attention following allegations of orang-utan 'mass murder' and subsequent court proceedings. The case began in 2011, when conservationists rescued four orang-utans in the areas of PT KAM and PT AUS. In September 2011, the local news portal Bongkar Online reported that an oil palm company in the vicinity of Puan Cepak in Muara Kaman was paying Rp. 500,000 to Rp. 2 million for every orang-utan captured or killed, and that dozens of animals had faced that fate. A disgruntled former company employee had passed on photographic evidence to a local NGO, whom passed the information to the district government's forest protection agency. The news portal cited PT KAM's director Ir. Tonny Sutedja as denying that he had ever given such instruction, arguing that orang-utans could not live in the newly planted oil palm estate.

The argument did not convince the Centre for Orang-utan Protection (COP) as it is well established that the vast majority of Bornean orang-utans live outside protected forests, and that food scarcity as a result of habitat loss forces them to feed on oil palm seedlings to survive. Like all orang-utans, the endangered Northeast Bornean Orang-utan (*Pongo Pygmeus Morio*) is a fully protected species in both Malaysia and Indonesia legislation and the species is listed on Appendix I of CITES. COP pushed hard to ensure that MKH would be held accountable (see Figure 4).

Not long after the initial local media report, an adult male orang-utan with severe injuries on his face and body was found in the area of PT KAM. In addition, primate bones were discovered scattered over 15 different places. In October 2011, the Tropical Rain Forest Research Centre of Mulawarman University in Samarinda reconstructed the bones and found that they included orang-utans that had clearly met violent deaths.

In November 2011, after hearing 25 witnesses, the Kutai Kartanegara District Police arrested the first two PT KAM staff as suspects for breaking Indonesia's Natural Resources and Ecosystem Conservation Law Nr. 5/1990 on grounds of harming an endangered species. The offense carries a maximum prison sentence of five years and fines of up to Rp 100 million (\$11,000). Later on, two employees whom worked on the company staff's orders were charged as well.

Figure 4 Centre for Orang-utan Protection demonstration against PT KAM<sup>64</sup>



During subsequent proceedings, the court heard that two PT KAM employees confessing they had chased down 20 orang-utans and other primates with dogs, then shooting, stabbing or hacking them to death with machetes between 2008 and 2010. Most of the orang-utans did not die instantly after being shot but were left seriously injured and immobilized. The pair then tied up the orang-utans and left them to die from blood loss, hunger or attack from stray dogs. It was established that the company paid Rp 200,000 (\$22) per monkey and Rp 1 million per orang-utan killed.

In December 2011, the Kutai Kartanegara police identified a last suspect, Aru Mugem Samugem to the Malaysian Embassy in Indonesia. Under Samugem's supervision, so it is understood, a meeting was held in 2008 to discuss where to place the pest control team to address infestation of rats, monkeys, porcupines, pigs and orang-utans. Samugem left the company between 2009 and 2010 and is believed to have fled to Malaysia to avoid prosecution. In March 2012, COP called upon Malaysia to proactively assist the Indonesian authorities to track down and arrest Sumugem. Interpol recorded him as a fugitive wanted for questioning

In April 2012, the Tenggarong district court declared four PT KAM employees, Phuah Chuam Hum (a Malaysian estate manager for PT KAM South), Widiyantoro, Imam Muhtarom and Mujianto guilty of the killing of at least 20 orang-utans and other primates. The prosecutor had called for each defendant to be imprisoned for one year and a Rp50 million (US\$5,453) fine. The four were eventually sentenced to eight months imprisonment. Imam Muhtarom and Mujianto, who were convicted of carrying out the actual killings, were additionally fined Rp 20 million (\$2,200) each while Phuah Chuan Hun and Widianoro were convicted for ordering the killings. They were fined Rp 30 million each.

Sahabat Alam Malaysia (SAM) has called upon the Malaysian Ministry of Natural Resources and the Environment should take a serious view of the offence committed in Indonesia and act against the palm

oil companies in accordance to the seriousness of the crime under the Wildlife Conservation Act. There have been no reports that the Malaysian authorities have followed up, or have attempted to identify and extradite Samugem. Instead, in response to SAM's statement in the Malaysian and Indonesian media which condemned MKHB's actions in East Kalimantan, the Malaysian Palm Oil Council (MPOC) came out in the Malaysian mainstream media in January 2012, arguing that:

*"It is worth stressing that the palm oil industry adheres faithfully to all national wildlife and land stewardship laws in Malaysia, and everywhere else it conducts business (...)."*

However, after the Tenggarong district court had found the MKH employees guilty of violating Indonesia's conservation law in April 2012, MPOC remained silent on the matter. MKH also has never reported to its investors, shareholders and other stakeholders that its employees had been found guilty of violating Indonesia's conservation law and that one of its former estate managers was reported to Interpol. Instead, MKHB's quarterly reports posted on the Bursa Malaysia website over 2011 and 2012 consistently claimed that: *"There was no material litigation involving the Group during the current quarter under review."*

### 3.3 Chin Teck Plantations, Negeri Sembilan Oil Palm a/o

#### Chin Teck Plantations

Chin Teck Plantations is a Malaysian company group with approximately 11,000 ha planted oil palm estates in Peninsula Malaysia. It also holds interests in an Indonesian joint venture with other companies closely related to Mr. Goh Eng Chew and family from Singapore.

In 1996, Chin Teck Plantations, together with Seong Thye Plantations Sdn Bhd and two Negeri Sembilan Oil Palm's subsidiaries (Eng Thye Plantations Bhd and Timor Oil Palm Plantation Bhd) invested in a 70% shareholding in PT Lampung Karya Indah through Global Formation SB, which is 50% owned by Chin Teck and 50% by Tiong Thye. PT Lampung Karya Indah (PT LKI) holds leases for two plantation companies in Lampung province. It appears that the Indonesian partner involved in the PT BSMI is the Incasi Raya Group.<sup>65</sup> The two estate companies under PT LKI are PT Barat Selatan Makmur Investindo (PT BSMI) and PT Lampung Inter Pertiwi (PT LIP) in Mesuji district, Lampung province. The two plantation companies have a land bank of 21,122 ha.

#### Escalating land conflict

On 10 November 2011, the Malaysian and Singaporean investors woke up to serious escalation of a smouldering land conflict that commenced when the Indonesian authorities issued land use permits to PT BSMI and PT LIP, soon after the Malaysian investors completed their acquisition. A recent Human Rights Watch report described the incident as follows:

*That day, a group of residents began harvesting oil palm belonging to PT BSMI, alleging that the company had not paid full compensation to the community for some 5,000 of the 17,000 hectares that had been seized in 1997. While some compensation had been assessed and paid, it was less than residents had been promised and came only after a coercive and opaque process in which there were indications that some local officials had been bribed. Further, the company had allegedly not fully complied even with this partial and coerced agreement and failed to establish some 5,000 of the 7,000 hectares of community palm plots promised as part of the compensation package.*

*Early 2011, the community began to seek redress for these grievances from local government institutions and the courts. Finding no remedy, the residents protested in front of the local parliament. In July 2011 many residents began harvesting palm fruit from the trees planted by the company on the land under dispute. The company responded by hiring marines from the Indonesian armed forces to serve as private security to patrol the plantation. Beginning in*

*September 2011, faced with demonstrations on the concession, the company requested additional assistance from Brimob paramilitary police, who supplied up to 382 personnel at any one time.*

*According to findings by the Joint Fact-Finding Team (led by the Head of National Commission for Human Rights), the conflict came to a head on November 10, 2011, when a local farmer was shot dead and seven more were wounded. The confrontation was precipitated by a rumour that a local resident was being detained by company security, which caused a crowd of about 300, some armed with sharp weapons, to demand his release. A heated discussion ensued that allegedly resulted in a member of Brimob firing rubber bullets toward the crowd, further enraging them. The crowd then allegedly stormed the camp and the palm fruit processing plant, burning buildings and destroying equipment.*

*Witnesses interviewed by the Joint Fact-Finding Team reported that when some 60 local sub-district police and military reinforcements arrived several hours later, their vehicles were cut off by residents on two motorcycles who brandished sharp weapons. Witnesses said that shots were fired from the top of the police vehicle, reportedly without orders to do so from the police commander and without firing warning shots or attempting to deploy non-lethal deterrents such as tear gas. Eight people were shot, one fatally from a head wound.<sup>66</sup>*

The Joint Fact-Finding Team established that PT BMSI and PT LIP had requested and paid for the on-site deployment of police security guards, including those from Mobile Brigade. The “Brimob” has a poor reputation for being employable by businesses and for exercising excess violence in “resolving conflicts”.

