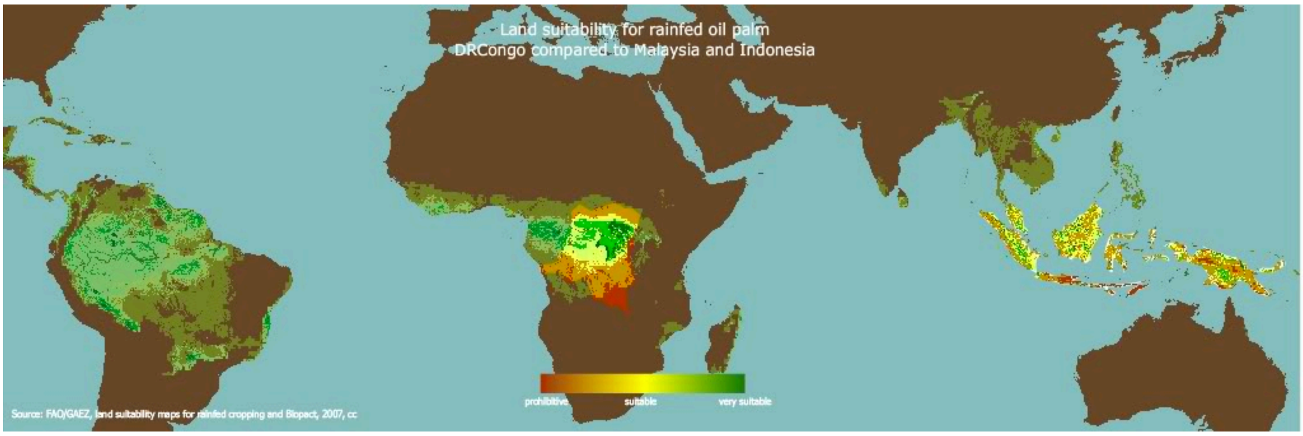
Malaysian Overseas Foreign Direct Investment in oil palm land bank

Scale and sustainability impact



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Aidenvironment
Barentszplein 7
1013 NJ Amsterdam
The Netherlands
+ 31 20 686 81 11
info@aidenvironment.org
www.aidenvironment.org

Executive Summary

The expansion of the oil palm plantations throughout the tropics is subject to one of the most lively sustainability discourses worldwide. It concerns a discussion about biodiversity conservation, addressing climate change, respecting human and indigenous peoples' rights, appropriate economic development models and global food and energy consumption trends.

In the 1950s, Malaysia was the first country to develop oil palm plantations as a primary driver of economic development. Encouraged by the Malaysian government, the nation's industries have turned to third countries to seek additional land bank from the 1980s onward. In 2007, Malaysia became a global net source of Foreign Direct Investment (FDI). Although the Malaysian palm oil industry represents a modest position in terms of total overseas FDI value, its sustainability impact is without doubt most significant compared to any other sector that Malaysian companies invest in because of the space taken up to develop commercially viable plantation estates and the preferred localities of plantation *greenfields* ('undeveloped' land, such as tropical forests, community land and peatlands).

Although the role and responsibility of investors and retailers in key palm oil consumer markets enjoys ample global media attention, the scale and sustainability impact of Malaysian overseas foreign direct investment (FDI) in oil palm plantation land bank is poorly covered.

The Malaysian mainstream media and academia tend to celebrate any overseas investment. Very rarely are questions raised or addressed with regard to the impact of these investments in recipient countries and their peoples, even though the haze problem confronts nearly all Malaysians with the negative environmental impact of overseas plantation development each year. The forest fire haze represents just one impact of overly aggressive overseas investment. Most other destructive impacts and the efforts made by local communities, conservationists and governments in FDI recipient countries remain grossly unreported in the Malaysian media.

Against this background, Sahabat Alam Malaysia, the Malaysian chapter of Friends of the Earth, requested Aidenvironment to assess the scale of Malaysian overseas FDI in oil palm plantation land bank, and to illustrate why global and local stakeholders question the industry's good reputation.

This study identified 50 separate Malaysian company groups that acquired over 200 estate companies holding some form of legal rights over a total overseas land bank of 3.5 million hectares in total (figures for 2013). The dominant recipient of Malaysian FDI in oil palm land bank is Indonesia (52%), followed by Papua New Guinea (31%) whilst third countries account for the remaining 17%.

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 60% of Malaysia's overseas plantation land bank in 2013. The bulk of Malaysia's overseas oil palm land bank remains to be planted because many, if not most, companies have yet to secure full legal and social licenses to operate.

Whilst it is acknowledged that Malaysian overseas investment in oil palm does deliver positive impacts in recipient country economies in particular contexts, this report focuses on the key sustainability concerns raised by civil society organizations and government review committees across the tropics concerning the legal, environmental and social injustices that are associated with Malaysian overseas FDI. Over a dozen significant case studies shows that Malaysian overseas oil palm investment commonly involves a variety of legal and unethical practices:

- Unauthorized occupation in protected forestland, and other forms of illegal logging;
- Land clearing and plantation development without approved Environmental Impact Assessments or other required permits, and misleading government authorities about this;
- Pursuing legal claims and occupation of customary rights land without free, prior and informed consent of indigenous communities;
- Paying local villagers and plantation workers for hunting protected species, such as orang-utans;
- Paying special police forces to suppress community protest against land grabbing;
- Not preventing company staff convicted for violation of conservation and environmental laws from fleeing the FDI recipient country;
- Failure to develop or transfer in a timely fashion smallholder lots.

Such malpractices often result in intense short-term conflict. Left unresolved, they tend to result in long-term tension between Malaysian investors and their local stakeholders. Although some conflicts are successfully resolved through the local courts, many stakeholders affected by Malaysian FDI find that the investors, local courts and international governance institutions (including the Roundtable on Sustainable Palm Oil whose secretariat operates from Kuala Lumpur) poorly address their concerns.

Consequently, many affected stakeholders have become enflamed with frustration with “Malaysia”. Their anger not infrequently escalates in violence at the expense of human lives and company property. In more controlled circumstances, local stakeholders have expressed their aggravation by publicly burning the Malaysian flag or by otherwise challenging Malaysian decision makers to respond to calls to take responsibility for the negative impact of plantation development.

It is not just the recipient countries' civil societies whom call for intervention to restrain unscrupulous overseas investors involved in the forestry and plantation industries. This study found that the heads of state in four out of the six primary recipient countries of Malaysian palm oil FDI have declared investment moratoria in order to control overseas investment in forestry and/or agriculture development. In spite of these moratorium policies, it was found that several Malaysian investors have nonetheless attempted or succeeded in circumventing these moratoria.

Both a source of capital and recipient of the negative impact of overseas FDI in plantation development, Singapore has now proposed a globally unique legislation that holds its citizens and businesses legally accountable for involvement in the recurrent transboundary haze problem. Similar interventions have been proposed for adoption in Malaysia. Should the Singapore Haze Bills pass the legislature, a global milestone precedent will be set that puts western governments to shame for their persistent reluctance to hold nationally registered individuals and corporations legally accountable for contributing to destructive sustainability impacts through overseas investment.

Addressing the negative impact of overseas investment first requires stakeholders to have access to reliable information about the companies operating overseas. The Malaysian Stock Exchange (Bursa Malaysia) and the Roundtable on Sustainable Palm Oil are commended for ensuring that their members provide such basic information, and that the submission of sustainability progress reports is encouraged. Whilst it was found that the scale of Malaysian investment in West Indonesia, mainland Asia and Africa is reported at a minimally acceptable level, the researchers are concerned about disconcerting lack of transparency with regards to the involvement of Malaysian corporations and individuals in palm oil related investment in Papua and Papua New Guinea.

