

GREENPEACE

DYING FOR A COOKIE



HOW **Mondelez**

Bumitama Gunajaya Agro

DIRTY PALM OIL IS FEEDING THE
CLIMATE AND EXTINCTION CRISIS

'We are taking steps to ensure that the palm oil we buy is produced on legally held land, does not lead to deforestation or loss of peat land, respects human rights, including land rights, and does not use forced or child labor.'

Mondelēz International Palm Oil Action Plan, June 2014



11 December 2016,
PT Ladang Sawit Mas,
1°32'20.856"S 110°18'58.122"E:
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Cover and right:
March 2013, PT Ladang
Sawit Mas: One of several
orangutan rescue attempts by
International Animal Rescue
Indonesia in the Bumitama oil
palm concession.



'The unsustainable use of natural resources has caused a dramatic decline of Bornean orangutans [...] Our findings suggest that more than 100,000 individuals have been lost in the 16 years between 1999 and 2015.'

Maria Voigt, researcher at the Max Planck Institute for Evolutionary Anthropology, September 2017

CONTENTS

CALLING TIME ON MONDELÉZ	1
EYES WIDE SHUT: HOW CONSUMER BRANDS AND THE RSPO SUPPORT THE TRADE IN DIRTY PALM OIL	2
BUMITAMA AND ITS DIRTY SECRETS	5
Bumitama's ownership, structure and landbank	4
Quantifying Bumitama's forest loss liability	7
Bumitama's and IOI's response	7
CRUNCH TIME FOR MONDELÉZ AND THE PALM OIL SECTOR	8
BUMITAMA'S LAUNDERING OF A TOXIC LEGACY	12
Associated parties	13
Citro Utomo	13
Djoni Rusmin and Tommy Santoso	14
Nita Kartika and Janta Halim	16
CASE STUDIES	20
PT Guna Jaya Harapan Lestari (PT GHL), West Kalimantan	20
PT Hatiprima Agro (PT HPA), Central Kalimantan	22
PT Golden Youth Plantation Indonesia (PT GYP) and PT Ladang Sawit Mas (PT LSM), West Kalimantan	26
PT Golden Youth Plantation Indonesia	27
PT Ladang Sawit Mas	28
PT Gemilang Makmur Subur	29
PT Damai Agro Sejahtera	29
PT Sejahtera Sawit Lestari	31
REFERENCES	34
Endnotes	34
Bibliography	40

'Mondelēz International is a proud signatory to the New York Declaration on Forests, an important step to unite governments, NGOs and business to slow and then end forest loss. We can't act alone to halt deforestation or climate change, so we call on everyone to play a role.'

Irene Rosenfeld, then CEO, Mondelēz International



April 2013, PT Ladang Sawit Mas

CALLING TIME ON Mondelēz International

Mondelēz is one of the world's largest snack food companies. Its portfolio includes billion-dollar brands such as Cadbury, Oreo and Ritz; according to Mondelēz, Oreo is the world's favourite cookie and the bestselling cookie brand of the 21st century.¹ Mondelēz has operations in 80 countries and sells products in 165 countries. Its global headquarters is in Illinois and it is a publicly traded company listed on the New York Stock Exchange.

Mondelēz is one of the world's largest buyers of palm oil,² which is an ingredient in many of its best-known products, including Cadbury chocolate bars, Oreo cookies and Ritz crackers.³ Mondelēz purchased over 300,000 tonnes of palm oil and palm oil products in 2017.⁴ Although Mondelēz claims to have been 'purchasing RSPO palm oil, covering 100% of our use since 2013',⁵ in practice almost 95% of the palm oil it buys is covered by 'book-and-claim' certificates⁶ – by far the weakest of the certification models offered by the main palm oil industry body, the Roundtable on Sustainable Palm Oil (RSPO).⁷ This means that the plantations and producer groups from which the overwhelming majority of the palm oil that Mondelēz purchases is sourced are not governed by any sustainability initiatives.

In 2014 Mondelēz adopted a 'no deforestation, no peat, no exploitation' (NDPE) policy, which commits the company to sourcing palm oil that is: "produced on legally held land, does not lead to deforestation or loss of peatland, respects human rights, including land rights, and does not use forced or child labor. Specifically, palm oil development should not take place in Primary Forest, High Conservation Value (HCV) areas, High Carbon Stock (HCS) forest, or use fire in plantation operations."⁸

Mondelēz is on the board of the RSPO,⁹ is a signatory to the New York Declaration on Forests¹⁰ and co-chairs the Consumer Goods Forum Palm Oil Working Group.¹¹

However, Mondelēz continues to source palm oil from rainforest destroyers, despite its stated commitment to responsible sourcing. In September this year Greenpeace International¹² published *Final Countdown*,¹³ a report that lays bare the extent of recent rainforest destruction by 25 palm oil producer groups including Bumitama – profiled in this briefing. Between 2015 and 2017, these 22 groups destroyed over 70,000ha of rainforest in Southeast Asia,¹⁴ of which 25,000ha was forested orangutan habitat. Alarming, these are just the cases that Greenpeace was able to identify – Mondelēz sources from hundreds of palm

oil companies and this destruction is likely just the tip of the iceberg.

Mondelēz gets much of this dirty palm oil from Wilmar International – the world's largest palm oil trader and the first to commit to cleaning up its supply chain. More than 80% of Wilmar's palm oil comes from third-party suppliers,¹⁵ yet despite adopting an NDPE policy in 2013 Wilmar still fails to monitor its suppliers across all of their operations to determine whether they comply with its policy or are destroying forests. Wilmar has been sourcing from 18 of the producer groups in Greenpeace's *Final Countdown* report including Bumitama;¹⁶ its own disclosures reveal that trade with most of these companies continues. Since *Final Countdown* was published, Wilmar has paid lip service to reform but has refused to make the radical changes that would end its trade with forest destroyers.

Mondelēz, Wilmar and other companies that use and trade palm oil have totally failed to clean up their supply chains or do their bit to reform the palm oil sector.

Palm oil is just one of several commodities whose industrial production is fuelling a climate and extinction crisis. In October 2018, the Intergovernmental Panel on Climate Change called for an immediate end to deforestation to limit global temperature rises to 1.5°C,¹⁷ and in response UN Secretary General António Guterres called for 'urgent and far more ambitious action' and 'unprecedented changes' to the way land is used and commodities are produced.¹⁸ In November 2018, the UN's Executive Secretary of the Secretariat of the Convention on Biological Diversity, Cristiana Paşca Palmer, warned that biodiversity loss was 'a silent killer' and as serious a threat as climate change.¹⁹

Time is running out. If Mondelēz is serious about 'building the best snacking company in the world',²⁰ then it needs to drop dirty palm oil and stop sourcing from destructive producer groups. The first step is for Mondelēz to cut off Wilmar until it can prove its palm oil is clean. By 2020, Mondelēz must ensure that the palm oil in its products comes solely from responsible producers whose entire operations have been independently verified as compliant with NDPE standards (such as producers whose operations have been verified by the Palm Oil Innovation Group) – even if that means it must use less palm oil.

EYES WIDE SHUT: HOW CONSUMER BRANDS AND THE RSPO SUPPORT THE TRADE IN DIRTY PALM OIL



In 2010, Mondelēz and other members of the Consumer Goods Forum (CGF)²¹ recognised the global climate impact of deforestation and agreed to work towards zero deforestation by 2020. The CGF, which represents some 400 global companies, committed to the responsible sourcing of soya, cattle products, paper/pulp and palm oil,²² all of which are currently among the main drivers of deforestation.

Consumer companies continue to rely on the RSPO to help them meet their zero deforestation commitment, and compliance with the RSPO's Principles and Criteria is a key element of the CGF's Sustainable Palm Oil Sourcing Guidelines.²³ Critically, the RSPO has yet to endorse and enforce the NDPE approach; its Principles and Criteria do not currently prohibit deforestation per se – a profound weakness that undermines their relevance.²⁴ However, they do forbid RSPO members to clear primary or HCV forest, and require them to operate within the law (which

rules out, for example, the clearing of forest that has been included by the Indonesian government in a peat protection zone).

Mondelēz, Wilmar and many other major players in the palm oil sector occupy positions of influence within the RSPO, including on its Board of Governors.²⁵ Despite their oversight, however, the RSPO has been repeatedly accused of failing to enforce its own standards.²⁶ Significantly, 14 of the 25 producer groups exposed by Greenpeace's *Final Countdown* report as involved in deforestation are members, or include companies that are members, of the RSPO, in addition to one group that is very closely associated with Wilmar, an RSPO member.²⁷

So far the RSPO has failed to act decisively on evidence, presented in *Final Countdown* and numerous previous reports by Greenpeace and other non-governmental organisations (NGOs), that many of these producer groups have operated without

legally required documents; cleared primary and HCV forest and protected peatland; illegally used fire to clear land; or failed to obtain the free, prior and informed consent (FPIC) of local populations – all of which are contrary to the RSPO's Principles and Criteria. For example:

- In March 2018 the RSPO Secretariat rejected a request from Greenpeace and other NGOs that it file a complaint against PT Austindo Nusantara Jaya Tbk (ANJ) for clearing primary forest including peatland within the government-determined peat protection zone. It based its decision on the Indonesian government deforestation moratorium maps – even though these do not show primary forest and peatland located within concessions that already existed at the time the moratorium came into force, such as those that were the subject of the complaint, rendering them useless as a means of establishing the truth of the allegations.²⁸
- The relationship between Gama Plantation and RSPO member Wilmar was highlighted in Greenpeace's June 2018 report *Rogue Trader*.²⁹ Gama has an extensive and ongoing history of deforestation (including of orangutan habitat) and expropriation of indigenous land, and has been described as 'a clearinghouse for troublesome Wilmar subsidiaries'. Nevertheless, the RSPO has taken no action against Wilmar over its links with Gama.
- The Hayel Saeed Anam Group (HSA) is not itself an RSPO member but has five palm oil sector subsidiaries that are members in their own right and two others that are not,³⁰ thus putting the member companies in breach of RSPO rules requiring group-level membership.³¹ One subsidiary (and RSPO member), the palm oil trader Pacific Inter-Link Sdn Bhd (PIL), is linked to two palm oil concessions in Papua that have recently seen extensive clearance, including of primary forest and peatland forest within the peat protection zone.³² Though HSA and PIL have denied ongoing involvement with the concessions, claiming that their planned investment in them did not go ahead, there is strong circumstantial evidence of a continued link, as set out in *Final Countdown*.³³ Despite being informed of this link by Greenpeace and others on several occasions since 2016, the RSPO has so far apparently failed to investigate.
- The Salim group is an informal grouping of businesses including palm oil companies that are RSPO members (PT Salim Ivomas Pratama Tbk (SIMP) and PT PP London Sumatra (Lonsum)) and many others that are not, again in breach of RSPO rules on group-level membership. Although Greenpeace shared corporate registry profiles with the RSPO in August 2017, following the January 2017 publication of its report *Dirty Bankers* that outlined the case,³⁴ the RSPO is apparently still reviewing the data. Salim companies have recently cleared primary forest and peatland forest within the peat protection zone in non-member concessions in Papua and West Kalimantan.³⁵
- In July 2018 the RSPO approved the membership application of PT Bio Inti Agrindo, an Indonesian palm oil subsidiary of South Korean conglomerate POSCO Daewoo, despite the company clearing over 15,000ha of forest (nearly a third of it primary forest) over the preceding three-and-a-half years. Clearance in 2015 was accompanied by 158 separate fire hotspots within the company's concession, which the company claims were of accidental origin (the use of fire to clear land is illegal in Indonesia).³⁶ RSPO membership may help the company to avoid market scrutiny over its forest destruction.