The report also notes that the Human Rights Commission had already informed the Mesuji district head back in February 1996 that the community was being excluded from discussions regarding the land transfer to PT BMSI.<sup>67</sup> The investigative team held PT BMSI specifically accountable for not seriously developing smallholder land in accordance with the lease terms that mandated the establishment of 7,000 hectares for smallholders. PT BMSI had:

*“only established a plasma plantation in an area of 2212 ha and even continued to expand its core plantation through processing the relinquishment of land rights over the land that belong to local community. The smallholding agreement entered into between the company and community is less transparent and far from principles of justice, because the cooperation agreement underlying the rights and obligations of each party did not exist. Since the harvest in 2006, the community had never received any profit sharing on the ground that the sharing would be done in the fourth year of harvesting.”<sup>68</sup>*

On 26 February 2012, the case escalated once again when about 500 people burned down the PT BSMI’s office building, apparently as a show of their frustration at not being able to reach an agreement on their land dispute with the company (see *Figure 7*). The arson attack damaged the compound’s main office, meeting room, logistics warehouse, canteen, fuel storage depot, employee lodging houses and security post. In response to the incident, the Jakarta Post cited an employee of LBH Bandar Lampung as saying that:

*“The people’s only demand has been for the local government to revoke the concession’s permit granted to PT BSMI. The government has been less than responsive while the company has insisted on cultivating the palm plantation.”<sup>69</sup>*

Figure 5 All residential facilities in PT BSMI were destroyed during a mass riot in February 2012, following an earlier uprising against the company in November 2011.<sup>70</sup>



Tempo Magazine also reported that the community leaders and residents of eight villages agreed to ask PT BSMI and PT Lampung Indah Pertiwi (PT LIP) to leave.<sup>71</sup> Following the second riot, the company finally suspended its operations on the ground in January 2013. PT BSMI had reported loss over RM1.1m in turn over as result of damages to assets.<sup>72</sup> Chin Teck's share value remained unaffected by the events in Mesuji. In April 2013, RHB's Research Team evaluated Chin Teck as *"a jewel in the rubble in Malaysia's plantations universe"*.<sup>73</sup>

In May 2013, local media reported that a local government survey team had progressed with a land survey with the dissenting villagers, but talks about an agreement were not yet in order. The report also refers to PT Prima Alumga where the survey team would proceed next.<sup>74</sup> PT Prima Alumga is a subsidiary of the Malaysian IJM Group, which has also faced years of conflicts with villagers in Mesuji district.<sup>75</sup>

### 3.4 Lion Forest Industries Berhad



The Lion Group is primarily active in the steel, computer, plantation, retail and property businesses. It operates in Malaysia, Singapore, Indonesia, China, USA, Mexico, Vietnam and Hong Kong. One of the group's associated businesses, Lion Forest Industries Berhad (LFIB), is focused on the distribution of building materials, petroleum and automotive products in the domestic market.<sup>76</sup> LFIB is also involved in forestry and plantations.

The Lion Group has attempted, with mediocre success, to gain foothold in various plantation projects in Indonesia and Cambodia. The company's website claims have oil palm and rubber plantations covering about 129,000 hectares in Malaysia, Indonesia and Cambodia, 120,000 ha of which remains unplanted.<sup>77</sup>

#### LFIB in Indonesia

In 2005, Malaysian media announced that it had entered into an agreement with the Malinau district government in East Kalimantan, Indonesia, to develop an oil palm plantation and two palm oil mills through a local joint-venture company, PT Lion Intimung Malinau (PT Lima).<sup>78</sup> The project was linked to plans to construct a portion of the Trans Borneo Highway and its execution remained pending approvals

from the Indonesian government authorities. Direct references to the 75,000 ha plantation project were removed from the LFIB website in 2011.

In Landak District, West Kalimantan, LFIB's 85% plantation subsidiary is known as PT Kebun Aria. The company has faced land disputes with the villagers of Dusun Tapis, Desa Engkadu.<sup>79</sup> In September 2011, the Provincial Plantation Office announced that PT Kebun Aria's Location Permit of (6,000 ha) had been cancelled. Planted areas could be maintained, albeit not being titled, while undeveloped land is to be returned to the district government.<sup>80</sup>

Recently, LFIB commenced the acquisition of PT Varita Majutama from PT Karya Teknik Utama (Indonesia) and Kyosen Transport Pte Ltd (Singapore). The oil palm project is located in Teluk Bintuni district, West Papua and covers 52,641 ha, of which 43,341 ha (82%) was still 'jungle' consisting of commercial timber species with sizes ranging from 35cm-60cm. Of the remainder land, approximately 4,000 ha had been planted with another 5,300 ha had been cleared as of 2012.<sup>81</sup> In January 2013, the Indonesian Minister of Forestry approved the release of 35,371 ha of forestland for conversion into oil palm.<sup>82</sup>

### LFIB in Cambodia

On 2 September 2011, Lion Forest Industries confirmed on Bursa Malaysia that it had acquired ten subsidiaries in Cambodia through LFIB's wholly owned subsidiary Harta Impiana Berhad, which founded 20 companies in the British Virgin Islands to hold the investment in Cambodian companies.<sup>83</sup> LFIB's local partner is Seng Enterprise Co. Ltd., a Cambodian business group that prides itself for "a reputation of a stable and reliable partner with ADB, World Bank, Aupel Uref, Australian Aids, and Agence Française de Développement".<sup>84</sup> In the 2012 financial year, the BVI companies incorporated 23 Cambodian plantation companies.

The principal activity of LFIB's Cambodian subsidiaries would be to develop oil palm and/or rubber plantations in Economic Land Concessions (ELCs) with a 70-year currency. In 2011, LFIB initially aimed to acquire a 58,000 ha land bank in Kampong Thom Province. In September 2011 it was announced that four ELCs did not materialize "due to issues relating to resettlement of villagers". However, three subsidiaries did have their ELC applications approved on 3 August 2012, namely Distinct Harvest, Eminent Elite and Green Choice with a total land bank of 23,182 ha in Preah Vihear Province (see Table 6).<sup>85</sup>

Table 6 LFIB plantation subsidiaries in Cambodia<sup>86</sup>

LFIB subsidiaries	
1. Brilliant Elite	13. Green Choice ** [7,863 ha]
2. Bright Triumph	14. Harvest Boom
3. Classy Elite [10,000 ha]	15. Jade Harvest
4. Distinct Harvest ** [7,960 ha]	16. Jade Power
5. Double Merits	17. Mile Treasure
6. Dynamic Shine	18. Radiant Elite * [9,140 ha]
7. Elite Harvest [10,000 ha]	19. Sky Yield
8. Elite Image * [8,860 ha]	20. Superb Harvest
9. Eminent Elite ** [7,359 ha]	21. Superb Reap
10. Eminent Prosper *	22. Ultra Strategy [10,000 ha]
11. Grand Ray *	23. Up Reach
12. Great Zone	

\* Instruction notices to acquire land cancelled as per September 2012

\*\* Economic Land Concessions approved by the Cambodian Council of Ministers on 3 August 2012

The reclassification of state land is controversial in light of the moratorium on the issuance of ELCs declared by Prime Minister Hun Sen in May 2012, amidst mounting criticism that the country was being rapidly carved up among businessmen. A loophole in that moratorium, criticised by rights groups as self-defeating and deliberately vague, allows the government to grant ELCs that had previously been under negotiation.<sup>87</sup> The moratorium states that firms cannot develop ELC land belonging to communities, even if that land is contained within their concession. It also authorizes the government to revoke concessions that illegally infringe upon community land.<sup>88</sup> However, a majority of Cambodians still have no formal land titles since the downfall of the Khmer Rouge regime.<sup>89</sup>

LFIB is furthermore criticised for circumventing Cambodia's Land Law (2001), which limits the size of one ELC for companies to 10,000.<sup>90</sup> By setting up nearly half a dozen of subsidiaries through BVI registered companies, the fact that the ELCs are ultimately applied for by a single Malaysian company group is thus, albeit barely conspicuously, concealed.