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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
FEHB	Far East Holdings Berhad
FGV	Felda Global Ventures
GLC	Government Linked Company (Malaysia)
Ha	Hectare
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
NPP	New Planting Procedure
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)
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 spell of transboundary air pollution, popularly known as 'haze'. This recurrent phenomenon is closely related to the conversion of forest areas and peatlands into plantations in Sumatra. Fires typically occur during the land clearing process for plantation development. Fire smog is particularly hazardous when originating from peatlands, which are widespread along the coastal zone of eastern Sumatra. Over the past fifteen years, Malaysia and Singapore have seen transboundary haze episodes occur almost annually.[1]

Figure 1 "8 Malaysian companies suspected to cause haze"[2]

8 syarikat Malaysia didakwa punca jerebu

KUALA LUMPUR – Menteri Alam Sekitar Indonesia, Dr. Balthasar Kambuay mendakwa pihaknya telah mengenal pasti lapan buah syarikat milik pelabur Malaysia yang dikatakan melakukan pembakaran di Riau dan Jambi, Indonesia sehingga mengakibatkan jerebu di negara ini dan Singapura.

Beliau mendakwa, lapan syarikat tersebut ialah PT Langgam Inti Hiberida, PT Bumi Rakksa Sejati, PT Tunggal Mitra Plantation, PT Udaya Loh Dinawi, PT Adei Plantation, PT Jatim Jaya Perkasa, PT Multi Gambut Industri dan PT Mustika Agro Lestari.

Beliau dipetik oleh akhbar Singapura, *The Straits Times* sebagai berkata, kesemua syarikat berkenaan sedang disiasat kerana dikatakan menyumbang kepada masalah jerebu kepada negara jiran.

"Kesemua lapan syarikat itu dimiliki para pelabur Malaysia dan kebakaran yang berlaku dikesan di bawah konsesi mereka.

"Jika terdapat bukti yang cukup, kita akan bawa mereka ke mahkamah. *Para* penyiasat kami masih di tempat kejadian untuk melakukan penyiasatan lanjut," katanya pada Sabtu di Pekanbaru, Riau, Indonesia.

Selain lapan syarikat berkenaan, 14 syarikat lagi turut akan disiasat.

The 2013 haze episode (see Figure 1) was particularly severe and led to the temporary closure of kindergartens and schools, suspension of commercial services and restrictions to 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 13th Parliament session in Kuala Lumpur to be held indoors for the first time in Malaysian history. Just like in previous years, Malaysian politicians called in 2013 for swift and harsh action against any plantation company responsible for the haze, even if Malaysian plantation companies were involved.[3]

An investigation by the Kuala Lumpur based Roundtable on Sustainable Palm Oil (RSPO) found that most of the Riau based subsidiaries the Malaysian company groups had since long fully developed their estates in 2013.[4] No company would set fire to its existing 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.[5] KLK published a substantiated denial of involvement in the fires on the same day.[6] 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."[7]

That claim is not entirely true. In 2001, KLK's PT Adei was successfully charged by the Indonesian authorities for open burning in violation of the Indonesian Environmental Management Act Nr. 23/1997 after officials at the Riau Environmental Impact Management Agency (Bapedalda) had found 17 fires in Adei's plantation areas in 1999-2000. Early 2001, prosecutors took the case to court and two years later the Bangkinang District Court sentenced PT Adei's estate manager, known as Mr. Goby, to four years imprisonment.[8] In appeal, the Riau province High Court sustained the verdict but lowered the sentence to 8 months and introduced a Rp 100 million fine.

However, according to local environmental activists, Mr. Goby fled back to Malaysia and never served his jail sentence.[9] It thus seems that it is against this background that the company managers were banned from exiting Indonesia during police investigations into PT Adei's involvement in alleged open burning in 2013 (see Figure 2). Indonesian media also reported that Bapedalda and KLK settled on a US$1.1 million penalty.[10] However, none of KLK's annual reports have mentioned a word about the PT Adei court case and settlement.

Figure 2 Immigration orders to prevent KLK staff from leaving Indonesia

In October 2013, Indonesian immigration sent out orders to prevent two PT Adei's managers from leaving the country. The two managers were arrested in December 2013.[11] They are charged with having allowed and helped smallholders to clear land by the use of fire.[12] Court proceedings are still on going at the time of finalizing this report.

1.2 Seeing through the haze

The recurring haze has made millions of Malaysian citizens increasingly aware of that foreign direct investment in palm oil plantations overseas backfires on them in form of a degraded living environment. The haze has also made many people aware that publicly accessible information about which Malaysian companies are involved in overseas investment is hardly more transparent than the haze itself.

Early 2014, the Singapore government has gone as far as consulting the public about a draft "Haze Bill" that would hold Singaporeans legally accountable for involvement in transboundary haze.[13] Dr Helena Varkkey of the Department of International and Strategic Studies, University Malaya proposed that Malaysia consider similar actions.[14]

The adoption of legislation that holds corporations or their managing directors legally accountable for contributing to overseas environmental impacts represents would set a unique precedent globally.

1.3 Objective and scope

This study represents a first-ever comprehensive effort to document which Malaysian companies have acquired land bank for plantation development overseas. The study was commissioned to Aidenvironment by Sahabat Alam Malaysia (SAM) and aimed to study the scale and sustainability impact of Malaysian Foreign Direct Investment (FDI) in the acquisition of oil palm plantation land bank outside Malaysia.

This study does not cover investment in downstream industries overseas, which is more significant in terms in capital investment but less directly relevant to the sustainability discourse.

As for sustainability impact of Malaysian FDI in plantation land bank overseas, the study focused on persistent and current conflict cases involving Malaysian companies' operations overseas. This is not to dismiss that FDI can and does in some contexts deliver specific beneficial outcomes, or that there are Malaysian overseas investors who strive to adhere to internationally agreed best practice.

1.4 Methodology

Given the lack of aggregated yet adequately detailed information about Malaysia's overseas foreign direct investment in palm oil plantation land bank, a database of Malaysian company groups with majority stakes in overseas plantation was compiled. For most countries, except Papua New Guinea, Bursa Malaysia announcements and company annual reports proved a reasonably detailed source of information in. Additional information was gathered from company websites and media reports.

For the assessment of sustainability impacts, an illustrative case study approach was chosen. A dozen cases were selected for more elaborate description of the variety of sustainability problems. Case selection aimed to represent various countries, as well as new developments and plantations that have long since been established.

Most case studies presented in this report are based on the valuable research conducted by a variety of human rights and environmental NGOs and their networks. Their work is credited through references in the endnotes.

2. Malaysia's overseas plantation investment

2.1 Trends in Malaysian FDI

"South to South" foreign direct investment (FDI) has become an increasingly important source of global capital in recent years.[15] Malaysia is no exception to this trend. From 2007 onward, Malaysia's Overseas Foreign Direct Investment (OFDI) flows have consistently surpassed incoming investment. 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.[16]

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.[17]

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 flow. 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 the same year.[18] Since 2008, overseas investment in these three sectors increased by 220%, more than any Malaysian investment in other sectors. Although specific data are unavailable, 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.

A significant portion of Malaysian overseas investment capital was channelled through the so-called tax havens of Mauritius, Cayman Islands and British Virgin Islands (14.5%).[19] Most Malaysian plantation groups register "desk top" subsidiaries in Singapore to facilitate their investments in Southeast Asia-Pacific, whilst Hong Kong is a hub for investment in mainland Asia.

2.2 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 been growing at a rate of 8% annually. Malaysia currently accounts for 39% of global palm oil production and 44% of total exports.[20] However, as land and labour were considered increasingly scarce at home, Malaysia commenced investing in overseas plantation land bank. After all, besides Malaysia, there are approximately 29 tropical countries with soils and climate that would make oil palm plantations possible.[21] In the 1990s, when Malaysian overseas FDI gained traction, the trend was supported by an aggressive government campaign to promote the image of Malaysia as an economic leader amongst developing economies.[22]

Aggregating reported overseas land banks for 2013, Aidenvironment identified 50 different Malaysian company groups hold controlling stakes in over 200 plantation estate companies with a total overseas oil palm plantation land bank of almost 3.5 million ha (see Table 1).