These are just a few examples where the RSPO has failed to take action against its producer members that have committed breaches of its Principles and Criteria, New Planting Procedures or membership rules.³⁷ Notably, many of the producer members guilty of such breaches remain in the supply chains of Mondelez and other leading brands.³⁸

BUMITAMA AND ITS DIRTY SECRETS

BUMITAMA'S OWNERSHIP, STRUCTURE AND LANDBANK

The Bumitama group is a joint venture between the Harita Group, controlled by members of the Lim Hariyanto family, and Malaysian conglomerate IOI Group. As of March 2018, it was majority-owned by members of the Lim Hariyanto family (52%),⁴⁰ with IOI having a 32% stake⁴¹ dating from 2007.⁴² IOI's CEO Dato' Lee Yeow Chor⁴³ serves on the board of directors of parent company BAL and has served on the boards of individual Bumitama companies.⁴⁴

BAL is registered in Singapore and listed on the Singapore Exchange. It has two main Indonesian subsidiaries: BGA and BSL, in which it has held a 90% stake since 2012.⁴⁵ Members of the Lim Hariyanto family have historically owned (and Bumitama has had operational management of) a number of oil palm concessions outside the formal BAL group structure⁴⁶ that later passed into Bumitama ownership.⁴⁷ In view of the evidence set out below, Bumitama and other formally separate Lim Hariyanto family palm oil interests should be seen as one group, both now and historically.

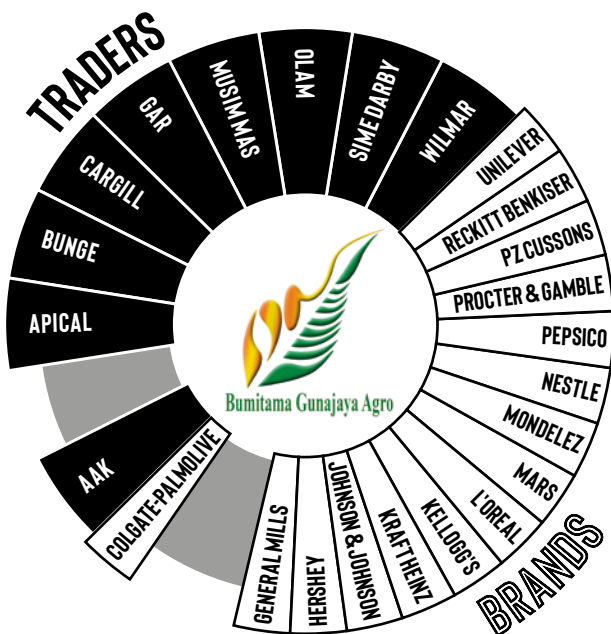
In 2015 Bumitama adopted a 'no deforestation, no peat, no exploitation' (NDPE) policy which was explicitly intended to apply to 'all plantations and/or mills in our subsidiaries, associates and those which we manage' and to new investments in plantation companies.⁴⁸ The group does not make maps of its concession boundaries publicly available in a usable format.

As of the end of 2017, Bumitama listed investments in 32 plantation subsidiaries⁴⁹ with a total landbank of approximately 233,000ha spread over Riau, Central Kalimantan and West Kalimantan, 78% of which had been planted. The group was also operating 14 crude palm oil mills with a total processing capacity of 5.49 million tonnes of fresh fruit bunches (FFB) a year.⁵⁰

The Bumitama group's main palm oil holding company, Bumitama Agri Limited (BAL), joined the RSPO in 2013.⁵¹ Prior to that date, Bumitama subsidiary Bumitama Gunajaya Agro (BGA) had been a member but its other main subsidiary, Bumitama Sawit Lestari (BSL) was not. The move followed pressure from NGOs and the RSPO itself⁵² to bring BSL under the RSPO's jurisdiction after a complaint was made against one of its plantation companies, PT Andalan Sukses Makmur.⁵³

BAL had launched its initial public offering (IPO) on the Singapore Exchange in 2012;⁵⁴ the IPO prospectus admitted that BAL lacked title for nearly 80% of its landbank,⁵⁵ and that over 60% of the total comprised land where even the initial permits to obtain title from the current landowners (*Ijin Prinsip* or *Ijin Lokasi*) had expired.⁵⁶ Figures given in the prospectus imply that over 70,000ha of the land for which Bumitama lacked title had already undergone unlawful plantation development.⁵⁷ In addition, as described below, a number of plantations had been unlawfully established by other Lim Hariyanto family interests, often with management involvement by Bumitama. In many instances, these lacked plantation business permits, land cultivation rights or other required documentation.⁵⁸

MARKET LINKS TO TRADERS AND BRANDS



Perhaps one of the most flagrant examples of the RSPO's failure to police its membership involves the Bumitama group (see box).³⁹ It also illustrates the total failure of Mondelez and other consumer goods companies and traders to ensure that producer groups in their supply chains are operating legally and in compliance with the NDPE standards that many consumer goods companies and traders have adopted.



Bumitama's extensive record of unlawful development obviously posed a commercial risk, given the growing hostility to the palm oil industry's lawlessness and destruction and the adoption of NDPE policies by consumer companies and traders. It was also profoundly incompatible with the RSPO's Principles and Criteria. Bumitama appears to have resolved this inconvenient situation through an elaborate laundering scheme intended to conceal the Lim Hariyanto family's and Bumitama's responsibility for the unlawful development of concessions, so allowing the group to claim that it was not connected to the concessions during their period of development without permits or in breach of RSPO rules. This was achieved by transferring nominal control of the unlawfully developed plantations temporarily – sometimes without any money actually changing hands – to companies established by one or more of a handful of 'third parties' supposedly unconnected to Bumitama or the Lim Hariyanto family (though research by Greenpeace shows that the individuals concerned were in fact closely associated with Bumitama and/or the family – see profiles below). These companies then obtained the required permits for the plantations, before selling them back to Bumitama, sometimes for a trivial sum, once forest clearing had ceased.

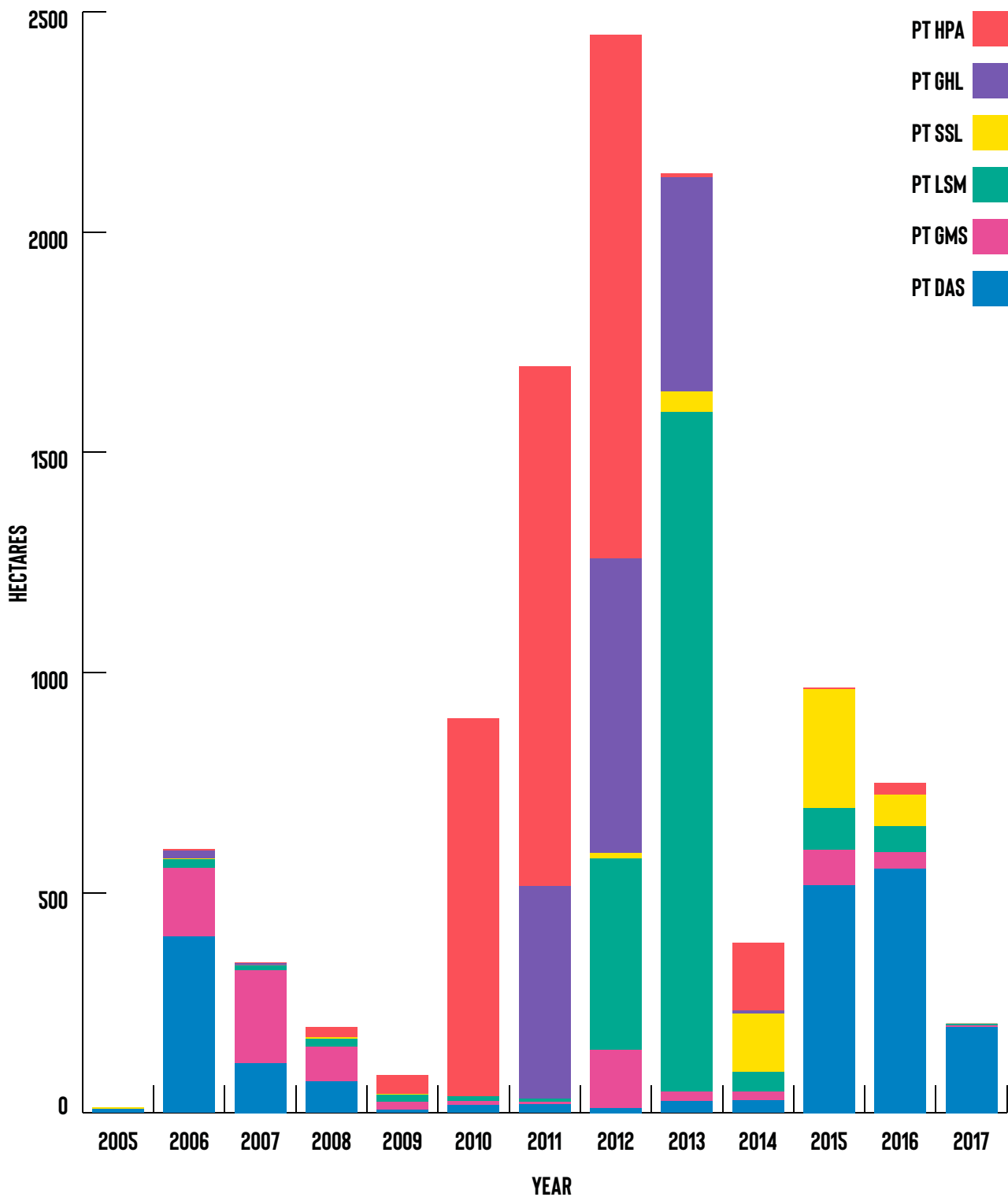
At least 18 plantation companies⁵⁹ and one biofuel refinery company⁶⁰ have passed through the hands of one or more of the 'third parties' mentioned below before being formally acquired or reacquired by Bumitama. This includes nearly a third of all of Bumitama's current plantation companies. The majority of these companies were originally owned by the Lim Hariyanto family; of the rest, several are new companies whose concession area overlaps with land previously controlled by either the Lim Hariyanto family or Bumitama.