*Figure 6 Cambodian farmers and their families are often violently evicted from their land to facilitate Economic Land Concessions (picture: Kratie Province, May 2012).<sup>91</sup>*



It remains to be seen how sustainable LFIB's plantation projects in Cambodia will be. In 1998, Kumpulan Europlus (better known as the developer and toll manager of the planned West-Coast Expressway Project in Malaysia) obtained rights, through its subsidiary Talam Plantation Holdings Sdn Bhd to develop oil palm plantations in Koh Kong province, Cambodia, but saw its 22,771 ha ELC cancelled in 2006.<sup>92</sup> In 2011, Golden Land Berhad, a Malaysian palm oil company from Sabah, attempted to acquire two ELCs (for in total about 23,000 ha) in Koh Kong Province through a Hong Kong based subsidiary and a Cambodian agent. In August 2012, however, Golden Land cancelled the contract with its agent for failing to deliver on its terms.<sup>93</sup>

### 3.5 Wah Seong Corporation



WAH SEONG CORPORATION BERHAD



Atama Plantation Sarl

Wah Seong Corporation is a Bursa Malaysia listed company that specializes on oil, gas and industrial services. In November 2011, the group founded a 100%-subsidiary WS Agro Industries Pte. Ltd in Singapore to facilitate the acquisition of a 51% stake in Atama Resources Inc. which had been incorporated a few months earlier in July 2011. Then, in February 2012, Wah Seong announced to Bursa Malaysia the acquisition of its controlling stake in Atama Resources, whose subsidiary Atama Plantation SARL held a 470,000 ha 30-year concession in Cuvette and the Sangha provinces in Congo (Brazzaville). The investors deem 180,000 ha 'highly suitable' for palm oil cultivate. The total acquisition sum amounted to US\$52m, while the total development cost for the land deemed suitable for development would require US\$300m over the next 15 years. Wah Seong intends to finance the project for 50% from bank borrowings and for 50% from internal generated funds.<sup>94</sup>

Wah Seong Corporation's venture into the heart of Africa has been received with concern from various parties. While some Malaysian analysts remained upbeat, others have noted that the company is unfamiliar with oil palm plantation management and that "*little is known about Congo, in terms of plantation feasibility, logistics and port access. Country risk is a major concern.*"<sup>95</sup> Civil society organizations in Central Africa are outright critical of the project. Samuel Nguiffo, Director of the Center for Environment and Development, Cameroon, commented:

*"New large-scale oil palm developments are a major threat for communities, livelihoods and biodiversity in the Congo Basin. It is absolutely not the appropriate answer to the food security and job creation challenges the countries are facing. Supporting small-scale family agriculture is a better solution".*<sup>96</sup>

Although no official maps of the Atama concession are publicly available, the UK-based Rainforest Foundation assessed from available evidence that "the forests designated for clearance mostly appear to be virgin rainforest that is habitat for numerous endangered species, including chimpanzees and gorillas. The area borders, and some of it may fall inside, a planned National Park and Ramsar site."<sup>97</sup>

Atama Plantation's website confirms that land clearing began in April 2013 and that it plans to cultivate up to 2,000 hectares by 2013-14 and another 2,000 hectares by 2014-15.<sup>98</sup> According to the Rainforest Foundation study, clearfelling forests for roads and an oil palm nursery had commenced in one area of 5,000 hectares at Epoma in Sangha, while a second 5,000 hectare section of forest in the concession in Cuvette had been signed off for logging and clearance (see *Figure 7*). The Rainforest Foundation study found "no evidence of social and environmental assessments having been carried out, yet logging of the area has started. Official inspectors uncovered numerous breaches of regulations in the logging which has occurred to date." More than 350 trees had been cut but not recorded in official felling reports. Records were found to have been altered with tip-ex and there was evidence that multiple logs had been given the same log numbers (a method often used to launder illegal logs). The inspectors concluded that Atama was in breach of the terms of the forest clearance license, and issued official forestry infraction notices to the company.<sup>99</sup>

Figure 7 Atama logs from forest clearance for oil palm, December 2012<sup>100</sup>



Rainforest Foundation noted that questions remain about Atama Plantations' ultimate ownership. It found evidence that "the same companies which controlled Atama prior to Wah Seong's involvement (and continue to hold a large minority stake) have been used on more than one occasion to shield the identity of individuals found guilty of serious offences."<sup>101</sup> In this light, Wah Seong's connections in Malaysia are politically significant. The younger brother of Malaysia's Prime Minister Datuk Seri Najib Tun Razak, Datuk Mohamed Nizam Abdul Razak, has equity interest in Wah Seong and some of its units.<sup>102</sup>

### 3.6 Low Yat Group



The Low Yat Group is one of Malaysia's larger privately-owned groups with interests in property investments, hotels, constructions, development, management and trading.<sup>103</sup>

In March 2012, the Low Yat group acquired all the assets and liabilities of Asia Pacific Land Berhad (AP Land), which was delisted from Bursa Malaysia the following month. AP Land ventured into the oil palm plantation business in 1997. However, the group disposed of its 3,880 ha of oil palm plantation in Malaysia in 2002. In 2007, AP Land acquired 95% equity interest in PT Tunas Prima Sejahtera (PT TPS) with approximately 12,800 ha in Kutai Kartanegara in East Kalimantan.<sup>104</sup> Following an investigation by the Ministry of Forestry, the Indonesian Anti-Corruption Commission, the police and other agencies in 2011, the company director was arrested on 19 December 2011, along with four other foreign nationals, on grounds that the company was operating on 3,600 ha of Production Forest without permission from the Ministry of Forestry.<sup>105</sup> On May 3 2013, the District Head of Kutai Kartanegara was reported to the Attorney General for issuing an illegal plantation business permit to PT TPS.<sup>106</sup>

In March 2010, AP Land acquired 95% equity interest in another estate company, PT Primabahagia Permai Sejati (PT PPS) in Nunukan district, East Kalimantan (approximately 14,000 ha) via one of the group's three wholly-owned Singapore based subsidiaries - Global Hectare Holding Pty. Ltd. At the end of 2010, AP Land reported that it had not commenced work on PT Primabahagia pending issuance of required permits. AP Land was confident that the relevant permits would be obtained by end of 2011.<sup>107</sup>

However, in May 2011, 31 villages from Lumbis sub-district wrote to the Nunukan district head and the Ministry of Forestry calling for a stop work order for PT Primabahagia on grounds that the company was operating on customary rights land and on forestland managed by the Ministry of Forestry.<sup>108</sup> After AP Land was delisted from Bursa Malaysia and its assets taken over by Low Yat group in April 2012, no information about aforementioned cases is available from formal sources in Malaysia.

### 3.7 Genteng Plantations



Genting Plantations Berhad is a 54.7%-owned subsidiary of the Malaysian Genting Group, which is principally involved in leisure and gaming business. The group's plantations division was previously known as Asiatic Development Berhad. In Malaysia, Genting Plantations owns estates in Johor, Kedah, Malacca, Negeri Sembilan, Perak, Sabah and Selangor. Outside Malaysia, the group holds majority shareholdings in a growing number of plantation estate companies in Central and

West Kalimantan.

On 28 June 2013, Central Kalimantan's governor ordered the suspension of operations by plantations companies whose permit status had not yet been verified as "Clean and Clear". The letter was given follow up by the Kapuas District Head on 24 July 2013 through letter Nr. 525.26/1460/Disbunhut, directed to 13 plantation companies. Among these were three Genteng subsidiaries: PT Dwie Warna Karya, PT Susantri Permai and PT Globalindo Agung Lestari.

The stop-work order were issued because Genting's subsidiaries were clearing forestland without Ministry of Forestry approval, which is in violation of the 1999 Indonesian Forestry Act planting.<sup>109</sup> In 2010, another Genting subsidiary in Central Kapuas district, PT Kapuas Maju Jaya, was also issued a *stop work order* because its permits were not in order.