Table 1 Recipient countries of Malaysian overseas FDI in oil palm land bank (2013)[23]

OFDI recipient country	Total land bank (ha)	% of total
Indonesia	1,802,000	52%
Papua New Guinea	1,061,000	31%
Liberia	389,000	11%
Congo (Br.)	180,000	5%
Cambodia	23,000	1%
Philippines	1,000	0%
Solomon Islands	6,000	0%
Total	**3,462,000**	**100%**

Malaysia's total overseas land bank represents over two-thirds of the planted area in Malaysia itself (just over 5 million hectares in 2013). Malaysia thus has access to a total 8.5 million hectares of oil palm plantation land bank.[24]

Many of the land banks reported by Malaysian companies represent gross land banks (based on location permits). The extent to which this land will be planted up depends on completion of legal requirements and local community consent (social license to operate). Aidenvironment estimates that over half of the overseas land bank remained unplanted in 2013. Only a dozen Malaysian overseas investors are members of the RSPO, although they jointly hold a relatively larger proportion of Malaysia's overseas land bank. Most of their overseas estates have yet to be certified as sustainably managed.

The ten largest overseas land bank holders from Malaysia are presented in Table 2 below. Jointly, these groups represent 60% of Malaysia's overseas oil palm plantation land bank.

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

Groups	Indonesia	PNG	Liberia	Congo	Total (ha)
Sime Darby*	289,000	0	220,000	0	509,000
Kuala Lumpur Kepong*	120,000	44,000#	169,000^	0	330,000
WTK Holdings	0	220,000	0	0	220,000
Genting Plantations**	193,000	0	0	0	193,000
Wah Seong	0	0	0	180,000	180,000
Prosper Oil Palm/FEHB (i)	0	140,000	0	0	140,000
Rimbunan Hijau	0	126,000	0	0	126,000
Joinland Group	0	118,000	0	0	118,000
Sazean Holdings	0	115,000	0	0	115,000
TSH Holdings*	109,000	0	0	0	109,000
Total	**711,000**	**763,000**	**389,000**	**180,000**	**2,040,000**

Rounded figures.
Notes: * RSPO member; **: currently suspended as member of RSPO; (i): membership through an affiliate/subsidiary; #: project essentially cancelled as result of legal proceedings against the investor; ^ variable reporting on total land bank.

2.3 Oil palm land bank in Indonesia

This study found that 40 Malaysian company groups hold majority shareholdings in 184 Indonesian oil palm estate companies overseas. Jointly, these companies hold a land bank of 1.8 million hectares (see Table 3 and Appendix I for details).

Table 3 Malaysian company groups aggregate oil palm land banks in Indonesia (2013)[25]

#	Malaysian groups	RSPO membership	Land bank
1	Minamas Gemilang (Sime Darby)	Yes	289,000
2	Genting Plantations	Suspended in 2014	193,000
3	Kuala Lumpur Kepong (KLK)	Yes	120,000
4	TSH Resources	Yes	109,000
5	Oriental Boon Siew	Partial	97,000
6	TH Plantations	Scrapped in 2013	84,000
10	Tadmax, Bumimas Raya, Pacific Inter Link, Yakima Dijaya	No	80,000
11	Pinehill Pacific Resources	Yes	73,000
12	CB Industrial Product	No	68,000
13	IJM Plantations	Yes	53,000
14	IOI Corporation	Yes	53,000
15	Lion Forest Industries	No	53,000
16	Trurich Resources (FGV + THP/LTH)	No	42,000
17	Kulim	Yes	41,000
18	Glenealy Plantations	No	41,000
19	Southern Group	No	39,000
20	NPC Resources	No	36,000
21	United Plantations	Yes	35,000
22	TDM	Yes	30,000
23	Kwantas Corporation	No	28,000
24	Low Yat Group (ex AP Land)	No	27,000
25	Chellam Plantations	No	25,000
26	Felda Global Ventures (FGV)	Yes	23,000
27	Ahmad Zaki Resources	No	21,000
30	Chin Teck, Timor, NSOP	No	18,000
31	Kumpulan Fima	No	18,000
32	MKH Berhad	No	16,000
33	Delloyd Venture	No	16,000
34	Golden Land	No	16,000
35	SADC/PPPNP (Perak State government)	No	15,000
36	NAFAS	No	14,000
37	QL Resources	No	10,000
38	Southern Acids	No	8,000
39	Batu Kawan	No	6,000
40	Cepatwawasan	No	5,000
	Total		**1,802,000**

The top five largest Malaysian companies jointly account for almost half (45%) the Malaysian land bank in Indonesia. Aidenvironment estimates that approximately 60% of Malaysian land bank in Indonesia has been planted up.

In the early 1990s, Indonesia welcomed Malaysian investment in the sector. Many Malaysian companies subsequently 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.[26] Furthermore, Indonesia is close to Malaysia, physically and also culturally and politically. Indonesia has thus been and continues to be the Malaysian planters' primary choice for land bank expansion.

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 and obtained location permits, 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-Indonesia debt relief package required the ban be lifted in June 1998, although IMF insisted on a new ban on plantation development in forestlands, which was supposedly current until Indonesia repaid its debt.

The Asian financial crisis of 1997-2002 may have led to the suspension of numerous investment projects, but 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 US$375 million.

Malaysian foreign direct investment in Indonesia's palm oil industry continued largely uninterrupted ever since although there have been some notable divestments. Boustead, Tradewinds and VS Industries have all withdrawn from Indonesia over the past few years. Kulim also pulled out, but is now working on a re-entry in Central Kalimantan after six years.[27]

In May 2011, the Indonesian government adopted a new two-year moratorium policy that bans the issuance of new location permits over primary forests, conservation forests and peatlands. The moratorium aims to support Indonesia's commitments to addressing climate change, and was extended for another two years in mid-2013. The Presidential Instruction applies to new permits only, many 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 located in peatland.

2.4 Oil palm land bank in Papua New Guinea

Until recently, only 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).

As of 2012, some 75 SABLs were issued over 5.2 million ha in PNG. According to a 2012 Greenpeace study, Malaysian company groups control 34 SABLs covering 1.2 million hectares.[28] Our updated review shows that as of today, 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 scanty data, we estimate that the total Malaysian land bank in PNG amounts to over 1 million hectares. The total figure is likely bigger because transcripts from a recently closed Commission of Inquiry into the issuance of SABLs show that many projects involve individuals of Malaysian origin. A total land bank of 530,000 ha is believed to be associated with Malaysia individuals, whom could not be traced back to particular Malaysian company groups (see Table 4 and Appendix 2).

Table 4 The 10 main Malaysian company groups engaged in plantation projects in Papua New Guinea[29]

#	Malaysian groups	RSPO membership	Land bank (ha)
1	WTK Holdings	No	222,000
2	Prosper Oil palm / Far East Holdings Berhad	Via Future Prelude S/B	140,000
3	Rimbunan Hijau	No	126,000
4	Joinland Group	No	118,000
5	Sazean Holdings	No	115,000
6	IRIS Corporation	No	100,000
7	Kulim	Yes	82,000
8	Kayu Mas	No	74,000
9	KLK, Batu Kawan	KLK only	44,000
10	Takaso Resources	No	40,000
	Total identified company groups		**1,061,000**
	Unknown groups connected with Malaysian individuals		530,000
	Total		1,591,000

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 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, Malaysian media have reported that Felda Global Ventures and Sime Darby are also considering investing in PNG.[30]

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.[31] 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).[32] After two years of investigation, the Commission's reported "*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 studies be revoked.[33]

In June 2011, the PNG National Executive Council declared a moratorium on the issuance of SABLs in June 2011 for the duration of the CoI's investigations. This would not stop two Malaysian investors, Kuala Lumpur Kepong (KLK) and Batu Kawan, from acquiring a majority stake in a Singapore registered company (CPPL) that claimed to have access to two SABLs that were gazetted in July 2012, i.e. during the currency of the moratorium policy (see 0).