In one instance Bumitama was able to profit from the temporary change of ownership to secure the closure of an RSPO complaint concerning a concession (though this has since been reopened following a request from Greenpeace and other NGOs).⁶¹

In its announcements of its 'new' acquisitions to the Singapore Exchange, Bumitama made no mention of its previous ownership of or involvement in the estates concerned, or of its relationship to the parties from whom it was acquiring them, thereby apparently breaking stock exchange rules and misleading investors. When Greenpeace put this issue to Bumitama prior to publishing *Final Countdown*, the company defended its 'approach of acquiring from third parties' but did not address the evidence Greenpeace had presented of prior ownership of the concessions, and ongoing beneficial ownership and control during the third parties' tenure.⁶²

In at least one case, Bumitama continued to manage illegal plantations while neither it nor the Lim Hariyanto family had legal control of them. It also appears to have been responsible for clearance within the concession concerned. This is particularly significant in that the clearing occurred after May 2014: under the RSPO's Remediation and Compensation Procedure (RaCP), which aims to address land clearance and plantation development undertaken without prior HCV assessment, 'RSPO members acquiring new areas of land that have been cleared since 9 May 2014 shall commit in writing that they had not directly instigated, encouraged, or supported any land clearance without prior HCV assessment'.⁶³ In cases subsequent to 9 May 2014 where the RSPO member actually controlled the land at the time that it was cleared, the RaCP rules provide for the member to be expelled from the organisation.⁶⁴

BUMITAMA'S DEFORESTATION LIABILITY IN CASE STUDY CONCESSIONS



More generally, Bumitama's conduct raises serious doubts about its engagement with the RaCP. The RaCP requires members to disclose land development that took place without an HCV assessment, calculate environmental liabilities, carry out appropriate remediation, and propose and provide compensation (for example, by contributing to community programmes funding equivalent to the liability in monetary terms, or by managing for biodiversity an area of land equivalent to the liability in area terms, calculated according to set criteria).⁶⁵ Compensation becomes payable for clearance from 2007 onwards, and the levels of liability are set progressively higher for more recent periods.⁶⁶ For development prior to 9 May 2014, the levels of compensation are set higher for cases where the land was controlled by an RSPO member at the time of clearance, rather than being cleared by a non-member and then subsequently acquired by a member.⁶⁷ Bumitama's temporary divestment of concessions where it had previously carried out development apparently without HCV assessments (or where in some cases it apparently carried out development without such assessments during the temporary period when neither it nor the Lim Hariyanto family nominally controlled the land concerned) must call into question whether the company's compensation proposals submitted to the RSPO accurately reflect its true liability for compensation under the RaCP. Such proposals are not available to stakeholders for independent review, and Bumitama declined to share its proposal with Greenpeace upon request, so there is no way of independently assessing whether the disclosures on which it is based are full and accurate.

The limitations of the RSPO's reliance on members' self-policing are potentially compounded by the fact that Bumitama has a representative on the 12-strong RSPO Complaints Panel (which adjudicates on complaints against members),⁶⁸ raising questions about what influence the company may be able to bring to bear to hinder investigations and complaints about its own operations.

QUANTIFYING BUMITAMA'S FOREST LOSS LIABILITY

A Chain Reaction Research report from October 2014 estimates Bumitama's liability for forest loss under the RaCP at US\$30 million between 2010 and 2013 alone, based on Landsat analysis identifying 20,000ha of loss,⁶⁹ though it is unclear on which concessions this analysis is based.

Greenpeace has attempted to quantify Bumitama's liability under the RaCP, in both area and financial terms, for clearance within the current concessions discussed in the three case studies below. This is not an assessment of the group's total liability across its operations, as the data that would be required for this is not publicly available: the group has repeatedly refused to provide maps for its operations when requested and the RSPO web-based mapping database is neither usable nor comprehensive.

According to analysis commissioned by Greenpeace,

between 2005 and 2018 some 11,100ha of forest were cleared within the concessions in the three case study areas, apparently without credible HCV assessments having been undertaken and acted upon. Nearly 2,300ha of this clearance took place from 2014 onward. Given the evidence suggesting that this clearance was 'directly instigated, encouraged, or supported' by Bumitama or the Lim Hariyanto family – despite ownership having passed nominally and temporarily out of their names at the time of the clearing before definitively entering Bumitama's portfolio – this should result in Bumitama's expulsion from the RSPO. Nevertheless, given that the group has not yet been expelled, we have included this period in our calculation. We estimate the minimum financial liability for these three areas alone at between US\$35 million and US\$50 million, depending on the quality of the forest that was cleared.⁷⁰ Arguably, if for whatever reason the RSPO deems expulsion undesirable despite evidence of Bumitama's control of post-2014 clearance, the penalty for that portion of the total clearance should be set significantly higher.

The maps and analysis used to produce the above estimate and elsewhere in this briefing are based on publicly available, peer-reviewed scientific data⁷¹ also used in CIFOR's Borneo Atlas.⁷² They should serve as an unbiased proxy indicating whether the timing and extent of clearance and plantation development within areas now acknowledged by Bumitama to be part of its landholdings merit further independent review.

BUMITAMA'S AND IOI'S RESPONSE

Greenpeace offered Bumitama and, separately, IOI Group the opportunity to comment on its key findings regarding concession laundering before publication of the *Final Countdown* report. On 7 September Bumitama replied, stating that while it 'refutes the claims that the acquisition of the mentioned [plantation companies] would be a part of a scheme designed to allow Bumitama to regularise illegality, allow land clearing, mislead the RSPO or defraud our investors', it would 'reflect on this method of company acquisition, and ... review and update our procedure via the Investment Committee'.⁷³ The group failed to provide concession maps for its operations in response to Greenpeace's request.

On 12 September Dato' Lee Yeow Chor, CEO of IOI Group and non-executive director of Bumitama, replied on IOI's behalf, acknowledging that the group would have some responsibility for 'any major malpractice by Bumitama' and that personally he has 'a duty of oversight' for ensuring 'that the company [Bumitama] complies with the laws of the country and the commitments which are spelt out in the company's Sustainability Policy'. He emphasised that IOI was willing 'to put pressure on Bumitama's management as a substantial shareholder' and would 'welcome any advice from Greenpeace or other NGOs on how to exert more pressure'.⁷⁴

CRUNCH TIME FOR MONDELEZ AND THE PALM OIL SECTOR

Despite corporate commitments to reform the sector, palm oil remains a high-risk commodity in terms of deforestation and other environmental and social impacts. Yet companies like Mondelez have largely outsourced the implementation of their NDPE policies to their suppliers and to the RSPO. As Greenpeace reports have made clear, none of the major traders can yet be relied upon to supply brands with palm oil that meets their NDPE standards; indeed, Wilmar and its competitors are all known to source from forest destroyers.⁷⁵ Unsurprisingly, traders continue to supply brands with palm oil contaminated by forest destruction – as the supply chain data consumer companies finally published in early 2018 confirms.⁷⁶

Consumer company reliance on the RSPO, coupled with the RSPO's currently weak standards and its failure to stop producer members abusing those standards, are significant factors in the industry's continued destruction of rainforest. RSPO board members, including both Mondelez and Wilmar, must take a share of the blame thanks to their failure to hold the organisation and its members to account. Regardless, consumer goods companies and traders have a responsibility to police their suppliers' operations – and producer groups like Bumitama have no place in responsible companies' supply chains. Yet Mondelez and Wilmar (and their respective competitors) continue to purchase Bumitamā palm oil.

Global consumer companies like Mondelez have pledged to remove deforestation from their supply chains by 2020.

That is now less than 400 days away. There are many business reasons for consumer companies to use palm oil, including its high yield per hectare of plantation and versatile properties. But efforts to reform the industry have failed. Palm oil producers and traders have concluded that consumer companies are more concerned about maintaining a secure supply of palm oil, even if some of it is produced unsustainably, than they are about meeting their NDPE commitments.

The most efficient way to clean up the industry would be for all sectors involved with palm oil, including producers, traders and consumer companies, to act together. However, traders and other companies have shown little inclination to do so. Accordingly, consumer companies must lead the way and drive change throughout the palm oil sector by taking control of and responsibility for their own supply chains. A fuller description of the actions companies must take is contained in Greenpeace's *Final Countdown* report.⁷⁷

Greenpeace calls for action to ensure the transformation of the palm oil industry by 2020:

- **Producer groups must operate transparently**, including full disclosure of their corporate structures, holdings, concession boundary maps and mill locations, and must demonstrate their compliance with customers' NDPE policies. In practice, for most producer groups, this will mean no further expansion of their plantation estates.



- **Traders must prove that they source only from clean producer groups.** This means that each trader must make full group-level transparency by producers a condition of trade, and obtain independent verification that all producer groups with which it trades comply fully with its NDPE policy, including in operations from which it does not actually source.
- **Consumer companies must ensure that 100% of the palm oil they use comes from clean producer groups** whose entire operations have been independently verified as compliant with NDPE policies – even if that means using less palm oil. If traders cannot or will not make the reforms needed to enable this, then consumer companies must exclude them from their supply chains.

Specifically, in terms of Bumitama and the RSPO, Greenpeace expects:

- **The RSPO to ensure transparent process.** The RSPO must make Bumitama's RaCP compensation proposal available for independent review; deal with the outstanding complaint against the company's PT HPA/PT LMS concession, as well as the outstanding complaints against Bumitama Gunajaya Abadi concerning violations of community rights in Central Kalimantan; and investigate the other case studies of apparently laundered Bumitama concessions presented in this briefing. All other instances identified in this report
- where concessions previously held by Bumitama or the Lim Hariyanto family have come into the company's control after a period under the nominal ownership of companies established by associates of the company or family should also be reviewed.
- **The RSPO to enforce its standards.** The RSPO must ensure that Bumitama provides full compensation for clearance carried out by itself or within any of its concessions in the absence of a credible HCV assessment, and penalise the group appropriately for associated legal infractions, as well as for its scheme to conceal its involvement in unlawful clearing and development. If Bumitama refuses to provide full compensation for the identified violations, then the RSPO must expel the group. It should pursue a similar approach with all other producer members guilty of gross violations of its requirement for prior HCV assessment of new development.
- **Bumitama to come clean about its toxic legacy.** Bumitama must immediately provide the RSPO and other interested parties with full ownership/control and management history of the 18 apparently laundered plantation companies identified in this report, and provide appropriate compensation for clearance that has been carried out by them or their predecessors, whether within or outside concession boundaries, without credible HCV assessments.