PT Dwie Warna Karya, PT Susantri Permai and PT Kapuas Maju Jaya deforested vast tracts of forestland and community land within a few years, affecting the livelihoods of local villagers.<sup>110</sup> Genting's activities have attracted the attention of critical media, accusing Genting Group of annexing Kalimantan. In addition to its three concessions in Central Kapuas, Genting Group acquired another three estate companies on the peatlands of Kapuas and South Barito Districts in 2012 and 2013.<sup>111</sup>

Figure 8 Indonesian media depicting gambling boss as chopping up Central Kalimantan<sup>112</sup>



### 3.8 Prosper Oil Palm



Among the more opaque Malaysian investment projects in Papua New Guinea is the Bewani Oil Palm Development Limited (BOPDL) project revolves around a Special Agriculture and Business Lease (SABL) in West Sepik province that was granted on July 11, 2008 and gazetted on July 14, 2008. The project involves a land bank of 139,909 ha.<sup>113</sup>

Before April 2008, BOPDL had only one shareholder, Belden Namah, the local Member of Parliament for Vanimo-Green and currently Deputy Prime Minister and Minister for Forestry and Climate Change. Namah sold BOPDL to a PNG national, Jimmy Tse and a Singaporean, Hung Kai Hii.<sup>114</sup> According to the list of all expenses incurred between 2007 to 2009, Namah received cash to the tune of US\$449,153.85 posted through banks in PNG, Fiji and Singapore.<sup>115</sup> In March 2009, Tse and Hii sold 80% of the company's shares to Million Miles Group Limited (registered in the British Virgin Islands), and the remaining 20% was sold to Bewani Palm Management Ltd. On 21 October 2010, Million Miles Group Limited transferred all of its shares to the four landowner groups, with Tse remaining as the sole director of the company. In November 2010, BOPDL issued a sublease to Bewani Oil Palm Plantations Ltd. (BOPPL), which is registered in PNG with two Malaysian citizens as shareholders. This company is linked to a Malaysian company, Prosper Oil Palm.<sup>116</sup>

Before describing the background to this little known Malaysian company, it is worth noting that the early stages of the Bewani project also involved a Malaysian investor, by the name of Andrew Lim (Andrew Lim Nyuk Foh) from Sabah.<sup>117</sup> Lim is the Managing Director of Maxland Sdn. Bhd. and the Bursa Malaysia listed company Priceworth International. According to the whistle-blower blog, Sarawak Report, Andrew Lim and his brother Freddy Lim were accomplices in the "Musa Aman scandal" by receiving numerous logging leases from Yayasan Sabah (which is headed by Chief Minister Musa Aman) and by subsequently sending funds to UBS accounts managed by Michael Chia Tien Foh in Hong Kong, from which he withdrew RM40 million as political donations for the UMNO Sabah branch.<sup>118</sup> In Papua New Guinea, it is speculated that Andrew Lim did not only send money to Chia.

According to a well-informed blog in PNG, Andrew Lim's PNG subsidiary Maxland (PNG) Limited was approached by the member for Vanimo/Green Belden Namah in his capacity as Minister for Forest in the previous Somare government back in 2007. Namah requested Lim's company to finance and develop the Bewani agro forestry palm oil project. Lim accepted, and he and his company reportedly remitted an amount of money to the tune of US\$10 million to various accounts in PNG, Fiji, American Samoa and Hong Kong. A Joint Venture (JV) Agreement between BPODL and Maxland (PNG) Limited dated 8 September 2008 provided for the transfer of 80% shares on BPODL to Maxland. However, it appeared that Lim was conned by Namah and his business partner Jimmy Tse when he later discovered that the latter two had sold his 80% stake in BPODL to Million Miles Limited.<sup>119</sup>

The aforementioned Malaysian company Prosper Oil Palm came into the public limelight when the company had an official inaugural opening of the Bewani Oil Palm project on 27 October 2010. For this event, Malaysia's High Commission to Papua New Guinea was brought in to celebrate the start of the plantation project which obviously has a link to logging interests (see Figure 9). H.E. Datin Blanche Olbery is the wife of M. Kayveas, president of the People's Progressive Party (PPP) in Malaysia. He was formerly a Deputy Minister in the Prime Minister's Department.<sup>120</sup>

During the opening of the project, an agreement was signed with four incorporated landowner companies (ILCs) who were by then the only shareholders (each representing 25%) of BOPDL. The ILCs are said to represent 126 landowner groups. Prosper Oil Palm is thus not the actual owner of the SABL. Through a company named Bewani Oil Palm Plantations Ltd (BOPPL), it was granted a sub-lease to develop the massive land bank into oil palm plantations, without paying rent, on the condition that it would plant 10,000 ha per year and that the company would build roads and houses. BOPPL furthermore promised to

pay the 126 landowner groups K50,000 (~RM 50,000) each. According to Belden Namah's brother, who represents one of the ILCs, the rent-free arrangement is "a form of appreciation" to the developer.<sup>121</sup>

*Figure 9 Former High Commissioner of Malaysia to Papua New Guinea, H.E. Datin Blanche Olbery endorsed the involvement of "Prosper Palm Oil" in the Bewani project in October 2010.<sup>122</sup>*



As of June 2013, many job advertisements for employment in the project were posted on the Internet, but whether Prosper Oil Palm is capable to live up to its promises to the local landowners is very much in question. During the inaugural opening of the project (see Figure 10), the chairman of Prosper Group, Tee Kim Tee, reportedly said that the Prosper Group had:

*"over 30 years experience in oil palm industry with over 32 oil palm plantations, seven oil mills and bio-diesel plants in Malaysia. The vast experience and knowledge would be put to use in PNG to plant between 6,000-10,000ha of oil palm each year and build four oil mills, making Bewani project the biggest and most successful."<sup>123</sup>*

Similar misleading claims were made on a Prosper Oil Palm's website:

*"Today the largest Palm Oil Company in Malaysia is Prosper Palm Oil Mill SDN BHD. which was formed after merging Golden Hope Plantations Bhd., Sime Darby Bhd. and Kumpulan Guthrie Bhd. Prosper Palm Oil Mill SDN BHD. (the combination of 3 companies) have more than 500,000 hectares (1,300,000 acres) of Oil Palm Plantation in Malaysia and Indonesia, producing more than 2 million tons crude palm oil every year. This is equivalent to 13% of Malaysia's total production."<sup>124</sup>*

Figure 10 Prosper Oil Palm and FEHB director Mr Tee Kim Tee @ Tee Ching Tee at the opening of the Bewani Oil Palm project in October 2010.<sup>125</sup>



Prosper Group chairman Tee Kim Tee is all smiles flanked by the chairman of four landowner companies and officials at the signing ceremony

In reality, Prosper Palm Oil S/B has no links to Sime Darby at all. “Prosper Oil Palm” is part of the Prosper Group, which includes Prosper Palm Oil Mill Berhad (PPOM) and a trading company (Prosper Trading SB). The group has only 3,500 ha of estates in Malaysia, while its associate Bursa Malaysia listed peer, Far East Holdings (FEH), only has 19,000 ha of land bank

in Pahang.<sup>126</sup> Prosper is closely associated with Far East Holdings (FEH), a Bursa Malaysia listed company with close ties to the Pahang state development corporation (Lembaga Kemajuan Perusahaan Pertanian Negeri Pahang), which is a significant shareholder in FEH (see Figure 11). Various FEH directors are also directors in a company called “Prosper Trading”. Both FEH and Prosper are ultimately controlled by the Malaysian Tee family.<sup>127</sup> FEH has never publicly reported on its (indirect) involvement in the Bewani project.

Figure 11 Prosper’s connection to Far East Holdings and the Pahang state government<sup>128</sup>

WELCOME TO FAR EAST HOLDINGS BERHAD Co. No. 14899-W			
<div> <div> Corporate Information Corporate Announcement Estates Information &amp; Statistics Annual Report Media E-Recruitment Links Listed on Plantation Counter Bursa Malaysia </div> <div> Share Capital Authorized : RM 500,000,000 Paid-up : RM 136,229,000 Made up of :136,229,000 unit of ordinary share Substantial shareholders </div> </div>			
Corporate Information			
LIST OF SUBSTANTIAL SHAREHOLDERS (EXCLUDING BARE TRUSTEES)			
No.	Names of Substantial Shareholders	No. of Shares	Percentage
1.	Lembaga Kemajuan Perusahaan Pertanian Negeri Pahang	35,600,800	26.10
2.	Prosper Trading Sdn Berhad	33,492,920	24.55
3.	Hikmat Elit Sdn Bhd	9,399,500	6.89
4.	LKPP Corporation Sdn Bhd	8,421,280	6.17

In spite of Prosper’s meagre credentials to successfully manage such a huge plantation project in PNG, there is no question that the Malaysian investors enjoy strong support from PNG’s cabinet ministers.

