# CONFLICT PALM OIL IN PRACTICE

EXPOSING KLK'S ROLE IN RAINFOREST DESTRUCTION, LAND GRABBING AND CHILD LABOR

RAINFOREST ACTION NETWORK

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Photo Credit: Rhett Butler / Mongabay

# INTRODUCTION

Around the world rogue palm oil companies are destroying rainforests and violating the rights of Indigenous Peoples, rural communities and workers in order to produce Conflict Palm Oil, which is finding its way into hundreds of products lining American supermarket aisles.

In the last few decades, rural areas on the islands of Sumatra and Borneo in Indonesia and Malaysia have become ground zero for the fastest and largest transformation in history of diverse natural landscapes into ecologically impoverished industrial plantations. Since 1990, palm oil production has risen nearly six-fold to become the world's most widely used edible vegetable oil.[1] Eighty five percent of the world's palm oil comes from Indonesia and Malaysia. In Indonesia, palm oil plantations now cover more than 10.8 million hectares, an area 2.5 times the size of Switzerland, and continue to expand at a rate of 630,000 hectares per year.[2]

This rapid growth of palm oil comes at a high cost. Palm oil expansion has become the leading cause of both deforestation and degradation of carbon-rich tropical peatlands. Deforestation destroys the homes and threatens the survival of iconic endangered species like the Sumatran tiger and Sumatran and Bornean orangutans. Social conflict is created as plantation companies take over customary and ancestral lands of local communities. Working conditions are often egregious, and palm oil from Indonesia and Malaysia has been listed by the U.S. Department of Labor as being at significant risk of being produced with child or forced labor respectively. Greenhouse gas emissions from cleared, drained and burned carbon-rich peatlands make Indonesia the third largest source of climate pollution after China and the U.S.

This report profiles the palm oil plantation practices of one of Malaysia's biggest palm oil producers, Kuala Lumpur Kepong Berhad (KLK). Four examples of KLK's practices in Indonesia, Papua New Guinea and Liberia illustrate the true costs of Conflict Palm Oil for people and the planet, including violations of land rights of Indigenous peoples and rural communities, tropical deforestation and the use of child and forced labor.

Changing practices so that palm oil is produced responsibly and is traceable to end-users is both urgently needed and technically achievable. Palm oil can be grown responsibly when it is produced legally, and without deforestation, expansion on carbon-rich peatlands, or the violation of human and labor rights, but consumer brand companies, traders and financiers have yet to firmly demand it.

The corporations complicit in the production of Conflict Palm Oil – including the "Snack Food 20" group of companies like Kraft, Campbell Soup Company and ConAgra; global palm oil traders like Cargill; Conflict Palm Oil producers like KLK; and their financiers like HSBC – face a shared challenge. These companies must act to eliminate Conflict Palm Oil from entering international supply chains and join together to shift global demand to responsible palm oil production.

# I. KLK CORPORATE PROFILE

Kuala Lumpur Kepong (KLK:MK) is a Malaysian based multi-national company with plantations at the core of its business.

| | |
|---|---|
| Company: | Kuala Lumpur Kepong (KLK:MK) |
| Core Business: | Plantations (palm oil and rubber) |
| Annual Revenues: | $2.8 billion USD |
| Corporate HQ | Malaysia |
| CEO: | Lee Oi Hian |
| Total Plantation Land Bank For Palm Oil and Rubber: | |
| Peninsular Malaysia | 69,977 ha |
| Sabah, Malaysia | 40,359 ha |
| Indonesia | 137,483 ha |
| Total | 246,819 ha[3] |
| Planted Land Bank In Palm Oil Plantations: | 193,235[4] |
| Land Bank of Proposed Palm Oil Expansion: | Papua New Guinea 44,342 ha[5]<br>Liberia 169,000 ha[6] |
| Number of CPO mills: | 22 |
| Number of PKO mills | 2 |
| Number of Refineries: | 3 and 2 more commissioned |
| Annual Production: | 1.2 million tons CPO + PKO[7] |
| Key Customers: | Cargill<br>California Oils<br>Fuji Oils<br>Unilever<br>Proctor & Gamble[8] |
| Principal Bankers: | HSBC (UK based)<br>OCBC (Singapore based) |
| RSPO Member: | Yes |

KLK has a land bank in Malaysia and Indonesia that stands close to 250,000 hectares and is Malaysia's third largest listed plantation company. It has recently made new acquisitions in Papua New Guinea and Liberia, but their planned expansion is facing strong community opposition.[9]

KLK grows around 80 percent of the palm oil fresh fruit bunches (FFB) it processes and purchases around 20 percent of its FFB from third party sources.[10]