'All provisions in this policy, with no exception, apply to all plantations and/or mills in our subsidiaries, associates and those which we manage. [...] Bumitama Agri Limited Executive Directors are advised to embrace a comparable "No Deforestation, No Peat and No Exploitation" policy in their investment into palm oil plantation companies.'

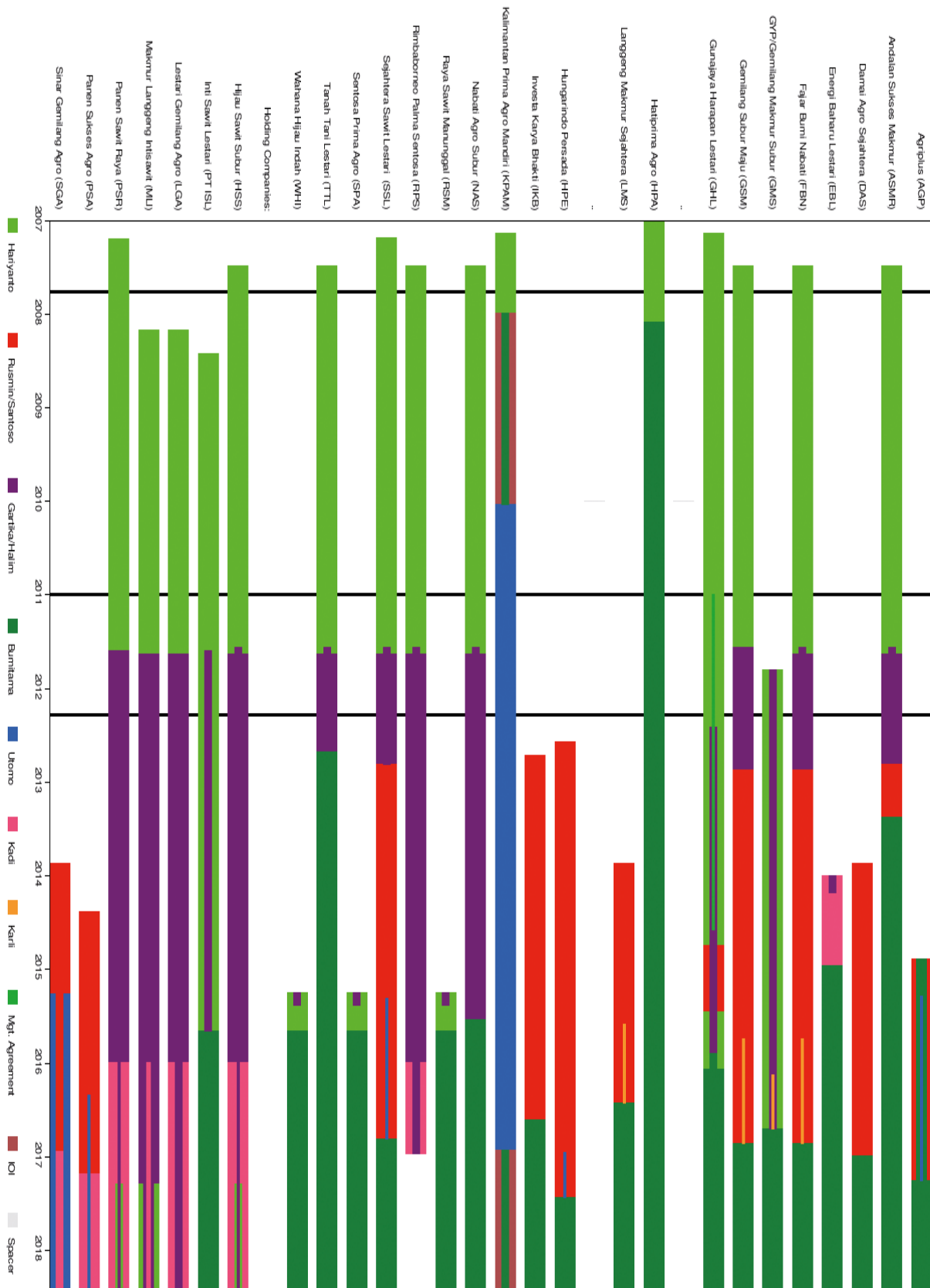
Bumitama Agri Ltd 'Sustainability policy' 13 August 2015

10 December 2016,
PT Damai Agro Sejahtera,
1°34'55.847"S 110°20'4.242"E
©Ifansasti/Greenpeace



BUMITAMA'S LAUNDERING OF A TOXIC LEGACY

OWNERSHIP AND MANAGEMENT HISTORY OF KEY COMPANIES LINKED TO BUMITAMA'S APPARENT LAUNDERING SCHEME



ASSOCIATED PARTIES

Greenpeace has identified a number of individuals who have assisted Bumitama and members of the Lim Hariyanto family in the apparent concession laundering scheme referred to above. Between 2011 and 2017, one biofuel refinery company and at least 18 plantation companies have entered into Bumitama's portfolio after passing through the ownership of one or more of the five individuals listed below. The concession areas involved, including a number that were identified in Bumitama Agri Ltd's 2012 IPO prospectus,⁷⁸ cover over 100,000ha in total. In several cases, these transactions had the effect and apparent purpose of distancing the Bumitama and Lim Hariyanto estates from the taint of past illegality and breaches of RSPO rules.



17 April 2016, 2°47'57.684"S 110°55'41.76"E: A swathe of burnt forest between the Bumitama-IOI JV oil palm concessions PT Bumi Sawit Sejahtera and PT Kalimantan Prima Agro Mandiri. Some of the burnt area had been identified as High Conservation Value peat swamp including habitat for orangutans, sun-bears and other wildlife. ©Vaughn/Greenpeace

CITRO UTOMO

Son-in-law of Bumitama's founders Rita Indriawati and Lim Hariyanto Wijaya Sarwono, and brother-in-law of current Bumitama directors Lim Gunawan Hariyanto and Lim Christina Hariyanto,⁷⁹ Utomo has worked within the Harita Group since at least 2005, when he became president of Harita-owned PT Cita Mineral Investindo (a position he held until 2014), and he is currently listed in Harita's phone directories as working at Harita's PT Tirta Mahakam Resources.⁸⁰

Bumitama described him as a 'third party' when it announced to the Singapore Exchange the purchase of companies from him, with no declaration of his connection to the Lim Hariyanto family and the Harita Group. This is in contrast to the declaration in Bumitama's 2017 Annual Report relating to its employment of another person who had married into the family, who is described as an 'immediate family member of a Director and/or the CEO'.⁸¹

Utomo has had direct and indirect ownership roles in at least seven plantation and holding companies that later entered Bumitama's portfolio or were used to hold plantation companies that entered Bumitama's portfolio:

- **PT Agriplus**, a plantation company. Ownership role (through PT SGA and PT PSA – see below).
- **PT Hungarindo Persada**, a plantation company. Ownership role (through PT SGA and PT PSA).
- **PT Kalimantan Prima Agro Mandiri (PT KPAM)**, a plantation company.⁸² Ownership role.

- **PT Panen Sukses Agro (PT PSA)**, a holding company. Ownership role.
- **PT Sejahtera Sawit Lestari (PT SSL)**, a plantation company. Ownership role.
- **PT Selaras Hijau Sentosa (PT SHS)**, a holding company. Ownership role.
- **PT Sinar Gemilang Agro (PT SGA)**, a holding company. Ownership role.

An example of the role played by Utomo in the apparent laundering of problematic concession areas into Bumitama's portfolio is detailed in the case study of PT Golden Youth Plantation Indonesia/PT SSL (see below). A further example is his majority ownership of plantation company PT KPAM from January 2010 until December 2016. Both prior and subsequent to that period, PT KPAM was owned by the IOI/Bumitama joint venture company PT Sawit Nabati Agro. While PT KPAM was initially granted a 20,000ha location permit in 2007 and a plantation business permit covering the same area in 2009, this area was revised down to 11,000ha in the July 2010 extension of the location permit. In 2015, during the period of Utomo's majority ownership, PT KPAM was improperly issued with a new plantation business permit.⁸³ Under ministerial regulations, the concession area should have been forfeited upon expiry of the extended location permit in 2011.⁸⁴

DJONI RUSMIN AND TOMMY SANTOSO



Outwardly unrelated to Bumitama and the Lim Hariyanto family, these Jakarta-based 'Oil Palm developers'⁸⁵ are implicated in numerous deals through which Bumitama has come into ownership of historically problematic concession areas through the acquisition of plantation or holding companies established by or temporarily controlled by the pair. Typically, Rusmin has acted as sole commissioner and Santoso as sole director of companies in which the two have shared joint ownership. Frequently, during the transition to official Bumitama ownership, the pair have shared ownership and senior management roles with current Bumitama employees, including Elisabeth Lilina, Setya Pribadi, and Lim Hariyanto family member Citro Utomo.

Bumitama has persistently denied any connection with Rusmin and Santoso in its announcements of company acquisitions: for example, these state that the pair are 'a third party', that 'the Vendors are unrelated to the Group' or that 'none of the directors or controlling

shareholders of [Bumitama Agri Ltd] has any direct or indirect interest in the Acquisition'.⁸⁶

In January 2017, when Greenpeace asked Bumitama for details of the pair's current and historic dealings with Bumitama or Lim Hariyanto-associated companies, the group claimed the relationship was coincidental: 'Tommy Santoso and Djoni Rusmin are Oil Palm developers and the former shareholders of PT LMS [PT Langgeng Makmur Sejahtera], who sold the company to Bumitama because of financial constraints. They also happened to be the shareholders of PT DAS [PT Damai Agro Sejahtera]'.⁸⁷ When asked again in July 2017,⁸⁸ Bumitama said the group had 'on some occasion made other acquisitions from the original shareholders [Rusmin/Santoso] of PT LMS'.⁸⁹ Despite Bumitama having been given two opportunities to elaborate, its replies seem to deliberately understate the relationship and omit crucial transactions – for example, that Rusmin and Santoso had purchased a Bumitama-managed plantation

company from Lim Hariyanto family members (PT GHL – see below) before selling it back again, all the while retaining the same Lim Hariyanto-connected director/commissioner team (Gartika/Halim – see below) and the same address as Bumitama’s Jakarta headquarters.⁹⁰

At least ten plantation companies have passed through Rusmin and/or Santoso’s hands before being bought by Bumitama – nearly one-third of the 32 plantations Bumitama declares in its 2017 Annual Report.⁹¹ Five of these plantations were initially owned by members of the Lim Hariyanto family.