On 29 November 2011, a chartered Falcon F900 jet had on board PNG National Planning Minister Mr. Basil, Deputy Prime Minister Belden Namah, Police Minister Boito and the Malaysian business partners in the Bewani project.<sup>129</sup> When the jet returned from Kuala Lumpur to PNG, two Indonesian military aircraft nearly collided with the Falcon. According to the official Indonesian version, there was uncertainty whether the jet had permission to cross Indonesian airspace. However, it has also been speculated that there was an international fugitive, Joko Soegiarto Tjandra, was also on board.<sup>130</sup> Tjandra is wanted by the Indonesian Supreme Court and Interpol (International Police) for corruption and fraud and is also alleged to have various business dealings with some PNG ministers.<sup>131</sup> Deputy Prime Minister Namah later denied that he had ever met Tjandra.<sup>132</sup> The National Planning Minister Basil clarified that he had joined the trip to gain “insights into oil palm project management.” He also urged Papua New Guineans “not to be swayed by malicious and untrue suggestions that the Falcon jet was carrying US\$250 million.”<sup>133</sup>

Political support for the Bewani project remained strong, also during the on-going Commission of Inquiry (CoI) into the SABLs. In March 2012, PNG’s (then) Parliament-elect Prime Minister, Peter O’Neill, (re) launched the Bewani oil palm project by planting the first of thousands of oil palm trees for the Bewani Oil Palm Development Ltd project.<sup>134</sup> His own CoI would later highlight the Bewani project in their summary of findings which were discussed in PNG Parliament in September 2013. The CoI had found that former secretary of the Department of Lands and Physical Planning “was subjected to extreme political pressure from the Prime Minister’s level down, to issue a direct grant to Bewani Palm Oil Development Ltd. Former Sandaun Provincial Administrator also told the inquiry he was forced by certain officers of the Department to sign the Certificate of Alienability despite the fact that he had not sighted any Land Investigation Report and had no idea if one existed.”<sup>135</sup> At the time that the Bewani SABL was issued, Peter O’Neil was then treasurer under the Somare government, while his current deputy, Belden Namah was Minister of Forestry.

The ultimate investors behind the Bewani project remain unknown today. It is extremely unlikely that Prosper and FEHB will be able to bring in the capital required to develop the project, community facilities and cash payments. Neither company has links to the timber industry, but Malaysian companies have for many years been very active in (illegally) logging the forests of West Sepik.<sup>136</sup>

### 3.9 Kuala Lumpur Kepong (KLK) and Batu Kawan



Kuala Lumpur Kepong Berhad (KLK) is a Malaysian company group with approximately 250,000 ha of oil palm plantations in Malaysia and Indonesia.<sup>137</sup> The group is closely associated with another Bursa Malaysia listed company group, Batu Kawan Berhad, an investment holding.

In December 2012, KLK announced that KLK and Batu Kawan had acquired 51% and 18% respectively in the shares of Collingwood Plantations Pte. (CPPL) in Singapore. The shares were acquired from Mr. Hii Eii Sing, a Malaysian, who will continue to hold the remaining 31% in the company.<sup>138</sup> CPPL’s only subsidiary is Ang Agro Forest Management Ltd (ANG), a company incorporated in Papua New Guinea. The company claims to have registered rights over three pieces of land in Collingwood Bay, which includes one 99-year State Lease over 5,992 ha and two 49-year SABLs (Sibo 21,520 ha and Wanigela 16,830 ha).<sup>139</sup> The companies plan to develop these lands (see Figure 12) into oil palm plantations ‘in due time’.

In response to KLK’s plans, the Malaysian newspaper The Star welcomed KLK’s venture in Papua New Guinea and AmResearch recommended a BUY on KLK’s stock. The AmResearch report claimed that “two parcels of the land measuring 38,350ha are subleased from natives customary groups.”<sup>140</sup> Unfortunately, such was not the case.

The SABLs that KKK and Batu Kawan acquired have been subject to legal irregularities from the beginning, with potentially major consequences for the Collingwood Bay communities, who are – by PNG Constitutional law - the actual landowners.

When the application for the two SABLs was done prior to April 2010, it was not indicated that they involved customary land, as required. Furthermore, the Survey Plan mentioned in the gazettal notices referred to a survey of a small block of land on the shores of Collingwood Bay that was acquired by the Anglican mission in October 1901(!).<sup>141</sup>

*Figure 12 CPPL's claimed land banks in Collingwood Bay, Papua New Guinea*



Furthermore, KKK's SABLs were issued in July 2012 (see Figure 13) even though a national moratorium policy on the issuance of SABLs on customary land had been in place from July 2011 onward. The moratorium was called to enable an independent Commission of Inquiry (CoI) to look into the legality of SABLs. The CoI completed its report on 24 June 2013. It had found widespread abuse, fraud, lack of coordination between agencies of government, failure and incompetence of government officials to ensure compliance, accountability and transparency within SABL process from application stage to registration, processing, approval and granting of the SABL. It was estimated that over 5.2 million hectares of customary land around the country had been alienated, mostly for 'special agriculture activities' over virgin forest tracts containing tropical hardwoods.

The inquiry found instances where consent of landowners for SABL titles to be issued directly to foreign owned companies were obtained fraudulently through misrepresentation, thus landowners not being aware that their consent were obtained to approve particular entities or groups to be granted an SABL over their customary land.<sup>142</sup>

Such is no different in the case of the Collingwood Bay SABLs that KKK and Batu Kawan obtained. Over the past twenty years, local communities in this pristine region have seen and stopped many previous attempts by logging, mining, plantation and fishery companies to get their hands on the communities land and marine resources. To stop government authorities and companies from selling of and trading the customary lands, the Collingwood Bay communities obtained a national court order that stipulates that *no* government official or company representative is allowed to enter their land without prior permission.

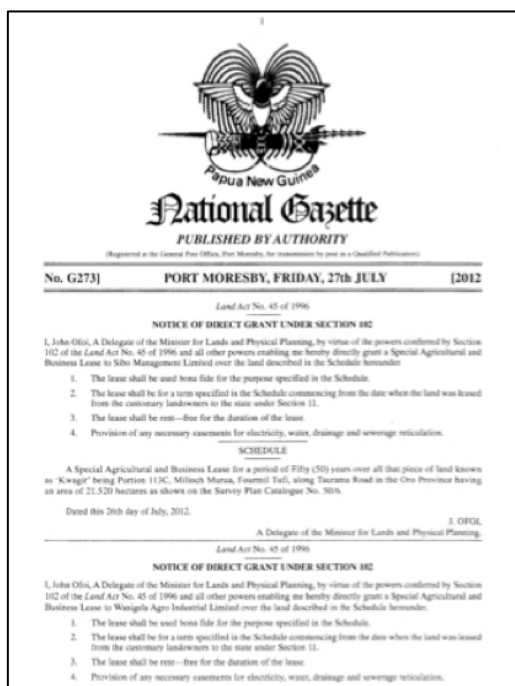


Figure 13 Sample of the gazettement of one of the SABLs issued to KLK, Batu Kawan and ANG published on 27 July 2012. A national moratorium on the issuance of SABLs was declared a year earlier.

NGOs supporting the Collingwood Bay communities filed a formal complaint against KLK with the Roundtable on Sustainable Palm Oil (RSPO) on 19 April 2013, arguing that KLK cannot comply with RSPO policies because whilst the investors may well have purchased the "rights" to said lots, the communities of Collingwood Bay *own* these lands by PNG Constitution.<sup>143</sup> And these native customary groups had never sub-leased the SABL lots to KLK.<sup>144</sup> In fact, community leaders had envisaged that outsiders would continue to try and grab their land and resources so that they issued Joint Communiqué at Wanigela on 24 January 2010:

*"The Chiefs of Collingwood Bay (..) demand that all current plans for intended logging operations in the Collingwood area cease immediately and any further logging proposal be discussed with the people in their communities presided over by the chiefs. We also protest in the strongest possible terms any plans to introduce the oil palm industry in the Collingwood Bay area."*<sup>145</sup>

Thus it seems that the vendor and government officials had cheated KLK and Batu Kawan in believing that they had acquired not only the rights to exploit land but also the rights to the land itself. In its response to the complaint, KLK argued that "until and unless there are substantive government/court orders which materially and adversely impact KLK's investment in PNG, it is not feasible for KLK to follow up on every newspaper article, letter or complaint raised by (i) persons/clans/tribes claiming to be the "real landowners" of Lots 113C and 143C, or by (ii) persons/organizations claiming to represent such landowners/clans."<sup>146</sup>

Even if KLK's legalistic strategy towards the Collingwood Bay leaders would succeed, it would still face a political climate that is no longer favourable to the SABL model as it has been corruptly practiced until now. In response to CoI report on the SABLs, PNG's Prime Minister Peter O'Neill stated to the PNG Parliament in September 2013: "We will no longer watch on as foreign owned companies come in and con our landowners, chop down our forests and then take the proceeds offshore."<sup>147</sup> Furthermore, KLK's lots are located in Oro Province, whose Governor Gary Juffa has reiterated his concern that PNG is a haven for exploitation by companies intent on finding weaknesses in government agencies while marginalising local communities from their land.<sup>148</sup>