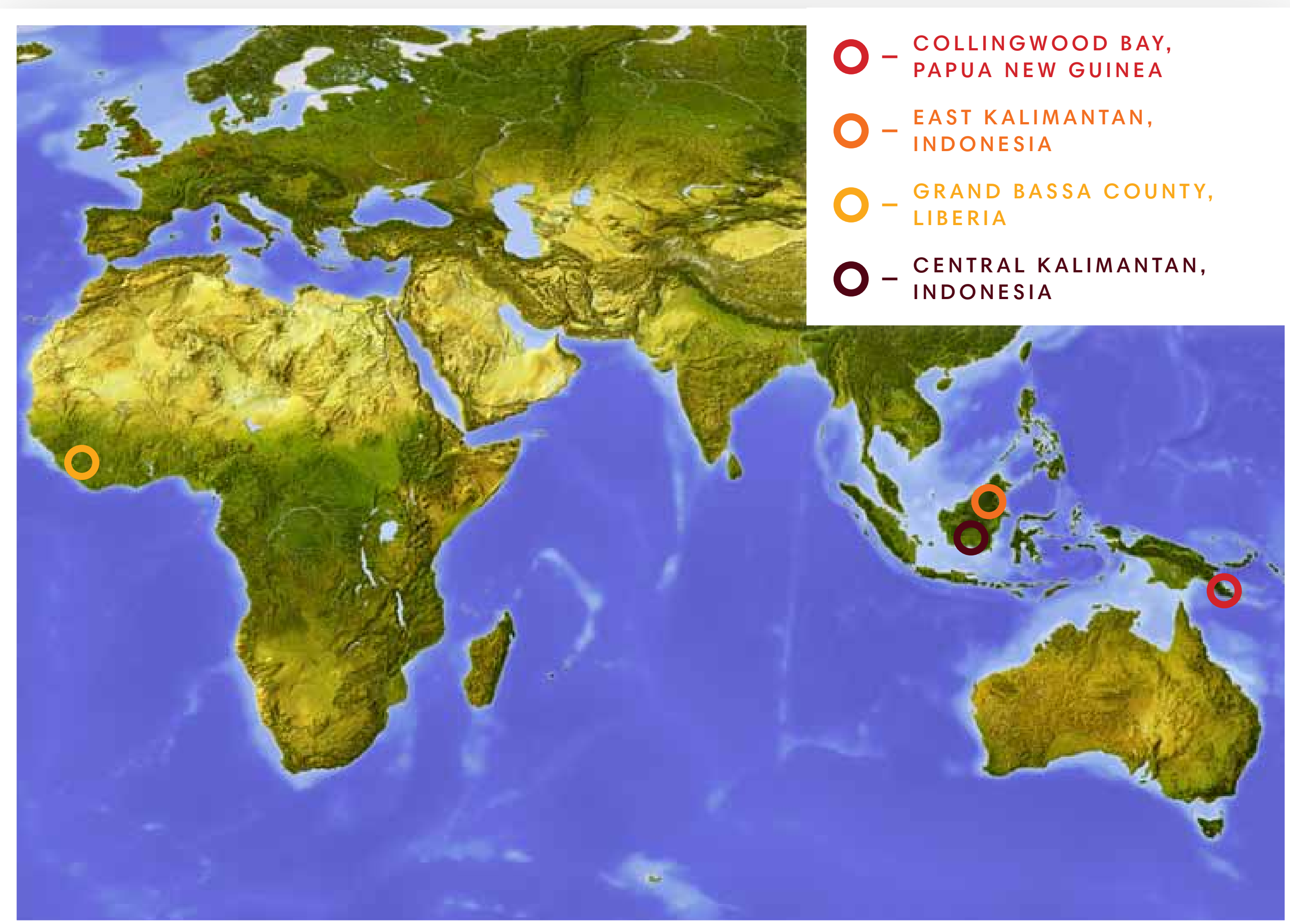
KLK sells to American and international markets through its trading business and via other traders like Cargill and Wilmar. In turn, they supply consumer brand companies including the Snack Food 20 group of companies.

# II. KLK AND CONFLICT PALM OIL

KLK made headlines in 2013 for its involvement in several serious Conflict Palm Oil cases. In July 2013, KLK's PT Adei was named a suspect for deliberately setting forest fires that led to record-setting air pollution levels in Southeast Asia. A local manager and a director from PT Adei have been brought to trial, and if found guilty, they face up to ten years in jail and the company could lose its permit. Later that same month, KLK was the featured company in *Bloomberg Businessweek* article, "Indonesia's Palm Oil Industry Rife with Human-Rights Abuses," which documented modern day slavery and extreme abuse of workers on KLK's PT 198.

Since July 2013 field investigators have documented a growing number of examples of Conflict Palm Oil practices by KLK in its operations across the globe. This report profiles the following four cases of KLK's Conflict Palm Oil production:

1. KLK's expansion plans into the ancestral lands of tribal groups in a remote area of Papua New Guinea without their Free, Prior and Informed Consent.
2. KLK's use of child and forced labor on two plantations in Indonesia.
3. Expansion by KLK's newly acquired Equatorial Palm Oil (EPO) onto traditional farming lands of local communities in Liberia in violation of their Free, Prior and Informed Consent.
4. On-going deforestation on two KLK plantations in Indonesia.



# CASE 1: PAPUA NEW GUINEA

## KLK Fails to Respect Indigenous Peoples' Ancestral Land Rights in Collingwood Bay

In December 2012, as part of its global expansion ambitions, KLK acquired a majority interest in Collingwood Plantations Pte Ltd (CPPL), a company claiming to have user rights over three lots covering more than 40,000 hectares in the Collingwood Bay region of Oro Province, Papua New Guinea.

### *What's At Stake?*

The densely forested Collingwood Bay watershed is home to nine Indigenous tribes, who have constitutionally protected rights to decide if, how and where development can occur within the communities' ancestral lands.[11] The communities have a long record of publicly opposing logging and defending their territories against predatory resource extraction by powerful outside interests. They have already kicked out Malaysian logging companies from destructively logging their forests.[12]

KLK's palm oil development plans threaten the rights and livelihoods of the nine tribes of Collingwood Bay and an area rich in primary forests, biodiversity and healthy mangroves among its broadly scattered coastal and riverside villages. If KLK's palm oil plantations are allowed to go forward in Collingwood Bay, they will result in deforestation, the loss of irreplaceable biodiversity, harm to traditional livelihoods, increased social conflict, degradation of High Conservation Value Areas, erosion of cultural heritage and violations of the constitutionally protected rights of its Indigenous peoples to self-determination over development in their ancestral lands.

*"We also protest in the strongest possible terms any plans to introduce the oil palm industry in the Collingwood Bay area."*

## *Collingwood Bay to KLK - "We do not wish to be slaves on our own land"*[13]

Under the Papua New Guinean constitution, it is illegal for customary lands to be bought or sold. The government of Papua New Guinea may lease customary land by agreement or through compulsory acquisition but only after a lengthy review process that requires the consent of customary owners and rights holders.[14] In some circumstances, the government may then lease back this land to companies seeking to use the land. Last year, the government was found to be misusing this authority by a Judicial Commission of Inquiry in its allocation of Special Agricultural Business Leases (SABLs) such as the one obtained by KLK's subsidiary CPPL. For generations, the tribes, clans and families of Collingwood Bay have used and controlled the land where KLK now claims to have licenses.