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.*"[34]

Against this background, many observers in PNG were startled to see a new Malaysian investor, IRIS Corporation, announcing that it had entered into an agreement with a

PNG based company to clear and plant 100,000 ha of land in a portion of land under an SABL in Oro Province (see also paragraph 1.1). In response, the Governor of Oro Province Gary Juffa, who had instated a provincial moratorium on large-scale agriculture investment stated on 17 April 2014:

"I would like to appeal to the National Government to stop issuing permits and selling our resources without consulting the provincial government because such actions are contrary to the purpose of any government which is to protect and promote PNG's interest first and foremost."[35]

Three weeks later, PNG's Prime Minister O'Neil reaffirmed earlier commitments to take on board the CoI's recommendations. He stated:

"Every lease will be cancelled and then (owners) reapply. We know that there are some instances where under the disguise of agricultural development, they've been doing forestry at an accelerated pace. I can assure you that it will be cancelled."[36]

2.5 Oil palm land bank in third countries

The total Malaysian oil palm land bank in third countries is estimated at nearly 600,000 ha in 2013 (see Table 5). 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.

Table 5 Malaysian company groups aggregate oil palm land banks in third countries (2013)[37]

Malaysian company group	Country	Land bank (ha)
Lion Forest Industries	Cambodia	23,000
TH Plantations	Philippines	1,000
NBPOL (Kulim)	Solomon Islands	6,000
Sime Darby	Liberia	220,000
Kuala Lumpur Kepong (KLK)	Liberia	169,000
Wah Seong	Congo (Brazzaville)	180,000
Total		**599,000**

When Malaysians invest in third countries, the contextual factors are less favourable. For example, labour costs represent a major constraint to large-scale oil palm expansion in Brazil. In 2009, Felda announced plans to develop 30,000-100,000 ha of oil palm plantations in Manaus and Tefe in the Amazon region. Eight months later, the plan was shelved "for environmental and technical considerations".[38] Prior to its public listing in June 2012, Felda Global Ventures (FGV)' website was pregnant with expansion plans to Liberia, Cameroon, Papua New Guinea, Cambodia, Myanmar, Indonesia and Philippines. FGV received another blow following the 2013 Lahad Datu intrusion. FGV's plans to develop 1 million hectares of oil palm plantations in Mindanao subsequently evaporated in a complex geopolitical arm struggle involving the late Sultan of Sulu and the national governments of Malaysia and the Philippines.[39]

In recent years, there has been a rise in Asian investment in large-scale commercial oil palm plantations in Africa. The development is often justified on grounds that edible oils demand in Africa structurally exceeds supply.[40] 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 to plantation development than meeting demand with supply. By May 2011, the company had been able to plant only 8,000 ha as a result of local community resistance.[41] 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.*"[42]

Few Malaysian investors have demonstrated willingness to admit their wrongdoings. In 2013, Global Witness exposed a more obscure league of Malaysian investors in Liberia. Allegedly financed by a US$60 million investment by the

Sarawak based group Samling, Atlantic Resources Limited, a business linked to Sarawak Chief Minister's cousin Sepawi, saw itself forced out of the country after an attempt to grab the bulk of 835,040 hectares of forest through 18 Private Use Permits and another 130,000 ha under Forest Management Contract.[43] 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. However, in November 2013, Kuala Lumpur Kepong managed to gain access to substantial greenfields in the country, through the acquisition of 50% stake in Liberian Palm Developments and 20.1% interest in Equatorial Palm Oil (EPO).

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.[44] In 2012, the Malaysian daily Berita Harian wrote that FGV intends to export the Felda model in Africa in a first step "to improve local farming practices".[45]

Whether Malaysian palm oil planters 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".[46] Additionally, the political setting is very different from Southeast Asia. Africans may not be inclined to adopt the Felda model, which is uniquely dependent on Malaysian political patronage networks.[47]

So far, neither Sime Darby nor FGV have reported progress with plans to enter Central Africa, but such is not the case for Malaysia's newcomer in Africa, Wah Seong, a company group with ties to Malaysia's first family. In 2012, the group acquired a majority stake in Atama Resources, which holds a 470,000 ha forest rich concession in Congo Brazzaville, of which nearly 40% is planned for conversion into oil palm plantations (see paragraph 3.10).

Malaysian plans for oil palm investment in South Asia, Cambodia, Myanmar and Laos are regularly announced in the Malaysian media, but actual progress remains slow. 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.[48] As far as we know, only one Malaysian company (Lion Forest Industries) has been able to gain foothold in Cambodia (see paragraph 3.11).

2.6 Noble intentions or mere land grab?

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.[49] How different is the perception being nurtured in the Malaysian mainstream media in response to "smearing campaigns instigated by Western NGOs and green activists":

"*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.*"[50]

In order to gain access to local peoples' land and logs, some Malaysian investors even represent their 'noble intentions' in religious terms. In 2012, PNG's "AgriNews" summarized the motivations of the Malaysian managing director of Joinland, a cold storage product retailer from Sarawak 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."[51]

The landing of logging equipment on the beachfront of Tabut village on New Hanover Island in 2006 preceded this message. At the time, the customary landowners did not consent to what happened on their land. The testimonies put forth by them to the PNG Commission on Inquiry on SABL represent a disconcerting reality. A Correctional Service officer stated before CoI:

"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. "[52]

It is rare for most Malaysian citizens to be confronted with such contrasting perspectives because the 'noble intentions' of overseas investors, as promoted by the mainstream Malaysian media, dominates.

Some Malaysian investors, however, have come to realize that their presence in FDI recipient countries cannot be taken granted. They have come to accept that a legal licence by no means also secures their social license to operate outside Malaysia. These companies respect interests other than their own and, as a result, they are more likely to benefit from good stakeholder relations, even when it comes at the expense of significant land bank access.

Others, if not most, Malaysian overseas investors continue to enflame stakeholders affected by land grabbing, as is illustrated by the cases presented in the next chapter. The anger and resistance exercised by these Malaysian investors' stakeholders result in a variety of responses, including burning of company equipment and offices, lawsuits and complaints procedures, street demonstrations, as well as government backed investment moratorium policies. Responses such as these, that can affect a company group's bottom line, are very rarely reported by the Malaysian mainstream media and/or taken into account by the investment community, Malaysian and overseas alike.

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.[53] Nafas has over 800,000 members and it operates seven corporate subsidiaries, including Nafas Estates Sdn. Bhd. (NESB). The group manages a 600 ha oil palm plantation in Peninsula Malaysia and one Indonesian estate company, PT Nafasindo.[54] 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 1st of October 1996.[55]

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 (of?) over 13,924 ha were issued to the company without due consultation with the villagers.[56] According to local activists, the disputed land concerns about 4,000 hectares of land.[57] Following a major demonstration by some 500 villagers in July 2007, PT Nafasindo agreed to pay villagers compensation over the land but only if local people prove their ownership by producing land certificates.[58] However because customary land rights are rarely certified in Indonesia, the land conflict was left unresolved and flared up repeatedly since, leading to the destruction of company equipment, police reports, villagers' arrests, lawsuits and street demonstrations.