### 3.10 IOI Corporation

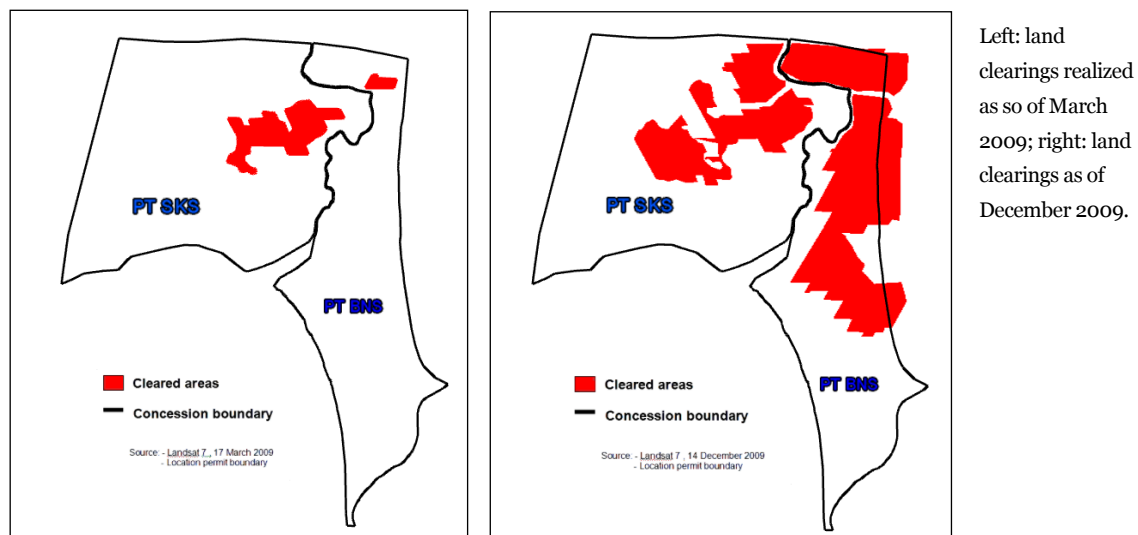


IOI Corporation is one of the largest palm oil companies in the world. It is based in Malaysia and expanded into Indonesia from 2007 onward. Apart from plantations and palm oil mills, the company also operates refineries and manufacturing facilities, among them installations in the Netherlands and North America.

In March 2010, Friends of the Earth Europe and Milieudefensie exposed a major land grab by two IOI subsidiaries operating in Ketapang District, West Kalimantan: PT PT Berkat Nabati Sejahtera (PT BNS) and PT Sukses Karya Sawit (PT SKS). These oil palm companies are majority-owned (67%) by IOI Corporation.<sup>149</sup> Friends of the Earth's study "Too Green to be True" presented irrefutable evidence that in July 2009, IOI-BGA's local director had fraudulently declared in writing to the West Kalimantan Provincial Environmental Monitoring Agency that no land clearing would commence until an Environmental Permit was issued. In reality, the companies were already busily clearing land without government approval, and they continued to do so after the written statement was issued to the authorities. Such actions represent serious violations of Indonesia's environmental laws and the 2004 Plantation Act. Furthermore, it was found that the IOI-BGA subsidiaries were also clearing land without Plantation Business Permits, which is a very serious breach of the Indonesian 2004 Plantation Act. Even after these permits were issued, IOI's companies continued to clear land outside their concession boundaries, inside a forest reserve.

In March 2011, an international alliance of 14 NGOs wrote the Roundtable on Sustainable Palm Oil (RSPO) to highlight these issues that had already circulated in the public domain for over a year, whilst RSPO had remained silent on the matter all along. Formal procedures prescribe that RSPO-members must see their sustainability certificates suspended if any of their subsidiaries are involved in illegal activities. However, in April 2011, the RSPO Complaints Panel only suspended IOI from obtaining new sustainability certificates and allowed IOI to continue marketing RSPO-certified palm oil. In May 2012, RSPO publicly declared "*there is insufficient evidence to prove that (...) that the estates involved were knowingly proceeding to clear land without being in possession of all permits required.*"<sup>150</sup> RSPO thereby ignored irrefutable evidence that as of December 2009, PT SKS and PT BNS had lied in writing to the provincial authorities and had already stacked, cleared and planted a total area of 10,500 ha without valid permits (see Figure 14).<sup>151</sup> Except for one estate in Sarawak, RSPO lifted the suspension for new IOI certifications.

*Figure 14 Illegal land clearings by IOI Corporation's subsidiaries PT SKS and PT BNS in West Kalimantan.*



## Appendix I: Malaysian controlled plantation companies in Indonesia (2013)

#	Malaysian Group	Subsidiary	Land bank (ha)	District, province
1	Ahmad Zaki Resources	PT Ichtiar Gusti Pudi	21,100	Landak and Singkawang, West Kalimantan
2	Low Yat Group (ex AP Land)	PT Tunas Prima Sejahtera	12,800	Kutai Kartanegara, East Kalimantan
		PT Primabahagia Permai Sejati	14,000	Nunukan, East Kalimantan
3	Batu Kawan	PT Satu Sembilan Delapan	5,728	Berau, East Kalimantan
4	CB Industrial Product (CBIP)	PT Sawit Lamandau Raya	4,499	Lamandau, Central Kalimantan
		PT Jaya Jadi Utama	19,129	Lamandau, Central Kalimantan
		PT Berkala Maju Bersama	13,645	Lamandau, Central Kalimantan
		PT Gumas Alam Subur	14,347	Gunung Mas, Central Kalimantan
		PT Kurun Sumber Rezeki	16,610	Gunung Mas, Central Kalimantan
5	Cepatwawasan	PT Mukti Sejahtera Abadi	5,290	East Kutai, East Kalimantan
6	Chellam Plantations	PT Kutai Balian Nauli	25,000	East Kutai, East Kalimantan
		PT Pucuk Jaya		Sangatta, East Kalimantan
9	Chin Teck Plantations, Timor and Negri Sembilan Oil Palms Bhd.	PT Barat Selatan Makmur Investindo	10,000	Mesuji, Lampung
		PT Lampung Inter Pertiwi	8,000	Mesuji, Lampung
10	Delloyd Ventures	PT Rebinmas Jaya	15,871	Pulau Belitung and Batang Berjunta, South Sumatra
11	Felda Global Ventures	PT Citra Niaga Perkasa	14,385	Landak, West Kalimantan
		PT Temila Agro Abadi	8,193	Landak, West Kalimantan
12	Trurich Resources (THP, LTH, FGV)	PT Teknik Utama Mandiri	9,445	North Kalimantan
		PT. Anugrah Kembang Sawit Sejahtera	9,824	North Kalimantan

		PT. Usaha Kaltim Mandiri	9,898	North Kalimantan
		PT Gemareksa Mekarsari	6,397	Lamandau, Central Kalimantan
		PT. Satria Hupa Sarana	6,436	Lamandau, Central Kalimantan
13	Kumpulan Fima	PT Nunukan Jaya Lestari	18,000	Nunukan, East Kalimantan
14	Genting Plantations	PT United Agro Indonesia	6,500	Kapuas, Central Kalimantan
		PT Globalindo Mitra Abadi Lestari	13,461	Barito Selatan, Central Kalimantan
		PT Globalindo Investama Lestari	14,756	Barito Selatan, Central Kalimantan
		PT Globalindo Agung Lestari	29,850	Kapuas/Barito Selatan, Central Kalimantan
		PT. Dwie Warna Karya	12,500	Kapuas Tengah, Central Kalimantan
		PT Kapuas Maju Jaya	17,500	Kapuas Tengah, Central Kalimantan
		PT. Susantri Permai	15,000	Kapuas Tengah, Central Kalimantan
		PT Sepanjang Inti Surya Mulia	19,800	Ketapang, West Kalimantan
		PT Surya Agro Palma	11,000	Ketapang, West Kalimantan
		PT Citra Sawit Cemerlang	19,400	Ketapang, West Kalimantan
		PT Sawit Mitra Abadi	15,800	Ketapang, West Kalimantan
15	Glenealy Plantations	PT Tunas Borneo Plantations	13,667	Bulungan, East Kalimantan
		PT Abdi Borneo Plantations	14,600	Bulungan, East Kalimantan
16	Golden Land	PT Tasnida Agro Lestari	10,810	Bario Kuala, South Kalimantan
		PT Sumber Bumi Serasi	4,913	Sangkulirang, East Kalimantan