In 2010, all nine tribal chiefs in Collingwood Bay came together to discuss and decide on the use of their ancestral lands in the face of development proposals concerning their lands and forests. The community wide consultation process resulted in a Joint Communiqué that irrevocably states their rejection of any plans to introduce industrial palm oil plantations in their area.[15]

> *"In light of the exploitation and attempts to exploit the forest resources within the Collingwood Bay area for logging and the proposals to introduce and develop oil palm estates, we the Chiefs supported by our people unanimously express our opposition to any large scale development that would have an adverse effect on our people, their way of life and their environment."*
>
> *"We will determine on our terms how we wish to pursue development and investment opportunities on our traditional land using our natural resources on both the land and our maritime boundaries in the best way we see fit."*
>
> *"We also protest in the strongest possible terms any plans to introduce the oil palm industry in the Collingwood Bay area."*[16]

Despite the Collingwood Bay communities' well-known public and formerly recognized opposition to palm oil development, KLK went ahead with its purchase of CPPL and initiated its palm oil development plans and activities without having consulted with or obtained the Free, Prior and Informed Consent (FPIC) of the majority of landowners.

When community members learned of KLK's acquisition of CPPL and its plans to develop oil palm on their ancestral lands, they initiated resistance on several fronts by:

- Filing a court case to challenge the legality of the leases granted to CPPL through its subsidiary Ang Agro Forest Management Ltd
- Filing court documents to get a restraining order to prevent the company from entering Collingwood Bay
- Appealing to the Roundtable on Sustainable Palm Oil through a formal complaint
- Reaching out for support from the international community
- Supporting action alerts sending tens of thousands of complaints to KLK about the matter

## *KLK Begins Operations Without Community Consent*

Despite not having obtained FPIC from the Collingwood Bay communities, in November and December 2013 KLK proceeded to commence activities in Collingwood Bay. Large earth moving equipment and materials were landed in Collingwood Bay, immediately provoking conflict with the local population and community protests.

A senior representative of KLK had committed the company to completing the necessary social and environmental assessments before beginning operations:

> *"I am pleased to inform that we…concluded the acquisition of a subsidiary which holds special agricultural business leases of land in Papua New Guinea. We will commence operations after concluding the social and environmental studies in the area."*
> *KLK Chairman R.M. Alias, 2013.*

However, whatever environmental and social studies that KLK had done, according to a letter to the RSPO from Collingwood Bay representatives:

> *"…we are certain that KLK cannot have conducted High Conservation Value (HCV), Social Impact Assessments (SIA) and New Planting Procedure (NPP) assessments of our lands [as required by the RSPO], as we were never approached by KLK for permission to enter our land."*[17]

## *Court Issues Restraining Order Against KLK*

On December 13, 2013, the National Court of Justice at Waigani issued an initial court order restraining KLK and its partners from transporting any of its equipment or materials in the area and entering or carrying out activities in Collingwood Bay.[18]

Additional legal work continues, with the communities arguing that KLK's use permits are not legal and should be revoked, as the court had had previously declared the permits illegal that were sold to KLK's partners.

## *RSPO Orders KLK to Stop Work in Collingwood Bay*

In January 2014 the RSPO issued its decision, finding non-compliance with RSPO Criterion 2.2, which requires that a company's right to use the land is demonstrated and is not legitimately contested by local people that have legal, customary or user rights.

The RSPO decision ordered KLK to:

- Stop all work immediately on the said land;
- Await the outcome of the legal challenges of the communities to determine the issues of the legality of [KLK's permits]; and
- Demonstrate proof that the FPIC process commenced thus far involved the whole of the affected community rather than small pockets of the community.[19]

## *What KLK Must Do in Collingwood Bay*

The Collingwood Bay communities' demands are clear and consistent. They are the rightful owners of their ancestral lands, and they will be the ones to determine and control their own development.

KLK must:

- Respect the Joint Communiqué issued at Wanigela on January 24, 2010, namely that the community/landowners/village leaders have jointly agreed to not allow palm oil on their ancestral lands
- Respect the court order that prohibits KLK from entering the Collingwood Bay communities land without their prior permission
- Recognize and support the recommendations of the government's Commission of Inquiry into Special Agricultural Business Leases (SABL), in particular that SABLs beyond a couple of hundred hectares be revoked
- Recognize that the Lands Department had reissued two leases that KLK acquired, that had already been declared null and void by the PNG Courts previously in 2002 and that there had been no due verification with the community and the provincial authority prior to reissuance
- Review company land acquisition due diligence procedures and identify and correct gaps to ensure that any future expansions are well and fully informed as to their legal, social, environmental and economic constraints
- Develop, authorize and implement a plan to wind down and exit in 2014 from the ill-advised KLK expansion project in Collingwood Bay

Photo Credit: E. Benjamin Skinner, Schuster Institute for Investigative Journalism, Brandeis University

# CASE 2: INDONESIA

## KLK Uses Child and Forced Labor

Investigations and interviews with workers on two KLK plantations in East Kalimantan revealed horrific working and living conditions, gross violations of basic labor rights, use of child labor, and conditions amounting to modern day slavery.

In July 2013 *Bloomberg Businessweek* published an in-depth article based on the results of a nine-month field investigation conducted across a dozen palm oil plantations. The investigations were conducted by the Schuster Institute for Investigative Journalism at Brandeis University, and documented widespread practices of forced and child labor throughout palm oil plantations in Sumatra and Borneo, including KLK's plantations. These investigations were corroborated by investigations conducted by Indonesian NGO Sawit Watch in 2012 and 2013 on a second KLK plantation in East Kalimantan.