For some of these plantations, efforts appear to have been made to obscure Rusmin and Santoso’s involvement prior to Bumitama’s purchase. For example, several plantations that Bumitama acquired were previously owned by Indonesian holding company PT Panen Sukses Agro (PSA), established by Rusmin and Santoso in 2014 with themselves as the sole commissioner and director. In 2016, Rusmin and Santoso’s ownership disappears from the PT PSA registry profile, replaced by Singapore company Potenza Holdings Pte Ltd.⁹² Singaporean records show no connection between Potenza and either Rusmin or Santoso; instead, the owner is listed as British Virgin Islands company Oriental Pride Management Ltd.⁹³ If it were not for the light shone on the ownership of offshore holding companies by the leaked Panama Papers, which reveal that Djoni Rusmin was registered as the sole owner of Oriental Pride,⁹⁴ there would be no public evidence of the continued link between the pair and the plantations that later passed into Bumitama’s portfolio.

Overall, Rusmin and Santoso have had direct and indirect ownership or management roles in at least 16 plantation and holding companies that later entered Bumitama’s portfolio or were used to hold plantation companies that entered Bumitama’s portfolio:

- **PT Agriplus**, a plantation company. Management (Rusmin sole director) and ownership roles (through PT SSL, PT SGA and PT PSA).
- **PT Andalan Sukses Makmur**, a plantation company. Management and ownership roles.
- **PT Damai Agro Sejahtera**, a plantation company. Management and ownership roles.
- **PT Dwikha Surya Selaras**, a holding company. Management and ownership roles.
- **PT Fajar Bumi Nabati**, a plantation company. Management and ownership roles.
- **PT Gemilang Subur Maju**, a plantation company. Management and ownership roles.
- **PT Gunajaya Harapan Lestari**, a plantation company. Ownership roles, directly (Santoso) and via PT SHS (both).
- **PT Hungarindo Persada**, a plantation company. Management and ownership roles.
- **PT Investa Karya Bhakti**, a plantation company. Management and ownership roles.
- **PT Langgeng Makmur Sejahtera**, a plantation company. Management and ownership roles.
- **PT Panen Sukses Agro (PT PSA)**, a holding company.

Management and ownership roles.

- **PT Persada Agro Makmur**, a holding company. Management and ownership roles.
- **Potenza Holdings Pte Ltd**, a Singapore-registered holding company. Rusmin has an ownership role, through British Virgin Islands-registered company Oriental Pride Management Ltd.
- **PT Sejahtera Sawit Lestari (PT SSL)**, a plantation company. Management and ownership roles.
- **PT Selaras Hijau Sentosa (PT SHS)**, a holding company. Management and ownership roles.
- **PT Sinar Gemilang Agro (PT SGA)**, a holding company. Management and ownership roles.

A number of links can be found between Lim Hariyanto/Bumitama staff and Rusmin and Santoso. One example involves PT Agriplus, a 6,100ha plantation company in West Kalimantan that Bumitama purchased ‘from a third party’ in April 2017 at a cost of IDR 76bn (US\$5.25m).⁹⁵ The ‘third party’ was in fact Rusmin and Santoso, who had held the company since 19 November 2014.⁹⁶ Upon buying PT Agriplus, Rusmin took up the position of sole director, and Elisabeth Lilina, an employee in Bumitama’s Corporate Accounting department,⁹⁷ was installed as sole commissioner. The two remained in those positions until 16 December 2016, a few months before Bumitama bought the company. During 2016, an effort was apparently made to obscure the connection with Rusmin and Santoso: their names disappeared from the two holding companies, PT SGA and PT PSA, and from the board of PT Agriplus itself. The people brought in to replace them were connected to Bumitama: the position of director was taken over by Setya Pribadi, an assistant deputy COO for Bumitama’s BGA,⁹⁸ and the new commissioner was Prayono, who goes by one name and was listed as a commissioner or director of no less than five companies linked to Bumitama.⁹⁹ Rusmin and Santoso’s majority ownership of PT Agriplus continued right up until Bumitama bought the plantation company, although the main holding company they use changed from PT SSL to PT PSA, with the attendant obfuscation via Singapore- and British Virgin Islands-registered companies discussed above. During this time, ownership of the minority share of PT Agriplus, held via PT SGA, passed from Tommy Santoso to Citro Utomo. Utomo also held part of the majority holding company PT PSA, giving him a 9.65% total stake in PT Agriplus, until the day Bumitama bought PT Agriplus.

PT SGA, mentioned above as holding the minority share in PT Agriplus, reveals further links between Lim Hariyanto/Bumitama staff and Rusmin and Santoso. Founded on 15 November 2013 as a holding company fully owned by Rusmin and Santoso, it includes Artahady Pranata as director, the third office-bearer alongside the two owners. Online evidence shows that Pranata was a Bumitama employee as far back as 2008 and 2009.¹⁰⁰ Later, on 8 April 2015, Lim Hariyanto family member and Harita employee Citro Utomo took over Santoso’s majority share, with Santoso staying on as director.

NITA GARTIKA AND JANTA HALIM

13 November 2013, PT Andalan Sukses Makmur, 2°46'32.64"S 111°45'6.42"E and 2°47'7.03"S 111°44'48.93"E: Excavators clear intact peatland forests and build drainage canals next to Tanjung Puting National Park in Central Kalimantan. ©Jufri/Greenpeace



Janta Winata Halim was co-director with Lim Gunawan Hariyanto of Lim Hariyanto family nickel mining company PT Trimegah Bangun Persada in 2013, while Nita Gartika sat on its board of commissioners alongside Lim Gunardi Hariyanto.¹⁰¹ Gartika was also an employee of the Lim Hariyanto family plywood company Tirta Mahakam Resources in 2009.¹⁰²

Together, Gartika and Halim had the roles of director and commissioner of at least nine plantation and two holding companies for periods while they were owned by the Lim Hariyanto family. Yet Bumitama describes the pair as 'a third party',¹⁰³ without acknowledging any connection between Gartika and Halim and its own principal shareholders and directors.

Gartika and Halim have acted as owners and/or managers of numerous plantation and holding companies that had previously belonged to the Lim Hariyanto family, and that were subsequently either reacquired by the family or bought by Bumitama. In some cases, the pair operated in conjunction with Rusmin and Santoso, selling the companies on to them before they were bought by Bumitama. Specific examples of the roles played by Gartika and Halim in the apparent laundering of illegally developed oil palm plantations into Bumitama's portfolio are detailed below in the cases of PT Golden Youth Plantation Indonesia (PT Gemilang Makmur Subur/PT Sejahtera Sawit Lestari) and PT Gunajaya Harapan Lestari.

Including via indirect ownership, Gartika and Halim

have had ownership or management roles in the following 18 plantation, refining and holding companies that later entered Bumitama's portfolio or were used to hold plantation companies that entered Bumitama's portfolio:

- **PT Andalan Sukses Makmur**, a plantation company. Management and ownership roles.
- **PT Energi Baharu Lestari**, a biodiesel refining company. Halim has management and ownership roles.
- **PT Fajar Bumi Nabati**, a plantation company. Management and ownership roles.
- **PT Gemilang Makmur Subur** (ex PT Golden Youth Plantation Indonesia), a plantation company. Management roles.
- **PT Gemilang Subur Maju**, a plantation company. Management and ownership roles.
- **PT Gunajaya Harapan Lestari**, a plantation company. Management roles.
- **PT Hijau Sawit Subur**, a holding company. Management roles, and ownership roles (through PT Lestari Gemilang Agro (PT LGA)).
- **PT Inti Sawit Lestari**, a holding company. Management roles.
- **PT Lestari Gemilang Agro (PT LGA)**, a holding company. Management and ownership roles.
- **PT Makmur Langgung Intisawit (PT MLI)**, a holding company. Management and ownership roles.
- **PT Nabati Agro Subur**, a plantation company.



- Management roles, and ownership roles (through PT LGA).
- **PT Panen Sawit Raya**, a holding company. Management roles, and ownership roles (through PT LGA and PT MLI).
- **PT Raya Sawit Manunggal**, a plantation company. Ownership roles (through PT LGA).
- **PT Rimbaborneo Palma Sentosa**, a plantation company. Management roles, and ownership roles (through PT LGA).
- **PT Sejahtera Sawit Lestari**, a plantation company. Ownership roles (through PT LGA).
- **PT Sentosa Prima Agro**, a plantation company. Ownership roles (through PT LGA).
- **PT Tanah Tani Lestari**, a plantation company. Management roles, and ownership roles (through PT LGA).
- **PT Wahana Hijau Indah**, a plantation company. Ownership roles (through PT LGA).

The pair took over as owners of a major Lim Hariyanto family holding company, PT LGA, on 18 August 2011. They retained full ownership until 28 December 2015, and Gartika remained as minority shareholder and commissioner when Halim sold his majority share to senior Harita manager Ferry Kadi.¹⁰⁴ On the same day as members of the Lim Hariyanto family transferred their ownership of PT LGA

into Gartika's and Halim's names, the same move was made with another family holding company, PT MLI. With the two holding companies and their subsidiary companies at arm's length from the Lim Hariyanto family, purchases by Bumitama followed:

- On 18 July 2012 Bumitama announced its purchase of PT Tanah Tani Lestari, stating 'Neither PT. Lestari Gemilang Agro nor PT. Makmur Langgeng Intisawit is related to any controlling shareholder or Director of our Company or any of their associates' [our emphasis].¹⁰⁵
- Likewise, when reporting its acquisition of PT LGA subsidiary PT Nabati Agro Subur on 31 July 2015, Bumitama announced it had made the purchase 'from a third party for a total consideration of IDR 4,733 million'¹⁰⁶ – again with no mention of Nita Gartika and Janta Halim's connection with the Lim Hariyanto family. After the sale of these assets, both PT LGA and PT MLI returned to official ownership by Lim Hariyanto family members in 2017.¹⁰⁷

Gartika and Halim were the sole director and commissioner of Lim Hariyanto family holding company PT Inti Sawit Lestari for four years.¹⁰⁸ This period included the first five months of PT ISL's ownership of three plantation concessions apparently won at auction, and held via PT Raya Sawit Manunggal, PT Sentosa Prima Agro and PT Wahana Hijau Indah.