17	IJM Plantations	PT Indonesia Plantations Synergy	7,000	Sanggata, East Kutai, East Kalimantan
		PT Prima Bahagia Permai	22,488	Tanjung Palas, Bulungan, East Kalimantan
		PT Sinergi Agro Industri	9,024	East Kutai, East Kalimantan
		PT Prima Alumga	10,543	Mesuji, Lampung
		PT Karya Bakti Sejahtera Agrotama	4,260	Kutai Timur, East Kalimantan
18	IOI Corporation	PT Ketapang Sawit Lestari	15,680	Ketapang, West Kalimantan
		PT Bumi Sawit Sejahtera	7,040	Ketapang, West Kalimantan
		PT Berkat Nabati Sejahtera	8,576	Ketapang, West Kalimantan
		PT Sukses Karya Sawit	8,608	Ketapang, West Kalimantan
		PT Kalimantan Prima Agro Mandiri	12,800	Laur, West Kalimantan
19	Kuala Lumpur Kepong (KLK)	PT Adei Plantation & Industri	14,799	Pelalawan, Riau
		PT Sekarbumi Alam Lestari	6,200	Kampar, Riau
		PT Safari Riau	14,660	Pelalawan, Riau
		PT Steelindo Wahana Perkasa	14,065	Belitung, South Sumatra
		PT Parit Sembada	3,990	Belitung, South Sumatra
		PT Agro Makmur Abadi	2,336	Belitung, South Sumatra
		PT Mulia Agro Permai	9,056	Kotawaringin Barat, Central Kalimantan
		PT Karya Makmur Abadi	14,712	Kotawaringin Timur, Central Kalimantan
		PT Menteng Jaya Sawit Perdana	6,399	Kotawaringin Timur, Central Kalimantan
		PT Malindomas Perkebunan	8,268	Berau, East Kalimantan

		PT Jabontara Eka Karsa	14,086	Berau, East Kalimantan
		PT Hutan Hijau Mas	7,289	Berau, East Kalimantan
		PT. Anugrah Surya Mandiri	3,700	Kampung Batu Putih, Kecamatan Batu Putih, Kabupaten Berau
20	Kumpulan Hamodal	PT Pencentus Sawit Andalan	0	Bengkayang, West Kalimantan
21	Kulim	PT Sawit Sumber Rejo	14,816	Barito Utara, Central Kalimantan
		PT Wahana Semesta Kharisma	15,200	Barito Utara, Central Kalimantan
		PT Harapan Barito Sejahtera	10,629	Barito Utara, Central Kalimantan
22	Kwantas Corporation	PT Kalsum Pratama Perkasa	9,335	East Kutai, East Kalimantan
		PT Gerbang Meranti Agrobisnis	18,950	East Kutai, East Kalimantan
23	Lion Forest Industries	PT Kebun Aria	0	Landak, West Kalimantan
		PT Varita Majutama	52,641	Teluk Bintuni, West Papua
		PT Lion Intimung Malinau	0	Malinau, East Kalimantan
24	MKH	PT Khaleda Agroprima Malindo	15,942	Muara Kaman, Kutai Kartanegara, East Kalimantan
25	NPC Resources	PT Borneo Indosubur	7,248	Long Ikis, Tanah Grogot, East Kalimantan
		PT Enggang Alam Sawita	8,482	Tabang, East Kalimantan
		PT Praselia Utama	9,097	Desa Ritan and Buluksen, Tabang, East Kalimantan
		PT Nala Palma Cadudasa	10,830	Kutai Timur, East Kalimantan
26	Oriental Boon Siew	PT Bumi Sawit Sukses Pratama	41,000	Pulau Bangka, South Sumatra
		PT Gunung Maras Lestari	12,704	Musi Rawas, South Sumatra
		PT Gunung Sawit Selatan Lestari	9,099	Musi Rawas, South Sumatra

		PT Pratama Palm Abadi	24,300	Lubuk Linggau Barat, South Sumatra
		PT Dapo Agro Makmur	10,100	South Sumatra
27	NAFAS (National Farmers Association)	PT Nafasindo (ex PT Ubertraco)	13,924	Singkil, Aceh
28	Pinehill Pacific Resources (ex Multinvest)	PT Inma Jaya	15,400	Ketungau Hulu, Sintang, West Kalimantan
		PT Inma Makmur Lestari	17,500	Sintang, West Kalimantan
		PT Indomal Sawit Jaya	20,000	Sintang, West Kalimantan
		PT Makmur Jaya Malindo	20,000	Sintang, West Kalimantan
29	QL Resources	PT Pipit Mutiara Indah	10,159	East Kalimantan
30	Glenealy Plantations	PT Tunas Borneo Plantations	13,667	Bulungan, East Kalimantan
		PT Abdi Borneo Plantations	14,600	Bulungan, East Kalimantan
		PT Mega Musi Lestari	12,370	Musi Banyuasin, South Sumatra
31	SADC/PPNP (Perak State government)	PT Pinag Witmas Sejati	14,738	Palembang, South Sumatra
32	Sime Darby	71 subsidiaries	289,422	Sumatra, Sulawesi, Kalimantan
33	Southern Acids	PT Mustika Agro Sari	2,600	Kuansing, Riau
		PT Wanasari Nusantara	5,254	Indragiri Hulu, Riau
34	Southern Group	PT Pradiksi Gunatama	22,587	Paser, East Kalimantan
		PT Senabangun Aneka Pertiwi	16,040	Paser, East Kalimantan
35	TDM Berhad	PT Rafi Sawit Lestari	11,558	Melawi, West Kalimantan
		PT Rafi Kemajaya Abadi	18,007	Melawi, West Kalimantan
36	TH Plantations	PT TH Indo Plantations/PT Multi Gambut Industri	83,879	Kampar, Riau

37	TSH Resources	PT Teguh Swakarsa Sejahtera	10,282	Kutai Barat, East Kalimantan
		PT Andalas Wahana Berjaya	17,800	Dharmasraya, West Sumatra
		PT Laras Internusa	7,309	Pasaman Barat, West Sumatra
		PT Farinda Bersaudar	12,093	Kutai Barat, East Kalimantan
		PT Mitra Jaya Cemerlang	15,000	Katingan, Central Kalimantan
		PT Munte Waniq Jaya Perkasa	11,500	Kutai Barat, East Kalimantan
		PT Bulungan Citra Agro Persada	13,215	Bulungan, East Kalimantan
		PT Sarana Prima Multi Niaga	7,114	Kotawaringin Timur, East Kalimantan
		PT Perkebunan Sentawar Membangunan	15,000	Kutai Barat, East Kalimantan
38	United Plantations	PT Sawit Surya Sejati	15,500	Pangkalan Bun, Central Kalimantan
		PT Sawit Seberang Seberang	19,300	Pangkalan Bun, Central Kalimantan
42	Tadmax, Bumimas Raya, Pacific Inter Link and Yakima Dijaya	PT Trimegah Karya Utama PT Manunggal Sukses Mandiri	80,000	Jair, Boven Digoel, Papua
<b>Total Malaysian land bank in Indonesia</b>			<b>1,815,062</b>	

## Appendix II: Malaysian plantation projects in Papua New Guinea (2013)

Malaysian company groups	Lease holders	Developers	Area (ha)	Province
Far East Holdings/Prosper Oil palm and/or	Bewani Oil Palm Development	Bewani Oil Palm Plantations Limited: Prosper Oil Palm	139,909	West Sepik
Felda Global Ventures (FGV)	n.a.	n.a.	11,500	New Britain
Joinland Group	Rakubana Development	Tutuman Development Ltd	24,581	New Ireland
	Tabut		11,864	New Ireland
	Umbukul	Tutuman Development Ltd/Dominance Resources	25,108	New Ireland
	Central New Hannover	Tutuman Development Ltd	56,592	New Ireland
KLK, Batu Kawan	Sibo Management Ltd	Collingwood Plantations Pte (CPPL)	5,992	Oro
	Wanigela Agro Industrial Limited		21,520	Oro
	Lot/Portion 5, Murua, Tufi		16,830	Oro
Kulim	Lolukuru Estates	New Britain Palm Oil Limited	1,750	West New Britain
	n.a.		80,000	Various
Sazean Holdings	Yumu Resources	Mansfield Enterprise (PNG)	115,000	Central Province
Rimbunan Hijau	Pomata Investment	Gilford Limited	15,000	East New Britain
	Nakiura Investment		16,100	East New Britain
	Ralopal Investment		11,300	East New Britain
	Unung Sigite		13,000	East New Britain
	Polopo	Monarch Investments (associated with RH)	8,328	West New Britain
	Haubawe Holdings	Sovereign Hill PNG Ltd (RH)	11,110	Western Province
	Foifoi		33,900	Western Province
	La-Ali Investments		7,170	Western Province
	Mudau Investment		10,450	Western Province