In February 2013, the Governor of Aceh attempted to mediate a resolution between the communities and PT Nafasindo.[59] A spokesman for the company blamed the National Land Agency (BPN) for the conflict because BPN did not use Global Positioning Systems to measure the land back 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 by the company. 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.[60]

The mediation effort of 22 February 2013 resulted in a deadlock and the conflict remained unresolved.[61]

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.[62] The students' alliance, consisting of seven organizations, listed PT Nafasindo's "Seven Sins" as follows:[63]

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*[64]**
Picture taken during a demonstration calling for the withdrawal of the PT Nafasindo land use permit.

Nafas is one among several Malaysian plantation companies operating in Aceh. Guthrie (Sime Darby/Minamas Gemilang today) have been operating in the province since the 1990s and 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.[65] 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.[66] 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.[67] However, the plan has not been heard of since.

3.2 MKH Berhad[68]

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 Peninsular Malaysia and first ventured into the Indonesian palm oil industry when it acquired PT Khaleda Agroprima 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 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 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.

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

Figure 4 Centre for Orang-utan Protection demonstration against PT KAM[69]

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 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 injures 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 who worked on the company staff's orders were charged as well.

During subsequent proceedings, the court heard two PT KAM employees confessing that 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 to the Malaysian Embassy in Indonesia. Under his 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 the suspect. 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 Widiantoro 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 to take a serious view of the offence committed in Indonesia and act against the palm oil companies in accordance with 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 Peninsular 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 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.[70] 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.[71]

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.[72] 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 2,212 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."[73]

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 5). 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".[74]

Figure 5 All residential facilities in PT BSMI were destroyed during a mass riot in February 2012.[75]

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.[76] Following the second riot, the company finally suspended its operations on the ground in January 2013. PT BMSI had reported loss over RM1.1m in turn over as a result of damages to assets.[77] 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*".[78]

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.[79] PT Prima Alumga is a subsidiary of the Malaysian IJM Group, which has also faced years of conflicts with villagers in Mesuji district.[80]

3.4 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.[81]

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.[82] 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.[83] 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.[84]

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.[85] 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.[86] After AP Land was delisted from Bursa Malaysia and its assets taken over by Low Yat group in April 2012, information about aforementioned cases is no longer available from public sources in Malaysia.

3.5 Genting Plantations

GENTING 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.

Figure 6 Indonesian media depicting gambling boss as chopping up Central Kalimantan[87]


KORAN KOTA
bukan berita biasa

NASIONAL METRO EKBIS HUKUM KRIMINAL NUSANTARA OLAH RAGA GAYA

Bos Judi Genting Malaysia "Caplok" Kalteng

SELAIN luas, lahan hutan dan gambut di Kalteng, memiliki berbagai keunikan keanekaragaman hayati dan endemisitasnya yang tinggi.Dengan demikian, banyak mengundang investor asing untuk mencaplok lahan di provinsi tersebut.

Berdasarkan informasi yang berhasil dihimpun Koran Kota, salah seorang investor asing yang diduga siap mencaplok lahan hutan dan gambut di Kalteng, disebut-sebut Lim Kok Thay, raja judi Asia dari Genting Highlands Malaysia. Dari Genting Highlands, bisnis kasinonya kini berkembang ke Inggris, Macau, Phillipina dan Singapura.

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

The stop-work order was issued because Genting's subsidiaries were clearing forestland without Ministry of Forestry approval, which is in violation of the 1999 Indonesian Forestry Act.[88] 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.

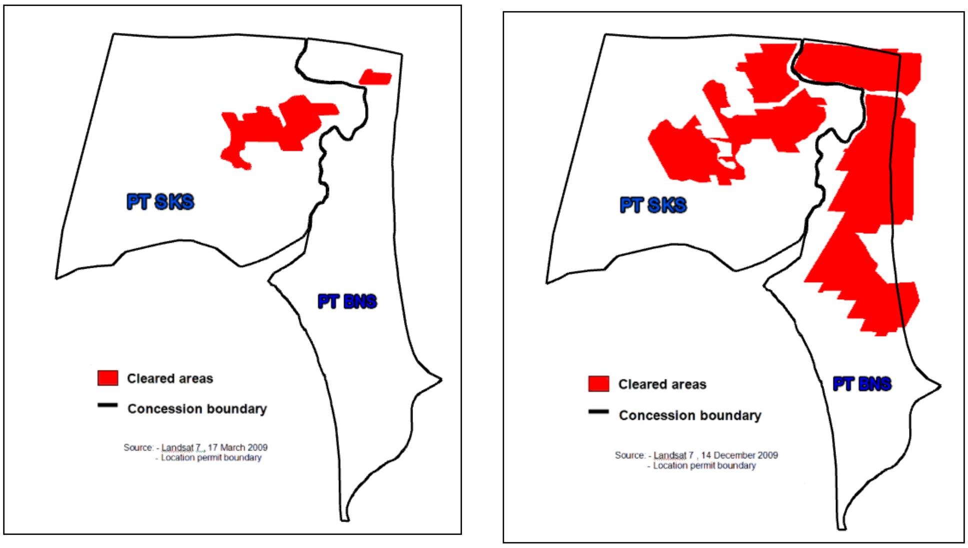
PT Dwie Warna Karya, PT Susantri Permai and PT Kapuas Maju Jaya deforested vast tracts of forestland and community land within a few years, affecting the livelihoods of local villagers.[89] Genting's activities have attracted the attention of critical media, accusing Genting Group of 'annexing' Kalimantan. 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.[90] On April 15, 2014, Genting Plantations was suspended as an RSPO member.

3.6 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 Berkat Nabati Sejahtera (PT BNS) and PT Sukses Karya Sawit (PT SKS). These oil palm companies are majority-owned (67%) by IOI Corporation.[91] 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. Furthermore, it was found that the IOI-BGA subsidiaries were clearing land without Plantation Business Permits, which is a very serious breach of the Indonesian Plantation Act Nr. 18/2004. Even after these permits were issued, IOI's companies continued to clear land outside their concession boundaries, inside a forest reserve. As of December 2009, PT SKS and PT BNS had already stacked, cleared and planted a total area of 10,500 ha without valid permits (see Figure 7).[92]

Figure 7 Illegal land clearings by two IOI Corporation's subsidiaries in West Kalimantan.



Left: land clearings realized as of March 2009; right: land clearings as of December 2009.

In March 2011, an international alliance of 14 NGOs wrote to 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 shall 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.*"[93] RSPO added that it had received assurances from IOI that operating procedures would be tightened to prevent a repeat of the problems encountered in Ketapang. RSPO lifted the suspension for new IOI certifications, except for one conflict site in Sarawak, Malaysia, a case that yet remains to be resolved today.

Early 2014, the NGO Kontak Rakyat Borneo unearthed evidence that another IOI subsidiary operating in Ketapang district repeated the problems encountered earlier. IOI subsidiary PT Bumi Sawit Sejahtera (PT BSS) had (re) commenced land clearing prior to completing RSPO's obligatory New Planting Procedure (NPP). IOI's auditor identified some of these clearings to have taken place on peatland deeper than 3 meters of depth. Consequently, the company is now required to restore 141 ha of deep peat.[94]

In February 2014, just days before PT BSS's New Planting Procedure document was published on the RSPO website, open fires were observed in IOI's PT BSS subsidiary (see Figure 9).

Figure 8 Land development in PT BSS, December 2013[95]

Figure 9 Open fire in IOI's subsidiary PT BSS, 22 February 2013[96]

3.7 Prosper Oil Palm/Far Eastern Holdings

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.[97]

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.[98] 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. [99] 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.[100]

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.[101] 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.[102] 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.[103]

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 (see Figure 10 and 11).

Figure 10 (left) Malaysia's High Commission to PNG endorsed the Bewani project in October 2010.[104]

Figure 11 (right) Prosper Oil Palm and FEHB director at the opening of the Bewani Oil Palm.[105]
Centre: Mr Tee Kim Tee @ Tee Ching Tee. Image of October 2010.