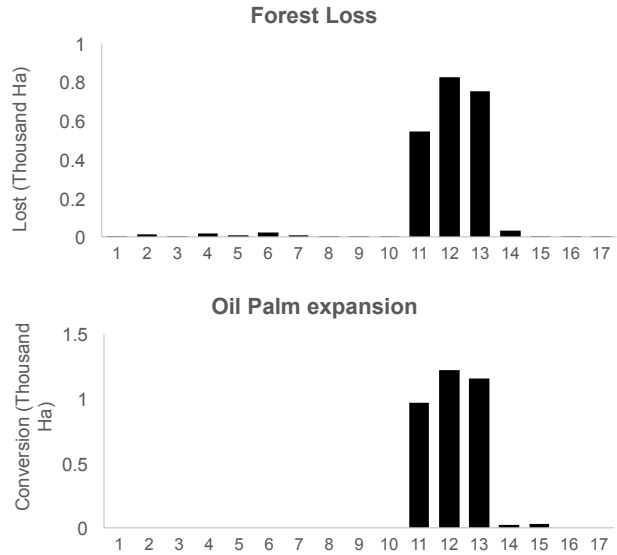


11 December 2016, PT Damai Agro
Sejahtera, 1° 30' 28" S 110° 16' 18" E:
©Ifansasti/Greenpeace

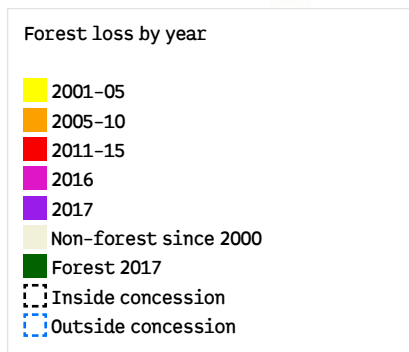
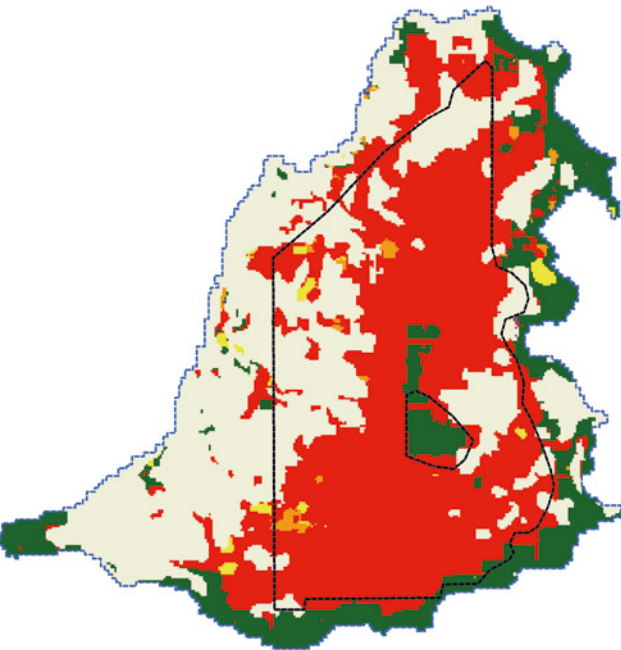


CASE STUDIES

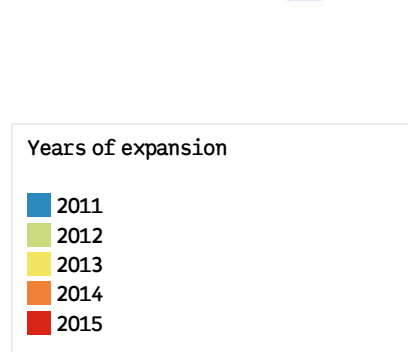
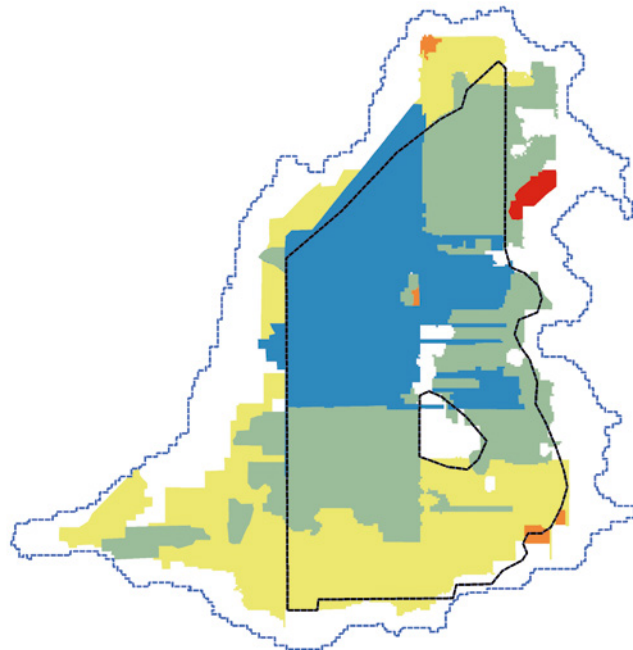
PT GUNAJAYA HARAPAN LESTARI (PT GHL), WEST KALIMANTAN



FOREST LOSS



OIL PALM EXPANSION



PT GHL is a plantation company that owns a concession on Bawal Island off West Kalimantan. The company was founded in February 2007 by members of the Lim Hariyanto family.¹⁰⁹ It has always shared the same registered Jakarta address as Bumitama's Indonesian office.¹¹⁰

From 1 January 2011 until 31 July 2014 Bumitama assumed formal operational management of the concession, under the GHL Cooperation Agreement.¹¹¹ Mapping shows significant forest clearance and plantation development between 2010 and 2013 within and beyond the concession boundaries, even though the concession did not yet have all its legal permits. PT GHL finally acquired a plantation business permit on 11 September 2013, five years after the initial location permit and after the majority of the plantation development had been completed.¹¹² Under ministerial regulations, the concession area should have been forfeited because a location permit expires after three years and can only be extended one further year.¹¹³

Under the terms of the GHL Cooperation Agreement, Bumitama had the right to buy the concession from members of the Lim Hariyanto family. However, it announced in July 2014 that

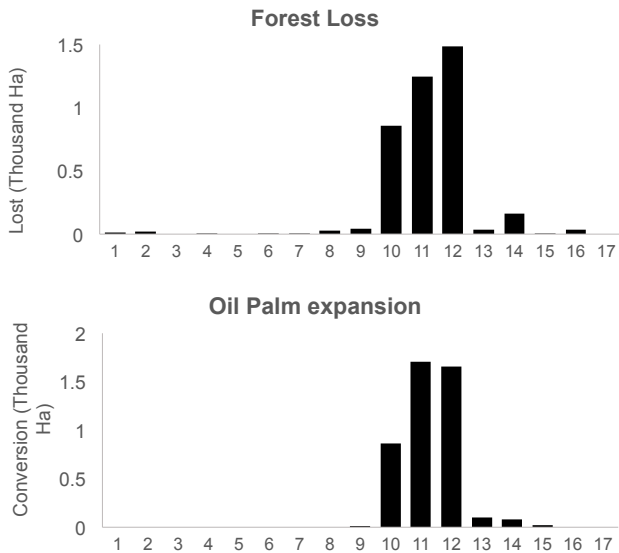
it would not exercise this option nor continue managing the concession, citing Indonesian regulations that restricted foreign companies from owning land on small islands.¹¹⁴

Then, in September 2014, PT GHL was sold to PT Selaras Hijau Sentosa, a company established by Rusmin and Santoso.¹¹⁵ The plantation company was repurchased by companies owned by members of the Lim Hariyanto family in June 2015¹¹⁶ and was brought into the Bumitama portfolio in January 2016.¹¹⁷ By the time of its official acquisition in 2016, Bumitama claimed some 2,982ha had been cultivated.¹¹⁸ No HCV assessment has been submitted to the High Conservation Value Resource Network.¹¹⁹

Lim Hariyanto family-connected Gartika and Halim acted as commissioner and director, respectively, of PT GHL. Their role in this capacity lasted from 31 May 2012 to 26 November 2015, bridging the company's initial ownership by Lim Hariyanto family members, its transfer to Rusmin and Santoso and subsequent return to the Lim Hariyanto family, and much of the duration of Bumitama's management under the GHL Cooperation Agreement.



PT HATIPRIMA AGRO (PT HPA), CENTRAL KALIMANTAN



PT HPA¹²⁰ was a company with a 4,800ha concession in Central Kalimantan. IOI's current CEO Dato' Lee Yeow Chor became the commissioner of PT HPA when Bumitama took over ownership from members of the Lim Hariyanto family on 28 January 2008,¹²¹ and he remained in the post until 22 March 2012,¹²² a period during which the company engaged in substantial illegal deforestation.

In March 2008, the Ministry of Forestry revoked the State Forest Release Letter for PT HPA for failure to obtain the necessary agreements from communities and land cultivation right (HGU)¹²³ over the forest release area.¹²⁴ Despite the minister's order to halt all activities and remove its equipment,¹²⁵ and with Dato' Lee Yeow Chor in the role of commissioner, the company continued to clear and develop its concession during 2010–2012.¹²⁶ Then, in April and June 2012, the location and plantation business permits were revoked by the local authorities.¹²⁷

PT HPA's illegal development led NGO Sawit Watch to lodge a complaint with the RSPO.¹²⁸ In December 2012 the RSPO ordered Bumitama to cease all work in the concession until the complaint was resolved.¹²⁹ PT HPA challenged the revocations, but the Indonesian Supreme Court ultimately upheld them in December 2013,¹³⁰ leaving Bumitama with no further claim on the land or the plantation.