### *What's at Stake?*

Child labor and modern day slavery are pervasive in the global economy. According to the International Labor Organization, forced labor traps nearly 21 million people in bondage annually, and 168 million children around the world are at work rather than school. Regionally, Asia and the Pacific have the highest number of victims of forced and child labor, and palm oil is a high-risk sector for both. Since 2010 palm oil from Malaysia and Indonesia has been listed on the U.S. Department of Labor's *List of Goods Produced by Child Labor or Forced Labor.*

KLK's documented use of forced and child labor on its plantations and subsequent denial of responsibility is alarming and unacceptable. While the following cases document the conditions of workers on two plantations, the lives and working conditions of workers and children on all KLK plantations are at risk. The company has no public policies or action plans committing it to respect and uphold the rights of workers or prevent and eliminate child labor, and until it creates and enacts such policies, workers and children on KLK plantations will continue to face risks of forced labor, child labor, dangerous working conditions, and other abuses.

> *"Since 2010 palm oil from Malaysia and Indonesia has been listed on the U.S. Department of Labor's List of Goods Produced by Child Labor or Forced Labor."*

## *KLK's Use of Modern Day Slave Labor in East Kalimantan*

In 2013 the Schuster Institute interviewed workers who had worked at KLK plantation PT 198 in East Kalimantan and described being defrauded, abused and, in some cases, held captive in harsh conditions with no pay for months or years on end.[20]

One PT 198 plantation worker using the pseudonym "Adam" told of himself and his cousin being lured 2,000 miles away from their home with the promise of six dollars a day to drive trucks by a contractor named Zendrato working for a labor management firm called CV Sinar Kalimantan. After departing for the job, Adam and his cousin were compelled to sign contracts binding them to Zendrato's boss Handoyo and saying they would do any work the employer obliged them to do and that they would not be able to leave the plantation during the two-year contract term. While the contract said they would be paid five dollars a day, Zendrato allegedly told them they would not be paid anything for two years and instead "loaned" up to sixteen dollars a month for necessities such as rudimentary health care.[21]

Adam and at least 95 other workers were held at the plantation where they were locked in barracks at night, fed inadequate portions of often weevil-infested food and retrieved most of their water from a stagnant ditch. Handoyo held all identification cards, school certificates and home deeds as collateral. Adam and his cousin spread chemical fertilizer without protective gear and if they did not meet their quota each day, were forced to make it up or have their already deferred pay cut. Another worker reported nightly bloody coughing fits and received no adequate medical care. Workers who tried to escape were punished with violent physical beatings.[22]

Despite the risks, Adam and his cousin decided to flee. A local truck driver helped them escape and hideout for three days until they could secure safe passage to a more populated area. One month later, after another escaped worker was caught and beaten, a supervisor at PT 198 alerted authorities to the conditions at the plantation. Police arrested Zendrato and held him for a day before releasing him without charges.[23]

In early November 2010 three workers from PT 198, including a 14-year-old boy, met with senior KLK officials at the annual Roundtable on Sustainable Palm Oil (RSPO) meeting. The officials apologized to the workers for their treatment and said they were unaware of the abuses. They agreed to pay for their return journeys home and to compensate them for their stolen pay. According to KLK CEO Lee Oi Hian, the company canceled the contract with CV Sinar Kalimantan and blacklisted Zendrato and Handoyo.[24]

Adam, however, says he was never paid for his work nor given passage home. Some former PT 198 workers who were returned home say they were compensated, though the pay varied. One reports receiving $200 for two months' work. Jacob, who worked for two years and claims to have endured esophageal damage and chemical burns from the herbicide, received $100 in total, or less than two cents an hour.[25]

In the end KLK passed the responsibility of payment onto the contractor, instead of ensuring that the workers who were abused on their plantations were granted the compensation that KLK executives promised them. According to KLK spokesperson Lim Poh Poh, KLK encouraged the contractor "to pay their workers, which they confirmed to us that they did…it is their workers and in a way we also want them to be responsible for their workers and to ensure that all the unpaid wages are paid."[26]

## *KLK's Use of Child Labor in East Kalimantan*

In 2012 Sawit Watch conducted labor investigations on another KLK plantation in East Kalimantan. The group's interviews included a 14-year old boy who reported working seven days a week with no days off since he was 12 years old. The boy claimed he had been provided with a fake ID card that said he was 19 years old.[27]

In July 2013 Sawit Watch conducted a follow up visit to the same plantation and found many child laborers, three of whom they were able to interview. Each child interviewed reported being recruited by a middleman from their hometowns with promises of decent housing, high pay and easy work. The reality was dire living conditions with little food or clean drinking water provided, and wages and work conditions that left the children trapped and penniless.

One of children also reported being recruited by Handoyo who had been working for CV Sinar Kalimantan in 2010, but was then working under a new local enterprise, CV Daun Mas. Further investigations revealed more laborers from another KLK plantation who were recruited by Handoyo, despite KLK's reported blacklisting of him.[28]

None of the children interviewed by Sawit Watch had contracts with the contractors who recruited them or the company, but they did have fake IDs with forged ages. The contractors held their fake IDs and important documents, including diplomas, to ensure they couldn't leave the plantation.[29]

## *KLK, Cargill and Snack Food 20 Responds to Labor Allegations*

Despite KLK's promises to improve its labor practices and recruitment standards, investigations by the Schuster Institute and Sawit Watch show that any reforms KLK has undertaken have been wholly inadequate.