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.[106]

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 11), 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."[107]

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

"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."[108]

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.[109]

Prosper is closely associated with Far East Holdings Berhad (FEHB), 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 FEHB (see Figure 12).

Figure 12 Prosper's connection to Far East Holdings and the Pahang state government.

Various FEH directors are also directors in a company called "Prosper Trading". Both FEH and Prosper are ultimately controlled by the Malaysian Tee family.[110] FEH has never publicly reported on its (indirect) involvement in the Bewani project.

In spite of Prosper's meagre credentials to successfully manage such a huge plantation project in PNG, 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.[111] 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,also on board.[112] 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.[113] Deputy Prime Minister Namah later denied that he had ever met Tjandra.[114] 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."[115]

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.[116] 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."[117] 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 other Malaysian companies have for many years been very active in logging the forests of West Sepik.[118]

3.8 Kuala Lumpur Kepong (KLK) and Batu Kawan Berhad

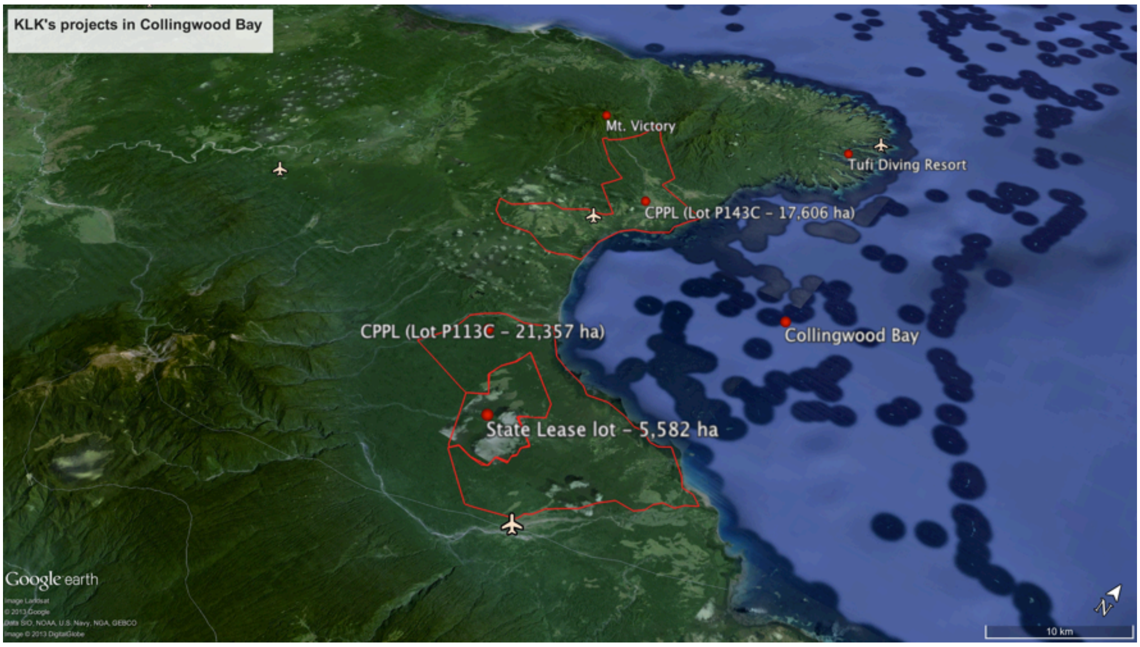
Kuala Lumpur Kepong Berhad (KLK) is a Malaysian oil palm and rubber plantation company group with approximately 250,000 ha of land bank in Malaysia and Indonesia.[119] The group is associated with Batu Kawan Berhad, an investment holding that is also listed on Bursa Malaysia. KLK has in recent years announced plans to expand its oil palm land bank beyond Southeast Asia, particularly in Liberia and Papua New Guinea (PNG).

In December 2012, KLK publicized that it had completed the acquisition of 51% of the shares of Collingwood Plantations Pte (CPPL) in Singapore. Batu Kawan Berhad acquired another 18% of the shares in CPPL. The shares were bought from Mr. Hii Eii Sing, a Malaysian national based in PNG, who holds the remaining 31% in the company.[120] CPPL's only subsidiary is Ang Agro Forest Management Ltd, a company incorporated in PNG. CPPL claimed to have registered rights over three pieces of land in Collingwood Bay, Oro Province, which includes one 99-year State Lease over 5,992 ha ("Lot 5") and two 49-year Special Agriculture and Business Leases (Sibo 21,520 ha and Wanigela 16,830 ha). The company partnership planned to develop these lands (see Figure 13) into oil palm plantations 'in due time'.[121]

In response to KLK's plans, the Malaysian newspaper The Star welcomed KLK's venture in Papua New Guinea and AmResearch issued a *buy* recommendation on KLK's stock following the initial announcement in October 2012. The analyst report had copied KLK's claim that "two parcels of the land (...) are subleased from natives customary groups." [122]

In reality, these parcels (143c and 113c) were secretly leased out by two local companies (Sibo Management Company and Wanigela Agro-industrial Limited owned by a handful of non-resident individuals. They had hooked up with Ang Agro to see the lands sub-leased to CPPL without the legally required free, prior and informed consent (FPIC) of most Maisin clans in Collingwood Bay. In July 2012, regardless of the lack of FPIC and that the gazettement violated the national moratorium policy on the issuance of SABLs set out by the PNG Cabinet a year earlier, Mr. Hii and his local partners succeeded in seeing the PNG Lands Department gazette the two SABLs in July 2012 (see a sample in Figure 14). The gazettement enabled Ang Agro to engage overseas investors who would bring in the capital to start logging out the forests of Collingwood Bay. KLK and Batu Kawan put up US$ 8.7 million and US$3.2 million each for their respective stakes in CPPL.

Figure 13 CPPL's claimed land in Collingwood Bay



KLK and Batu Kawan's due diligence had obviously fallen short to duly inform the company directors that Collingwood Bay is a long time hotspot of local resistance against logging, mining and plantation development plans. The Maisin landowners and their supporting NGOs have already seen numerous projects of this sort being pushed since the 1980s. 'Investors' had come up with all sorts of plantation projects that would ultimately only serve them to gain access to the vast timber resources in the area. The landowners with support from NGOs have effectively chased the investors off their land each time. In 2002, they obtained a restraint order from the National Court, prohibiting any government official and company staff to enter the Bay without the landowners' consent. In addition, the community leaders had envisaged that outsiders would continue to try and grab their land and resources. To pre-empt repeat, they issued a Joint Communiqué at Wanigela on 24 January 2010 with the support of NGOs. The Communiqué states univocally that:

"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."[123]

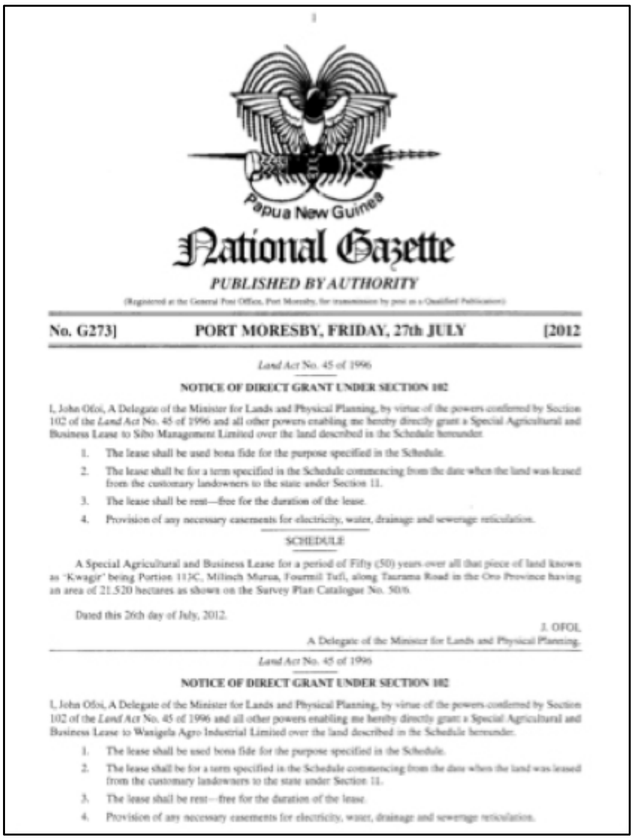
In response to the newly issued SABLs over their customary land, the Maison landowners of Collingwood Bay applied for a judicial review [OS (JR) 702 of 2012], which was already filed when KLK and Batu Kawan acquired their stakes in CPPL. The Government of PNG and the two local companies were the primary defendants, and ANG Agro and KLK joined the defendants at the 11th hour, after the Governor of Oro Province had joined the plaintiffs to support the landowners.