Takaso Resources	Kayumas Plantation PNG Ltd	MAS Incorporated (PNG) Ltd	40,000	East New Britain
Kayu Mas	n.a.		74,429	East New Britain
WTK Holdings	Wammy Investment	Global Elite	105,200	West Sepik
	Sepik Oil Palm Development	Wewak Agriculture Development Ltd (Wewak-Turubu Integrated Agro-Forest Project)	116,840	East Sepik
<b>Total Malaysia-linked land bank</b>			<b>985,372</b>	

Malaysian company groups	Lease holders	Developers	Area (ha)	Province
Companies reported with Malaysians involved; groups unknown	Ainbai-Elis Holding	Border Int. Timbers/Starlink Limited (Ting & Hii)-Brilliant Investment	22,850	West Sepik
	Brilliant Investment	Brilliant Investment	25,600	East Sepik
	Rera Holdings	DD Lumber Company – Brilliant Investments	68,300	East New Britain
	Urasir Resources	Continental Venture Limited	112,400	Morobe/Madang
	Vailala Oil Palm	Rimbunan Hijau	11,800	Gulf
	Vailala Oil Palm	Rimbunan Hijau (RH)	99	Gulf
	West Mamai Inv./Yangkok Res./Palai Resources	Goldworld Res. Co. (PNG) (Hong Kong) and 'Low Impact Logging' (MY)	149,000	West Sepik
	Akami Oil Palm Estate	Greenlands Limited	231	West New Britain
			346	West New Britain
	Toriu Timbers	KK Connections/Nimbo Yong II Timber Pty Ltd (China)	42,240	East New Britain
			11,240	East New Britain
	Baina Agro-Forest	PMS Timbers	42,100	West Sepik
	Wowobo Oil Palm	Reko (PNG)	23,180	Gulf Province
	East Waii Oil Palm	River Plantations Limited	21,108	Gulf Province
<b>Total land bank suspected to be Malaysia-linked</b>			<b>530,494</b>	

## Notes and references

<sup>1</sup> Similar haze events occur more regionally in Borneo, particularly in Central Kalimantan and Sarawak. At present, the state of Sarawak is the only location in Southeast Asia where plantation developers can still apply for permits to use open burning to clear land, including peatlands. The state does not intend to ban

<sup>2</sup> Image by the Singapore National Environment Agency, cited in Wikipedia. Link [[http://en.wikipedia.org/wiki/2013\\_Southeast\\_Asian\\_haze](http://en.wikipedia.org/wiki/2013_Southeast_Asian_haze)].

<sup>3</sup> The Malaysian Insider. "Punish Malaysian planters if they are involved in the haze, Subra tells Indonesians." 24 June 2013. The public debate about the role of Malaysian foreign palm oil investment in the haze issue was first ignited in 1997 when the Indonesian government had published a list of 176 possible corporate culprits, 133 of which were oil palm companies. Among these, there were many subsidiaries of Malaysian company groups but the Malaysian public had little to no access to information that enabled them to uncover the connections. In September 1997, Malaysia's former Prime Minister Mahathir threatened to expose the names of 18 Malaysian companies identified by the Malaysian government to be involved in the burning, unless these companies contributed funds to the government to support fire-fighting missions.

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The eight Malaysian companies mentioned in 2005 were: 1) PT Tungal Mitra Plantation (Guthrie/Minamas, now Sime Darby), 2) PT. Langgam Inti Hibrida (see further below), 3) PT Udaya Lohjinawi (mother company unidentifiable), 4) PT. Adei Plantation (Kuala Lumpur Kepong), 5) PT Jatim Jaya Perkasa (previously Wilmar, now Ganda-Samsung), 6) PT Multi Gambut Industri (now PT TH Indonesia Plantations owned by Tabung Haji Plantations), 7) PT Bumi Reksa Nusa Sejati (Guthrie/Minamas, now Sime Darby) and 8) PT Mustika Agro (Southern Acids).

In June 2003, the Riau province government announced it would sue ten forestry and plantation companies for setting fires on their lands. Among them were the Malaysian companies PT Alam Sari Lestari, PT Multi Gambut Industri and PT Jatim Jaya Perkasa.

PT Langgam Inti Hibrida (previously believed to be linked to "Klau River Enterprise Sdn. Bhd.") has been a subsidiary of the Indonesian group Provident Agro since 1988. The ownership of PT Udaya Loh Dinawi is uncertain. It is believed that it may be linked to RP Kelapa Sawit Sdn. Bhd.

<sup>6</sup> RSPO found that none of the Riau based subsidiaries owned by KLK, Sime Darby and Tabung Haji had significant fire hotspots on their land in 2013. It did observe fire hotspots in PT Jatim Jaya Perkasa's concession. RSPO. "Map analysis – GAR, KLK & SIME DARBY." 2013.

<sup>7</sup> The Jakarta Post. "Malaysian firm named suspect in Riau forest fires." 12 July 2013.

<sup>8</sup> Kuala Lumpur Kepong. "Response to allegations in Jakarta Post article naming PT Adei as suspect in Riau forest fires." 12 July 2013.

<sup>9</sup> New Straits Times. "UPDATE: KLK denies illegal slash-and-burn activities". 12 July 2013.

<sup>10</sup> The Jakarta Post. "Plantation pays \$1.1 million fine for burning land". 1 May 2003.

<sup>11</sup> Metrotvnews.com. "Tersangka Pembakaran Lahan Riau Asal Malaysia Dicegah." 25 October 2013; HelloRiau. "Bos PT Adei Ditahan Akibat Kasus Pembakaran Lahan." 14 December 2013.

<sup>12</sup> Metrotvnews.com. "Tersangka Pembakaran Lahan Riau Asal Malaysia Dicegah." 25 October 2013.

<sup>13</sup> Mongabay Indonesia. "Perusahaan Malaysia Didakwa Membakar Lahan di Riau." 14 January 2014.

<sup>14</sup> The Star Online. "Smoking out errant companies." 27 September 2013.

<sup>15</sup> See e.g. FM/FPP, 1998. "High Stakes: The need to control transnational logging companies: a Malaysian case study" by World Rainforest Movement & Forests Monitor Ltd. Link: [[forestsmonitor.org/fr/reports/550066](http://forestsmonitor.org/fr/reports/550066)].

<sup>16</sup> UNCTAD. "FDI from Developing and Transition Economies: Implications for Development", World Investment Report 2006. United Nations Commodity and Trade (UNCTAD).

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<sup>18</sup> ICE, op cit.

<sup>19</sup> ICE, op cit.

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<sup>21</sup> Dasgupta, D. et al., 2001. Capital Flows Without Crisis?: Reconciling Capital Mobility and Economic Stability. Routledge Studies in the Modern World Economy.

<sup>22</sup> Sierra Leone, Guinea, Ghana, Ivory Coast, Liberia, Nigeria, Cameroon, CAR, Congo Kinshasa, Congo Brazzaville, Equatorial Guinea, Angola, Uganda, Kenya, Tanzania, Zambia, India, Thailand, Myanmar, Cambodia, Philippines, Indonesia, PNG, Solomon Islands, Brazil, Colombia, Guyana, French Guyana and Surinam.

<sup>23</sup> Figures are rounded to '000 in the summary text because reported land bank acreages usually reflect the latest legal status. A 20,000 ha project announced in the media may well be reduced to half that area by the time all permits have been secured.

<sup>24</sup> Menteri Perusahaan Perladang dan Komoditi (MPPK). Senarai Syarikat Malaysia Yang Melabur Dalam Sektor Perladangan Kelapa Sawit di Indonesia. 19 December 2005.

<sup>25</sup> Source: company annual reports, company websites and media reports. Land banks represent approximate (dynamic) figures.

<sup>26</sup> Tripathi, S. Natural Advantage. Far Eastern Economic Review. January 29, 1998.

<sup>27</sup> Bernama. "Kulim To Take Control Of 40,645 Hectare Of Oil Palm Land In Kalimantan". 3 October 2013.

<sup>28</sup> Winn, P. 2012. "Up for Grabs: Millions of hectares of customary land in PNG stolen for logging." Greenpeace.

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<sup>32</sup> ActNowpng.org. "PNG leaders frustrated over length, cost and quality of SABL inquiry." 12 September 2013.

<sup>33</sup> "Summary of the Final SABL Report as presented by Chief Commissioner, John Numapo". September 23rd 2013. Department of Prime Minister & NEC, COI SABL homepage. Link:

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