When *Bloomberg Businessweek* asked Snack Food 20 companies Kellogg, Kraft, General Mills, Nestlé and Unilever – all direct or potentially indirect customers of KLK – about labor abuse on KLK's plantations, they all referred to their supplier codes of conduct which prohibit such conduct. Only Nestlé promised to investigate. Cargill defended KLK when asked about its supplier's labor behavior saying, "At this time, KLK is not in violation of any labor laws where they operate nor are we aware of any investigation of KLK's labor practices."[30] In response to the *Bloomberg Businessweek* piece KLK released a Letter to the Editor, which passed the blame to the labor contractor who recruited the workers rather than acknowledging the shortcomings in its own policies and practices and taking direct responsibility for the treatment of workers on its own plantations.[31]

> *"Despite KLK's promises to improve its labor practices and recruitment standards, investigations by the Schuster Institute and Sawit Watch show that any reforms KLK has undertaken have been wholly inadequate."*

## *What KLK Must Do to Address Labor Issues*

KLK must take a deeper look at its own policies and practices, which have enabled these egregious human and labor rights violations to occur on its plantations. It is time KLK commit to protecting all workers on its plantations and throughout its global operations. KLK must adopt and implement robust public policies and procedures to protect and uphold the rights of its workers as defined by the ILO core conventions and other international instruments and which apply to all KLK workers, including temporary, contract, and migrant workers who are hired directly or indirectly for the company.

KLK must develop new procedures to prevent on-going violations of human and labor rights, including:

- Moving to direct hiring practices where possible and screening, managing and monitoring any labor recruiters against strong legal, social and ethical performance standards
- Prohibiting the charging of recruitment fees to workers that create systems of debt peonage
- Establishing open, balanced, transparent and accountable grievance mechanisms, procedures for investigation and reporting, and protection for whistleblowers
- Ensuring compliance with national labor laws, the ILO core conventions and other key international instruments is integrated into human resource management processes
- Allowing for the integration of feedback and continuous improvement in management systems and processes

KLK must also adopt a robust public policy prohibiting the use of child labor and implement measures that address its underlying causes, including ensuring access to education for children on all plantations, paying workers a living wage and eliminating or reforming the quota system so workers are not obligated to bring their children to work to help them achieve unattainable palm oil harvesting quotas.

Community members of Jogbahn Clan (Grand Bassa) at a meeting in Tarloe Town discussing EPO plan to expand onto their customary land Photo Credit: Sustainable Development Institute.

# CASE 3: LIBERIA

## KLK's Involvement in Land Grabbing and Assault

KLK's irresponsible practices are not confined to Southeast Asia. Recently KLK became the majority shareholder of Equatorial Palm Oil (EPO), a UK-based palm oil company involved in a RSPO complaint for human rights violations and land grabbing for its palm oil operations in Grand Bassa County, Liberia, West Africa.[32]

### *What's at Stake?*

In Liberia over 1.5 million acres of land has been allotted to palm oil companies in recent years, seriously threatening the land rights of many communities.[33] The expansion of the palm oil industry in Liberia is attracting high-level global attention. A November 2013 report to the UN Security Council concluded that:

> *"The [UN] Panel [of Experts on Liberia] remains concerned that large-scale palm oil development continues to pose significant challenges to peace and security in rural areas…Unless communities are provided with adequate guarantees regarding employment, social development and a sustainable future for their land, and the independent legal and technical support to ensure these outcomes, the risk of conflict in concession areas remains high."*[34]

Like many palm oil plantations in Liberia, EPO's expansion in Grand Bassa County, Liberia threatens traditional livelihoods, increased social conflict, erosion of cultural heritage and violations of the rights of communities.

> *"EPO's expansion in Grand Bassa County, Liberia threatens traditional livelihoods, increased social conflict, erosion of cultural heritage and violations of the rights of the communities."*

## *EPO Clears Forests and Customary Lands*

At the end of 2012 and continuing into 2013, EPO began clearing customarily owned lands in Grand Bassa County without the Free, Prior and Informed Consent of the community. The local Jogbahn Clan demanded that EPO stop clearing this area, which they rely upon for their food and livelihood and regard as their spiritual home. However, the community's demands were ignored. EPO proceeded with operations that destroyed community crops, forest reserves and sacred sites.[35]

EPO's maps of its expansion areas show eight villages situated entirely inside the EPO concession area and an additional three located on the fringes that will also be heavily impacted. The eleven villages took their complaints to Grand Bassa Legislative Caucus, various local government officials, the National Investment Commission, the Ministry of Agriculture, Parliamentarians and the Minister of Justice, then the Acting President of Liberia. In October 2013, the communities brought their complaint against EPO to the RSPO.[36] The complaint was later amended to include KLK.[37]

## *EPO Assaults Jogbahn Community Members*

In September 2013 EPO security and members of the Liberian Police Support Unit (PSU) assaulted and arrested unarmed civilians who were objecting to EPO staff conducting expansion activities. Some community members were beaten and accosted as they walked to the county capital to register a protest with authorities.[38] While EPO denies these allegations and states it is a "responsible company and committed to sustainable oil palm development," investigations conducted by a coalition of international and Liberian NGOs show otherwise.[39]

Jogbahn community members say their objection to EPO's expansion plans also incited increasingly severe intimidation and harassment by company security staff and PSU officers. One intimidation tactic used was driving through villages at night and flashing their emergency lights, causing women and children to flee.[40]

## *Communities Bring RSPO Complaint Against EPO and KLK*

In October 2013, Sustainable Development Institute (SDI), a Liberian NGO, filed a complaint with the RSPO on behalf of the eleven communities. The complaint details violations of the following specific RSPO Principles and Criteria:

- Principle 7: Responsible development of new plantings, including:
    - Violation of Criterion 7.5 for failure to obtain the Free, Prior and Informed Consent from the impacted communities prior to establishing new plantings;
    - Violation of Criterion 7.6 for failure to gain agreement for the land acquisitions and compensate communities; and
    - Failure to file a New Planting Procedure notification.
- Principle 2: Compliance with applicable laws and regulations, including:
    - Violation of Criterion 2.2 for failure to demonstrate the right to use land and that that right is not legitimately contested by local communities with demonstrable rights; and
    - Violation of Criterion 2.3 for diminishment of the customary rights of the community without their Free, Prior and Informed Consent.[41]