Through one of their supporting NGOs, the Maisin landowners furthermore filed a formal complaint against KLK with the Roundtable on Sustainable Palm Oil (RSPO) to which the company is a long time member. Their April 2013 complaint argued that KLK could not possibly comply with RSPO's standards because the Maisin of Collingwood Bay *own* these lands as per PNG Constitution and they had never agreed to leasing out their land to anybody, including KLK.[124]

In addition, the portions of land that KLK claimed to have right of access to mostly contains primary forests and other high conservation value areas that RSPO members cannot develop, whilst land clearing, plantation management and palm oil mill effluent would very likely have severe negative impacts on the globally unique mangroves and coral reefs in Collingwood Bay. In its response to RSPO, KLK arrogantly dismissed the Maisin landowners who are organized in NGOs in support of other landowners and the Collingwood Bay Chiefs. The company argued in June 2013 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.*"[125]

Figure 14 KLK's irregular SABLs was gazetted on 27 July 2012.



Papua New Guinea

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Land Act No. 45 of 1996

NOTICE OF DIRECT GRANT UNDER SECTION 102

I, John Ofoi, A Delegate of the Minister for Lands and Physical Planning, by virtue of the powers conferred by Section 102 of the *Land Act* No. 45 of 1996 and all other powers enabling me hereby directly grant a Special Agricultural and Business Lease to Sibo Management Limited over the land described in the Schedule hereunder.

1. The lease shall be used bona fide for the purpose specified in the Schedule.
2. The lease shall be for a term specified in the Schedule commencing from the date when the land was leased from the customary landowners to the state under Section 11.
3. The lease shall be rent—free for the duration of the lease.
4. Provision of any necessary easements for electricity, water, drainage and sewerage reticulation.

SCHEDULE

A Special Agricultural and Business Lease for a period of Fifty (50) years over all that piece of land known as "Kwagir" being Portion 113C, Milinch Murua, Fourmil Tufi, along Taurama Road in the Oro Province having an area of 21.520 hectares as shown on the Survey Plan Catalogue No. 50/6.

Dated this 26th day of July, 2012.

J. OFOI,
A Delegate of the Minister for Lands and Physical Planning.

Land Act No. 45 of 1996

NOTICE OF DIRECT GRANT UNDER SECTION 102

I, John Ofoi, A Delegate of the Minister for Lands and Physical Planning, by virtue of the powers conferred by Section 102 of the *Land Act* No. 45 of 1996 and all other powers enabling me hereby directly grant a Special Agricultural and Business Lease to Wanigela Agro Industrial Limited over the land described in the Schedule hereunder.

1. The lease shall be used bona fide for the purpose specified in the Schedule.
2. The lease shall be for a term specified in the Schedule commencing from the date when the land was leased from the customary landowners to the state under Section 11.
3. The lease shall be rent—free for the duration of the lease.
4. Provision of any necessary easements for electricity, water, drainage and sewerage reticulation.

KLK apparently never made serious efforts to understand who were the landowners they should be dealing with. It only reluctantly agreed to meet their opponents in the RSPO complaint case in November 2013 but refused to commit to anything else. KLK would continue to rely on a handful of repeat-opportunists and encouraged them to fight back against those who stood to defend the legal rights and customary practice of the Maisin.

KLK's reliance on its local business partners only caused it to enter deeper water. Its partners would not await the court orders. Early November 2013, well before the court proceedings were closed, a tugboat arrived on the shores of Collingwood Bay and landed a first batch of nursery and land clearing equipment. Soon after, KLK staff also entered Collingwood Bay in attempts to obtain the communities' consent for their project by holding a few meetings with random groups of men, women and children. The company conducted these meetings without any understanding of Maisin customary culture, and was merely hunting for signatories whom would consent to "development". The companies had already obtained their SABLs and development equipment had already been put in place; "free and prior" could apparently be side-lined so long as some information sharing about what was going to happen would be shared.

In response, the landowners' lawyers applied for a new restraint order, which was unreservedly granted by the Court on 13 December 2013. The learned judge stipulated that KLK's partners were prohibited from undertaking any further activities within or in Collingwood Bay until the court proceedings were completed.

Early January 2014, RSPO requested KLK to stop all activities on the ground, await the court decision and to demonstrate that the FPIC process involved the whole community, rather than small pockets of the community.[126] In response, KLK agreed, and grudgingly concluded that the restraint order also meant that its 'social works' in the bay would stop; ignorant of the fact that the company had never sought and obtained the consent for such activities from the landowners who interpreted its CSR activities merely as a poorly concealed attempt to bribe villagers into accepting KLK's plans, whilst the court proceedings were still on-going.

After several court hearings early 2014, the defendants would ultimately acknowledge that the two SABLs were not founded on demonstrable consent of the vast majority of landowners in Collingwood Bay. Now that the National Court affirmed this admission, the SABLs will have to be declared null and void. KLK and Batu Kawan will subsequently have to write off in part or in full their US$12 million investment in CPPL, or pursue legal action in Singapore to force Ang Agro to repay. KLK and its partners are still pursuing the development of the State lease ("Lot 5") which is problematic for a variety of reasons, among other the fact that this lot cannot be reached without accessing customary rights land.

3.9 IRIS Corporation and Felda

On the very same day that the defendants in the KLK and Batu Kawan case conceded, another Malaysian investor announced an US$22 million investment plan to commence a large-scale logging and agriculture project in an area known as Musa Pongani, an area close to Collingwood Bay in Oro Province, PNG.

Figure 15 IRIS Corp's project area in PNG context

Figure 16 The 320,000 SABL area where IRIS Corp's 100,000 ha logging project is located

IRIS Corporation Berhad (ICB) is a Malaysian group listed on Bursa Malaysia. The company is best known for the development and global marketing of e-Passports and other e-Identity Cards. The group is also involved in the development of electronic logistics development in the fields of agriculture, renewable energy and transportation. [127]

RSPO member Felda owns a 26.7% stake in ICB since November 2013.[128]

On April 14, 2014, ICB announced that it had entered into an agreement with Alvery Resources Limited, a company incorporated in Papua New Guinea. The agreement concerns the land clearing, logging, plantation and setting up of factories for various agricultural commodities in a 100,000 hectare parcel of land, known as Portion 17c, in Oro province.