On 15 November 2013, just before the Supreme Court announced its verdict, Rusmin and Santoso established a new plantation company, PT Langgeng Makmur Sejahtera (PT LMS).¹³¹ In August 2014 Bumitama announced that it had

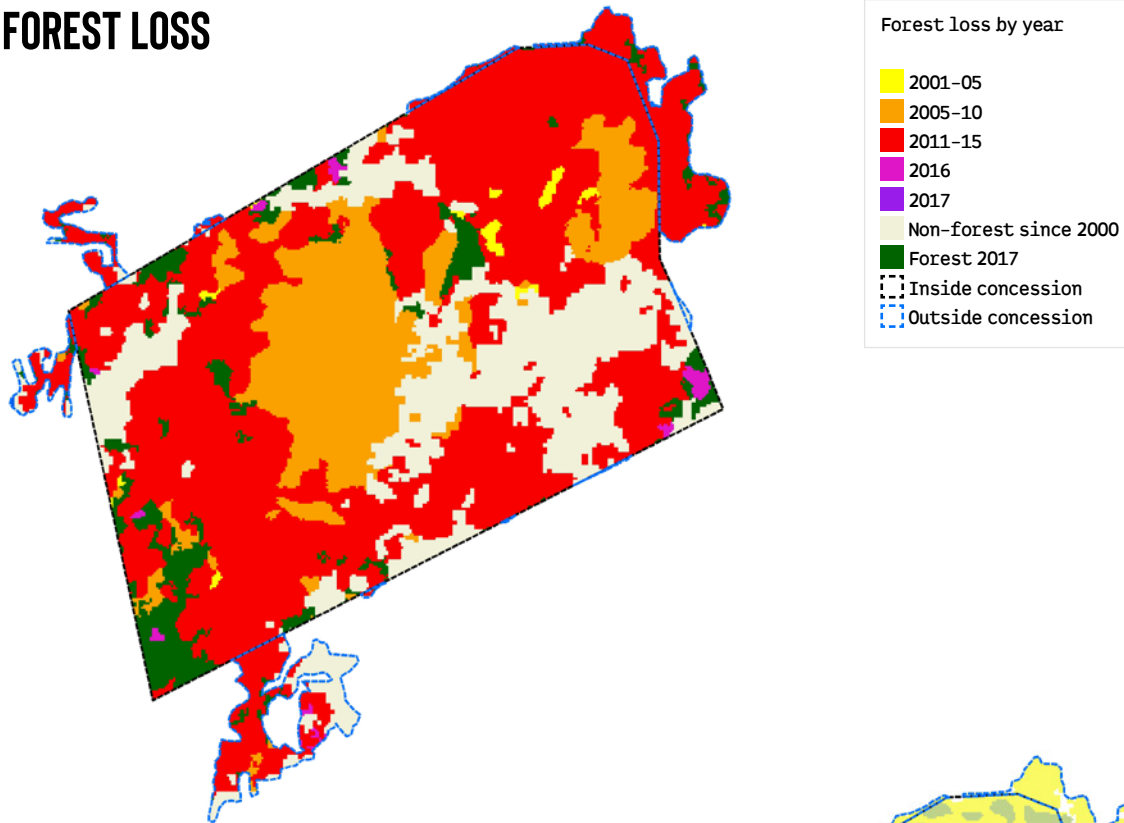
lost the case and threatened to sue the district head.¹³² That same month, PT LMS applied to the same district head for a location permit covering the same area as PT HPA. By late 2014, PT LMS had acquired both a location permit¹³³ and a plantation business permit.¹³⁴

In January 2015 Bumitama announced that it would sell PT HPA's assets, including the immovable assets embodied in the palm plantings, to PT LMS in return for a payment of approximately IDR 400 bn (US\$32m).¹³⁵ These immovable assets, however, were no longer Bumitama's to sell; according to Indonesian law they had passed into state ownership when PT HPA's permits were revoked. This legal situation was spelled out in a letter issued by the Forestry Minister,¹³⁶ and even acknowledged by Bumitama in a 2017 letter to the RSPO.¹³⁷ The proper means of sale for state assets is through auction, and the monies should go into public, not private hands.¹³⁸

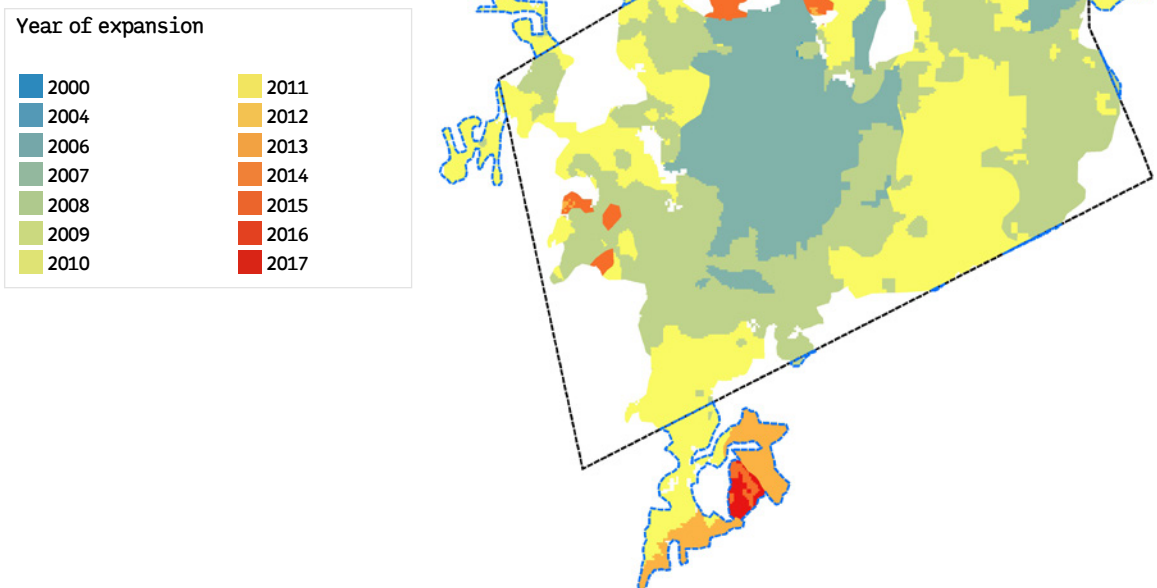
Shortly after the sale, Bumitama successfully applied to have the RSPO complaint against it closed on the grounds that it no longer controlled the concession.¹³⁹

With the complaint closed, Bumitama bought the same plantation back again the following year: in June 2016 Bumitama announced that it had purchased 95% of PT LMS for just IDR 250m (US\$18,500),¹⁴⁰ less than a thousandth of the sale price PT LMS had agreed to pay Bumitama the previous year. This was remarkably good value, given that the business now had a valid location permit and plantation business permit. Bumitama subsequently admitted that purchase monies never passed to it from PT LMS during the approximately 18-month nominal control of the concession by Rusmin and Santoso.¹⁴¹ Bumitama also omitted from its announcement of the acquisition to the Singapore Stock Exchange any mention of previous Lim Hariyanto and Bumitama ownership of the estate through PT HPA. In this respect, the 2016 announcement of Bumitama's acquisition of PT LMS appears particularly disingenuous. It states that Bumitama was 'initially approached by the Vendors to consider the Acquisition as they lacked the resources to continue to manage PT LMS' business'.¹⁴² In fact, the initial contact between the vendors and Bumitama in respect of the plantation had occurred 18 months earlier, in 2015, when PT LMS purchased the very same land from Bumitama subsidiary PT HPA. This announcement was thus wholly inadequate to allow shareholders to understand the transaction, suggesting a far wider separation between vendor and purchaser than was actually the case.

FOREST LOSS



OIL PALM EXPANSION



Bumitama appears to have continued to manage the estate during its time under Rusmin and Santoso’s nominal ownership.¹⁴³ This suggests that the transactions between Bumitama and PT LMS were a premeditated arrangement to ensure the closure of the RSPO complaint, to limit any negative impact on Bumitama’s public share value and to enable Rusmin and Santoso to procure new permits to legalise Bumitama’s control of the illegally developed area.

Bumitama finally obtained an HGU certificate for the concession in January 2017.¹⁴⁴

Following a request from Sawit Watch, Greenpeace

and the Environmental Investigation Agency, the RSPO Complaints Panel decided to reopen the PT HPA complaint on 21 November 2017.¹⁴⁵ In May 2018 the panel directed the RSPO Secretariat to appoint a third-party expert to conduct an independent review of related permits of PT HPA.¹⁴⁶

No HCV assessment for PT HPA or PT LMS has been submitted to the High Conservation Value Network.¹⁴⁷ Bumitama acknowledges that ‘the development of HPA has not been compliant with the RSPO NPP’ and that there will be RSPO sanctions against PT LMS.¹⁴⁸



Detail of PT Damai Agro Sejahtera,
August 2018. Satellite image source:
Landsat 8 and Planet Labs Inc.



10 December 2016,
PT Damai Agro Sejahtera,
1° 35' 10.001" S 110° 19' 30" E
©Irmawan/Greenpeace

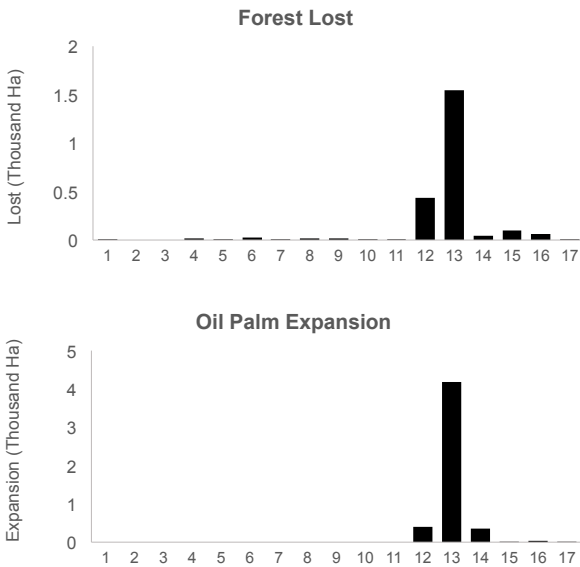


11 December 2016,
PT Damai Agro Sejahtera,
1°30'27.774"S 110°15'46.121"E
©Ifansasti/Greenpeace

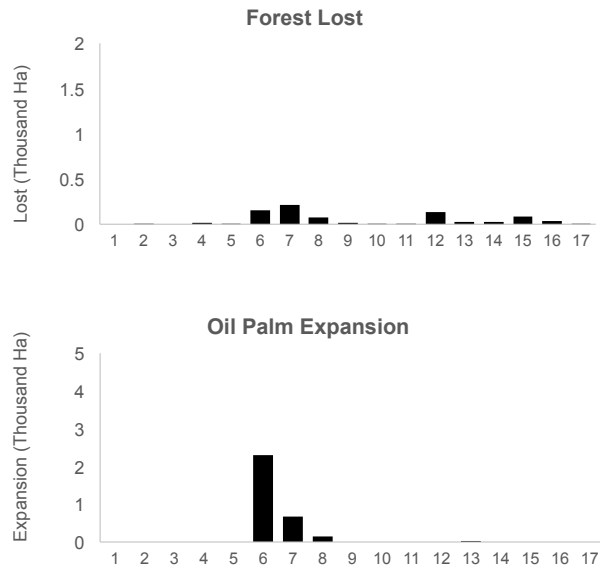
PT GOLDEN YOUTH PLANTATION INDONESIA (PT GYP),

KNOWN SUBSEQUENTLY AS PT DAMAI
AGRO SEJAHTERA (PT DAS), PT
GEMILANG MAKMUR SUBUR (PT GMS)
AND PT SEJAHTERA SAWIT LESTARI (PT
SSL); AND PT LADANG SAWIT MAS (PT
LSM), WEST KALIMANTAN.