In addition, the complaint points to the high risk of irreparable damages to social and environmental values and resources held by the communities, and evidence of company collusion with paramilitary units of the Liberia National Police to *"harass, intimidate, molest and perpetuate violence against the affected communities."*[42]

> *"the President told the communities from Grand Bassa County that the government committed to supporting them in protecting their land from further expansion by EPO."*

## *Liberian President Commits to Protect the Jogbahn Clan's Land*

After months of negotiations and advocacy by community members, SDI and international partners, Liberian President Ellen Johnson Sirleaf extended an invitation to Jogbahn Clan representatives to meet with her in Monrovia. During a meeting on March 5, 2014, the President told the communities that the government committed to supporting them in protecting their land from further expansion by EPO. This commitment is being heralded as a victory for the Jogbahn clan and communities throughout Liberia. SDI Lead Campaigner Silas Kpanan'Ayoung Siakor stated:

> *"This is a victory for Jogbahn clan who have secured their rights to their most valuable resource; their land which they rely on for their livelihoods and their cultural heritage. This is also a victory for community rights in Liberia with communities' voices being heard and respected. Hopefully, this marks the beginning of a progressive practice. The government's willingness to listen to these communities' concerns and taking steps to ensure that those concerns are addressed is laudable."*[43]

Joseph C. Johnson, Paramount Chief of Jogbahn town, one of the areas affected by the EPO concession, said to Front Page Africa that "the towns maintain their stance that they want no further expansion of the palm oil company and that they are happy that the government has come to understand that the locals have a right to demand that they are left alone to use their ancestral lands as they see fit."[44]

## *What KLK/EPO Must Do in Grand Bassa County*

With the President stating support for the communites' rights to their land, it is likely only a matter of time before KLK/EPO are required to respect the communities' wishes. However, KLK/EPO should publicly commit not to expand its plantation any further in Jogbahn Clan land and remedy its past actions in Grand Bassa County, including by addressing outstanding local community demands outlined in their complaint to the RSPO:

- Nullify the land survey conducted by EPO in 2013 under guard by PSU officers
- Dismiss security commanders for the unwarranted and unprovoked violence against community members in September 2013
- End expansion on customary land
- Return unplanted lands to the communities
- Engage in dialogue with the affected communities around the future of the land cleared
- Enter into a legally binding commitment that EPO will not expand onto the Jogbahn community's land in the future[45]

KLK/EPO need to reevaluate the viability of their future expansion plans in Liberia or risk continuing violations of customary land rights and ongoing social conflicts in other areas.

# CASE 4: INDONESIA

## KLK Deforests Orangutan Habitat

Recent satellite monitoring and field investigations have documented ongoing deforestation on two KLK plantations in Central Kalimantan. Forest clearing was found in PT Karya Makmur Abadi II (PT KMA II) and PT Jabontara Eka Karsa (PT JEK) in 2013 and early 2014.

### *What's at Stake?*

Palm oil expansion is driving iconic wildlife species like the Bornean orangutan to the brink of extinction. Today's population of orangutans exist only in shrinking areas of tropical rainforests on the islands of Borneo and Sumatra, and the species is at extreme risk of extinction within our lifetime. Scientists estimate that converting a forest area into an industrial palm oil plantation results in the death or displacement of over 95 percent of the orangutans that originally lived in the area.[46] Clearing of critical orangutan habitat on KLK's plantations in Central Kalimantan threatens the Bornean orangutan, which is classified by the International Union for Conservation of Nature as endangered.

Besides contributing to the loss of wildlife habitat and driving species to extinction, destroying rainforest also has adverse effects on the global climate. Worldwide, tropical deforestation contributes as much emissions driving climate change as those from the global transportations sector. KLK and other palm oil companies who continue to destroy rainforests are contributing to global climate change at a time when global emissions reduction is urgently needed.

### *KLK Clears Orangutan Habitat*

Field investigations found that PT KMA II cleared up to 21 hectares in 2013 and in the previous two years nearly 1,000 hectares were cleared. Active forest clearance was documented as recently as January 2014 in close proximity of orangutan habitat. PT JEK was found to have cleared up to 246 hectares in 2013, and a massive 8,500 hectares were cleared in 2012 and 2011. The cleared areas at PT JEK also include known orangutan habitat. PT JEK was documented clearing as recently as February 2014.[47]

> *"Scientists estimate that converting a forest area into an industrial palm oil plantation results in the death or displacement of over 95 percent of the orangutans that originally lived in the area"*

## *What KLK Must Do to Address Deforestation*

KLK must declare an immediate moratorium on further clearance of natural forests, expansion on peatlands of any depth, and development of lands that contribute to the livelihoods of local communities until credible High Conservation Value (HCV) and High Carbon Stock (HCS) forests assessments, community mapping and FPIC are undertaken to designate areas off limits to expansion. In order to further prevent these impacts, KLK must adopt and implement a responsible palm oil policy that requires the production and sourcing of palm oil that is fully traceable, legally grown and verified as not associated with deforestation, expansion on carbon-rich peatlands of any depth, or the violation of human or labor rights.