ICB and Alvery intend to set up a Joint Venture Company (JVCo), which would operate on and develop the land on behalf of Musa Valley Management Company Limited (MVMCL), a landowner company set up by villagers residing in Port Moresby. The JVCo is required to secure a range of permits within 12 months, including: i) the approval for the sub lease and transfer of the subleased Land to the JVCo from the Commissioner of Land; (ii) Agricultural Permit issued by the Department of Agriculture; (iii) Environmental License issued by the Department of Environment; and (iv) Forest Clearing License (FCA) issued by the Forest Authority. [129]

Whether the agreement will materialize along expectations raised among the shareholders of ICB is doubtful. Firstly, the PNG Commission of Inquiry that reviewed the issuance of SABLs has recommended that the lease over Portion 17c be revoked.[130] The Commission found that, just like in the Collingwood Bay case, earlier court rulings had concluded that only a minority (in this case 10 out of 63) landowner groups had signed on to an agreement with previous developers on behalf of others without their free, prior and informed consent. There is no reason to believe that MVMCL has since secured FPIC from the majority of landowners since. In addition, it is difficult to see how the JVCo could secure the required permits, considering that the Oro provincial government has declared a moratorium on all land dealings in the province. Responding to ICB's Bursa Malaysia announcement Oro Province's Governor publicly stated:

"I just learnt yesterday that that a Malaysian Company, IRIS Corporation Limited has been claiming on the internet and Malaysian newspapers and the media that it had secured a 100,000 hectares of land in Oro Province for Agriculture purposes.

I want to know who they went through to get the right to buying the land. If the provincial government was not approached by this company, this is an illegal sale and those parties will be held accountable in court. My Government has placed a moratorium on all land dealings in Oro and it is still very much in force and will be with all dealings to be reviewed by a committee established at some time in the future." [131]

The terms of the agreement state "upon procurement of relevant approvals, extraction rights over all timber will subsequently be transferred to ICB or its subsidiary exclusively. In exchange, ICB shall pay a royalty to MVMCL and Alvery from the sales of timber. Alternatively, ICB will be entitled to sell the extraction rights to third parties to recover its investment cost." [132] These terms combined with lack of detail about the type of agriculture that would be developed strongly suggest that ICB likely operates as a front for a third company involved in the timber industry. Many observers in the PNG NGO community believe that the Sarawak based timber group Rimbunan Hijau is ultimately behind such schemes.[133]

A recent study by Chatham House estimated that the majority of logging activities in PNG are now illegal, largely because of logging and land clearing activities associated with SABLs.[134]

3.10 Wah Seong Corporation

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.[135]

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.*"[136] 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*".[137]

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.[138]

Atama Plantation's website confirms that the company plans to cultivate up to 4,000 hectares by 2013-15.[139] According to Rainforest Foundation, theirstudy 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.*" 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.[140]

Rainforest Foundation furthermore raised valid questions about Atama's ultimate ownership as it found evidence that "the same companies which controlled Atama prior to Wah Seong's involvement have been used "on more than one occasion to shield the identity of individuals found guilty of serious offences."[141]

Figure 17 Atama logs from forest clearance for oil palm, December 2012[142]

3.11 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.[143] 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.[144]

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).[145] 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.[146] 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.[147]

Recently, LFIB commenced the acquisition of PT Varita Majutama from PT Karya Tekhnik 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.[148] In January 2013, the Indonesian Minister of Forestry approved the release of 35,371 ha of forestland for conversion into oil palm.[149]

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.[150] 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".[151] 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).[152]

Table 6 LFIB plantation subsidiaries in Cambodia[153]

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.[154] 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.[155] However, a majority of Cambodians still have no formal land titles since the downfall of the Khmer Rouge regime.[156]

LFIB is furthermore criticised for circumventing Cambodia's Land Law (2001), which limits the size of one ELC for companies to 10,000.[157] 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.

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.[158] 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.[159]

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	Turich 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
		PT Sawit Mandira	17,360	Ketapang, West Kalimantan
15	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
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 Prasetia 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 Multivest)	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	SADC/PPPNP (Perak State government)	PT Pinag Witmas Sejati	14,738	Palembang, South Sumatra
31	Sime Darby	71 subsidiaries	289,422	Sumatra, Sulawesi, Kalimantan
32	Southern Acids	PT Mustika Agro Sari	2,600	Kuansing, Riau
		PT Wanasari Nusantara	5,254	Indragiri Hulu, Riau
33	Southern Group	PT Pradiksi Gunatama	22,587	Paser, East Kalimantan
		PT Senabangun Aneka Pertiwi	16,040	Paser, East Kalimantan
34	TDM Berhad	PT Rafi Sawit Lestari	11,558	Melawi, West Kalimantan
		PT Rafi Kemajaya Abadi	18,007	Melawi, West Kalimantan
35	TH Plantations	PT TH Indo Plantations/PT Multi Gambut Industri	83,879	Kampar, Riau
36	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
37	United Plantations	PT Sawit Surya Sejati	15,500	Pangkalan Bun, Central Kalimantan
		PT Sawit Seberang Seberang	19,300	Pangkalan Bun, Central Kalimantan
41	Tadmax, Bumimas Raya, Pacific Inter Link and Yakima Dijaya	PT Trimegah Karya Utama	80,000	Jair, Boven Digoel, Papua
		PT Manunggal Sukses Mandiri		

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

Malaysian company groups	Lease holders	Developers	Area (ha)	Province
Prosper Oil palm (associate of Far Eastern Holdings)	Bewani Oil Palm Development	Bewani Oil Palm Plantations Limited: Prosper Oil Palm	139,909	West Sepik
IRIS Corp.	MVMCL	Alvery Resources	100,000	Oro
Felda Global Ventures (FGV)	n.a.	n.a.	11,500	New Britain
Joinland Group	Rakubana Development	Tutuman Development Ltd	24,581	New Ireland
Joinland Group	Tabut	Tutuman Development Ltd	11,864	New Ireland
Joinland Group	Umbukul	Tutuman Development Ltd/Dominance Resources	25108	New Ireland
Joinland Group	Central New Hannover	Tutuman Development Ltd	56,592	New Ireland
KLK, Batu Kawan	Sibo Management Ltd	Collingwood Plantations Pte (CPPL)	5,992	Oro
KLK, Batu Kawan	Wanigela Agro Industrial Limited	Collingwood Plantations Pte (CPPL)	21,520	Oro
KLK, Batu Kawan	Lot/Portion 5, Murua, Tufi	Collingwood Plantations Pte (CPPL)	16,830	Oro
Kulim	Lolukuru Estates	New Britain Palm Oil Limited	1,750	West New Britain
Kulim	n.a.	New Britain Palm Oil Limited	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
Rimbunan Hijau	Nakiura Investment	Gilford Limited	16,100	East New Britain
Rimbunan Hijau	Ralopal Investment	Gilford Limited	11,300	East New Britain
Rimbunan Hijau	Unung Sigite	Gilford Limited	13,000	East New Britain
Rimbunan Hijau	Polopo	Monarch Investments (associated with RH)	8,328	West New Britain
Rimbunan Hijau	Haubawe Holdings	Sovereign Hill PNG Ltd (RH)	11,110	Western Province
Rimbunan Hijau	Foifoi	Sovereign Hill PNG Ltd (RH)	33,900	Western Province
Rimbunan Hijau	La-Ali Investments	Sovereign Hill PNG Ltd (RH)	7,170	Western Province
Rimbunan Hijau	Mudau Investment	Sovereign Hill PNG Ltd (RH)	10,450	Western Province
Takaso Resources	Kayumas Plantation PNG Ltd	MAS Incorporated (PNG) Ltd	40,000	East New Britain
Kayu Mas	n.a.	MAS Incorporated (PNG) Ltd	74,429	East New Britain
WTK Holdings	Wammy Investment	Global Elite	105,200	West Sepik
WTK Holdings	Sepik Oil Palm Development	Wewak Agriculture Development Ltd (Wewak-Turubu Integrated Agro-Forest Project)	116,840	East Sepik

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	n.a.	11,800	Gulf
	Vailala Oil Palm	n.a.	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 lI 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

Notes and references

[1] 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 open burning until the year 2020. Bernama. "Zero Open Burning To Be Implemented In Sarawak." 19 July 2012.
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