Excavators clear forest inside KLK's PT KMA II.
Photo Credit: Ulet Ifansasti / Greenpeace


# III. KLK AND CARGILL

## Bringing Conflict Palm Oil to Your Supermarket Shelves

Despite its record of human and labor rights abuses, deforestation and expansion on peatlands, KLK continues to find global corporate customers who are either willfully unaware or willing to turn a blind eye towards KLK's Conflict Palm Oil practices. According to *Bloomberg Businessweek*:

> *"In 2012, KLK's shipments to North America and Europe accounted for 26 percent of its revenue. At least 38 companies have bought KLK's palm oil and palm oil derivatives since 2009, according to company executives and records from shipping database Import Genius. These include Archer Daniels Midland (ADM), BASF (BASFY), California Oils, and Unilever (UL). Cargill, America's largest privately held company, received at least 31 shipments of palm oil from KLK, totaling more than 61 million pounds, over the last three years. Cargill has sold palm oil and its derivatives to Nestlé (NSRGY), General Mills (GIS), Kraft Foods (KRFT), and Kellogg (K). From December 2010 through June 2013, KLK sent a minimum of 18 shipments of at least three types of palm oil derivative, totaling nearly 34 million pounds, to Procter & Gamble (PG)."*

Big international palm oil traders and refiners like U.S.-based Cargill, the world's largest agribusiness trading company, and Singapore-based Wilmar International, the world's largest trader of palm oil, are among a small set of powerful traders whose purchasing decisions play a key role in determining the commercial future for Conflict Palm Oil in global markets. They have the power to clean up their supply chains and eliminate purchases from Conflict Palm Oil companies, but will they do it?

Wilmar International has taken a first step by adopting a new "No Deforestation, No Peat, No Exploitation Policy" in December 2013 that commits it and its suppliers to no deforestation, no development on peat, and no exploitation of people and local communities. The policy includes a requirement for all its suppliers to recognize and respect the rights of all workers, including contract, temporary, and migrant workers and the rights of Indigenous and local communities to give or withhold their Free, Prior and Informed Consent (FPIC) to operations on lands to which they hold legal, communal or customary rights. In order to implement its policy, Wilmar will need to ensure that all of KLK's operations are compliant with these principles. If KLK does not change its practices and policies, Wilmar must drop the company as a supplier and remove any KLK palm oil from its global supply chain.

In contrast to Wilmar, Cargill does not have a responsible palm oil purchasing policy for its trading business, which covers 97% of the palm oil it sells in the global market, nor does it require the origin of the palm oil it buys to be known and traceable to the plantation where it was grown.[48] Cargill is selling palm oil to its customers, including the Snack Food 20, without being able to verify whether the palm oil was sourced from controversial suppliers like KLK or not. Cargill urgently needs to adopt and implement a responsible palm oil purchasing policy that will eliminate rainforest destruction, expansion onto carbon-rich peatlands and human and labor rights violations from its global supply chains. Cargill must implement fully traceable supply chain systems in order to demonstrate to its customers that it is not selling Conflict Palm Oil from producers with irresponsible practices like KLK.

# IV. KLK'S FINANCIERS

In addition to land, labor and markets, KLK is reliant on Malaysian and international capital in order to finance its palm oil plantation operations and expansion targets. Palm oil plantations are expensive to establish, with a 10,000-hectare plantation costing as much as $100 million to bring into production.[49] Additional credit lines are needed to support plantation operations, downstream processing, exports and international sales.

KLK's principal bankers are UK-based HSBC Bank, Singapore-based OCBC Bank, and Malaysia-based CIMB Bank and Malayan Banking Berhad. International banks, with their global franchises, such as HSBC, are particularly valued business partners by KLK as they can support KLK's international operations through their network of corresponding national banking branches.

As the above cases illustrate, however, such financing is currently contributing to KLK's violation of Indigenous Peoples, workers, and children's rights, and rainforest destruction, all of which present a wide range of reputational and material risks both to KLK and its financiers.

## *Banks and KLK*

Some banks, like HSBC, have palm oil sector social and environmental policies that are intended to prevent the bank from financing deforestation, failure to obtain Free, Prior and Informed Consent before expanding on ancestral lands of Indigenous peoples or the use of child or forced labor. However, these policies only have meaning if they are put into practice.

HSBC must ensure that KLK addresses the issues presented in this report and comes into alignment with HSBC's policy quickly, and if KLK refuses to do so, make clear that HSBC will exit its relationship with this company.

HSBC OCBC Bank CIMB BANK Maybank

## *Investors and KLK*

KLK's top shareholder is Batu Kawan Berhad (46.57%), a family-run holding company run by KLK CEO's brother Dato' Lee Hau Hian. Other top shareholders include the government of Malaysia, Malaysian fund management company Permodalan Nasional Berhad (PNB), and Malaysian government agency and plantation company FELDA.[50]

Other non-Malaysian shareholders include U.S. and international investment and advisory companies such as Blackrock, Vanguard Group, Van Eck Associates, Credit Suisse, JP Morgan Chase, Morgan Stanley, Fidelity Investments, Chalres Schwab, Dimensional Fund Advisors and Wells Fargo as well as U.S. pension funds including California based TIAA-CREF and CalPERS. [51] Investors should engage with KLK and use their influence to ensure that KLK remedies the issues presented in this report, or failing that, divest their holdings.

# V. RECOMMENDATIONS

## Cutting Conflict Palm Oil–What must be done?

### *What must KLK do?*

These four cases are symptomatic of KLK's failing approach to responsible palm oil production, which is leading to repeated human and labor rights violations and ongoing destruction of rainforests and peatlands. In order to address and further prevent these issues, **KLK must adopt and implement a responsible palm oil policy that requires the production and sourcing of palm oil that is fully traceable, legally grown and verified as not associated with deforestation, expansion on carbon-rich peatlands of any depth, or the violation of human or labor rights.**

KLK's new responsible palm oil policy must apply to all its operations worldwide, including those of its subsidiaries, and the refineries, mills and plantations that it owns, manages, or invests in, regardless of stake. In order to be a leader, KLK must require its third party palm oil suppliers to meet the same responsible production standard.

To demonstrate its commitment, KLK must immediately stop the development of High Conservation Value areas, High Carbon Stock forests and peatlands of any depth and sourcing from third party suppliers engaged in such practices as well as resolve the grievances outlined in this case study to the mutual satisfaction of the Indigenous Peoples and communities affected.

KLK must adopt and implement a robust Free, Prior and Informed Consent process that respects the rights of communities to give or withhold their consent to proposed operations on the lands to which they hold legal, communal or customary rights through their own freely chosen institutions, across its global operations. KLK must also adopt and implement policies and procedures to respect and uphold the rights of all workers as defined by the ILO, including contract, temporary, and migrant laborers.

Moving forward, KLK must resolve all complaints and conflicts and remediate human and labor rights violations through an open, balanced, transparent and accountable grievance mechanism and dispute resolution process and regularly report on the implementation of the company's responsible palm oil policy.

Furthermore, KLK must improve its due diligence measures to avoid making future investments in companies where the development of the land in question is clearly opposed by the local people.

### *KLK must go beyond RSPO certification*

Companies that produce palm oil must go beyond achieving Roundtable on Sustainable Palm Oil certification to ensure that their operations are truly responsible.  The RSPO continues to certify companies that are destroying rainforests and peatlands and causing high greenhouse gas emissions. The RSPO also has a poor track record of enforcing its standards and resolving disputes between certified companies and local communities, and ensuring that labor rights are upheld on RSPO-certified plantations.

KLK cannot rely on obtaining RSPO certification to meet the needs of its customers. It must join other leading industry players, like Wilmar, Golden Agri-Resources and the members of the Palm Oil Innovation Group and adopt and implement a responsible palm oil policy.

## *What must palm oil traders like Cargill do?*

Cargill

Cargill and other traders buy massive volumes of palm oil from the companies that grow, mill, and refine palm oil and have uniquely influential leverage to drive the transformation in the way palm oil is produced. By failing to address the lack of transparency and traceability in palm oil supply chains, traders have been putting the valuable brand assets of their consumer goods company customers at risk by continuing to supply them with Conflict Palm Oil from controversial companies like KLK.

**Traders like Cargill must adopt global responsible palm oil procurement policies that insist that the palm oil they buy from refineries, mills and growers is fully traceable, legally grown and verified as not associated with deforestation, expansion onto carbon-rich peatlands of any depth, and human or labor rights violations.**

Wilmar has taken the first step and adopted its own "No Deforestation, No Peat and No Exploitation Policy." It is time that Cargill and other traders adopt policies that meet or beat the new benchmark for responsible palm oil purchasing and production.

As a matter of urgency, Cargill and other traders must also map their global supply chains and determine where the palm oil fruit that they source was grown and work rapidly to achieve fully traceable and transparent palm oil supply chains.

**Cargill must eliminate Conflict Palm Oil from its global supply chains, including palm oil from KLK if the company fails to resolve its issues with deforestation, human and labor rights violations, and meet the recommendations in this report.**

## *What must financiers like HSBC do?*

Financiers, including banks and investors, must develop palm oil finance due diligence policies and procedures to avoid any financing of palm oil companies that fail to address and prevent the adverse social and environmental impacts associated with Conflict Palm Oil production.

Financiers, including banks and investors, should divest from palm oil consumer companies or commodity traders who do not have or are unwilling to implement adequate policies and systems to eliminate Conflict Palm Oil from their supply chain and are unable or unwilling to implement full traceability systems in their supply chains back to all growers. **Financiers must divest from KLK if the company continues its involvement in the production of Conflict Palm Oil. Financiers should urge KLK to adopt and implement a responsible palm oil policy that requires the production and sourcing of palm oil that is fully traceable, legally grown and verified as not associated with deforestation, expansion on carbon-rich peatlands of any depth, and the violation of human or labor rights.**

## *What must the Snack Food 20 Companies Do?*

The Snack Food 20, some of the top snack food companies using Conflict Palm Oil, manufacture hundreds of valuable brand name products, which combined gross more than $432 billion in sales each year. These companies often do not know where the palm oil they buy comes from or how it is produced. The Snack Food 20 are all at risk of sourcing Conflict Palm Oil from controversial companies like KLK.

In order to cut Conflict Palm Oil from their products, the Snack Food 20 must adopt and implement global responsible palm oil procurement policies that demand fully traceable, legally grown palm oil that is sourced from verified responsible producers not associated with deforestation, expansion onto carbon-rich peatlands and human or labor rights violations.

**As a matter of urgency, the Snack Food 20 must eliminate Conflict Palm Oil from global supply chains, including palm oil from KLK if the company continues its involvement in the production of Conflict Palm Oil and fails to adopt and implement a responsible palm oil policy.**

### *THE SNACK FOOD 20*

Campbell Soup Company
ConAgra Foods, Inc.
Dunkin' Brands Group, Inc.
General Mills, Inc.
Grupo Bimbo
Hillshire Brands Company
H.J. Heinz Company
Hormel Foods Corporation
Kellogg Company
Kraft Food Group, Inc.
Krispy Kreme Doughnuts Corp.
Mars Inc.
Mondelez International, Inc.
Nestle. S.A.
Nissin Foods Holdings Co., Ltd.
PepsiCo, Inc.
The Hershey Company
The J.M. Smucker Company
Toyo Suisan Kaisha, Ltd.
Unilever

## *What can consumers do?*

**The Power is In Your Palm!**

Giant food companies care about what their customers think – they spend hundreds of millions of dollars a year to gain the trust and loyalty of consumers. If enough people call on the Snack Food 20 to adopt responsible palm oil policies, they will listen and start demanding responsible palm oil from their suppliers. Consumers can join with RAN to bring the message to the Snack Food 20 that they will not stand by brands that use Conflict Palm Oil. **Visit inyourpalm.org to take action today.**

## *For more information:*

Read Rainforest Action Network's report Conflict Palm Oil: How US Snack Food Brands are Contributing to Orangutan Extinction, Climate Change and Human Rights Violations http://www.ran.org/conflict-palm-oil


Photo Credit: Donte Tatum / RAN

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