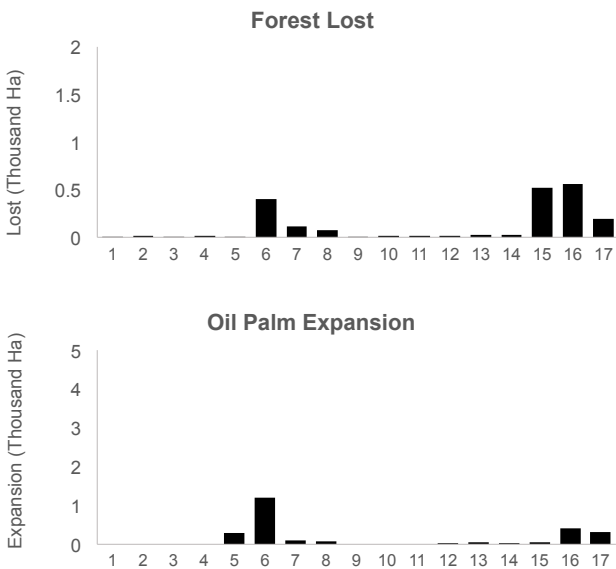
PT LADANG SAWIT MAS



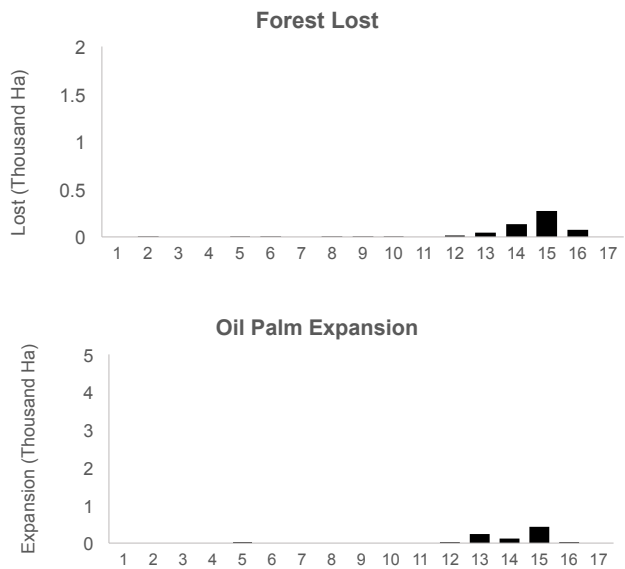
PT GOLDEN YOUTH/PT GEMILANG MAKMUR SUBUR



PT DAMAI AGRO SEJAHTERA



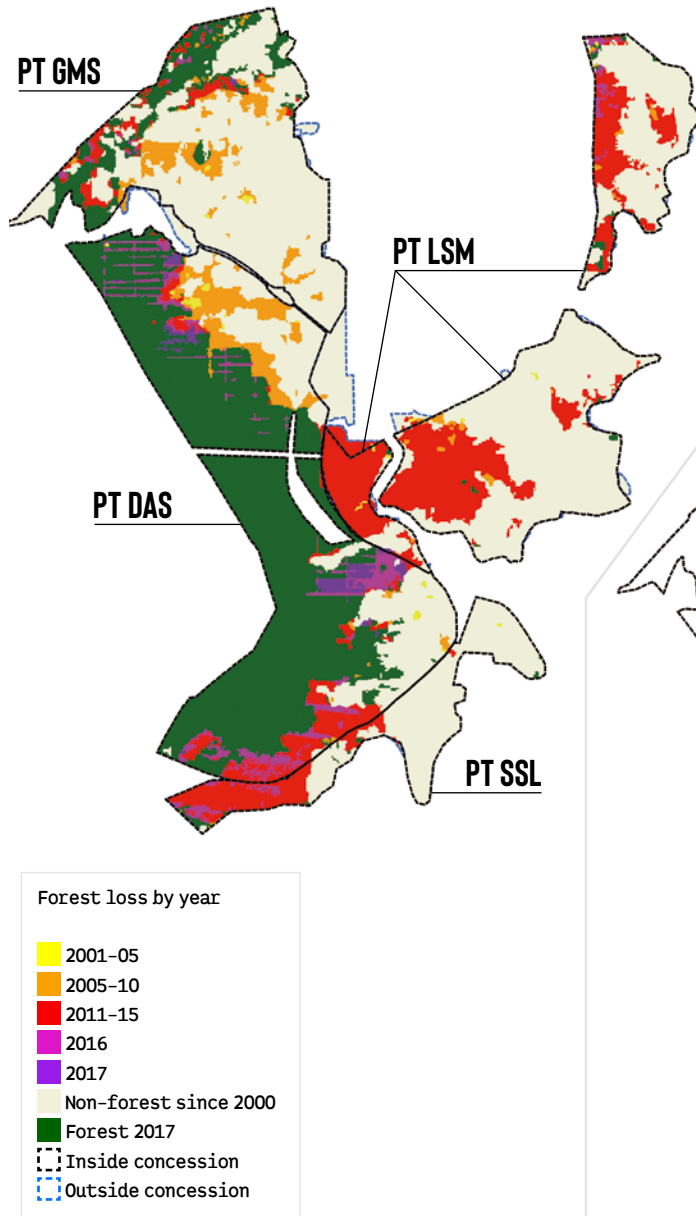
PT SEJAHTERA SAWIT LESTARI



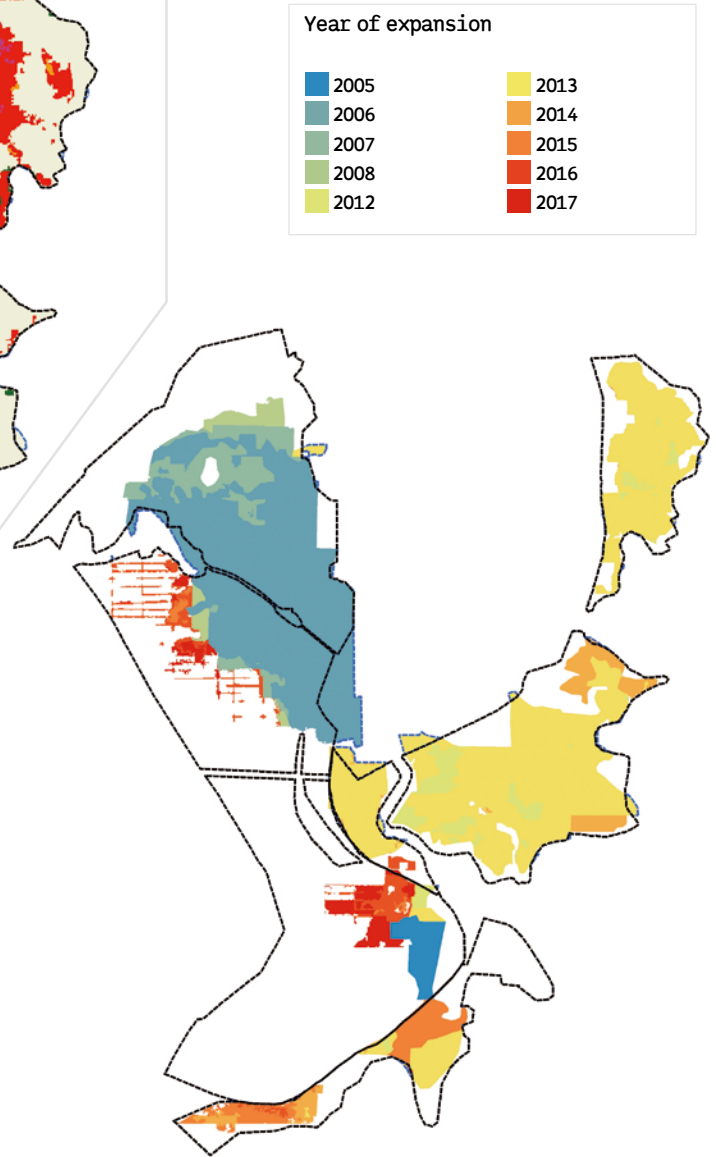


The concessions now known as PT GMS, PT DAS and PT SSL occupy from north to south land that was formerly part of a concession awarded to PT GYP, while PT LSM is an adjacent concession to the east of them, registered by two Indonesians involved with PT GYP, apparently on behalf of the same Malaysian interests that owned PT GYP.¹⁴⁹

FOREST LOSS



OIL PALM EXPANSION



PT GOLDEN YOUTH PLANTATION INDONESIA

Established in 2003 by Ketapang district head Morkes Effendi,¹⁵⁰ PT GYP held a plantation business permit for a 18,300ha concession area. Of this, more than 15,000ha were State Forest land, a zoning which does not allow palm oil development.¹⁵¹ Although it had obtained neither State Forest release nor an environmental permit,¹⁵² the company illegally developed more than 4,100ha of oil palm plantation by 2009, largely in the northern end of the concession.¹⁵³

In June 2009 the district head slashed PT GYP's concession area to just 2,300ha,¹⁵⁴ and moved the new

concession boundary to the south. This did not include the area PT GYP had illegally cleared and developed into plantations; in fact, almost half of the revised concession (around 1,000ha) lay outside the original concession area.¹⁵⁵ Despite no longer having any claim over the land, PT GYP appears to have continued to operate its entire planted area¹⁵⁶ with its Malaysian majority owners announcing in July 2011 that PT GYP held 3,431ha of immature plantation and 759ha of matured oil palm from which it had 'just commenced harvesting fresh fruit bunches' earlier that year.¹⁵⁷

At around the same time PT GYP was registered, another 6,500ha plantation concession was established alongside it,



21 April 2017, PT Damai Agro Sejahtera, 1°29' 14.8"S 110° 16' 35.3"E: Fresh fruit bunches being harvested from the mature plantation within the new Bumitama concession before being transported to the PT Ladang Sawit Mas mill. ©Greenpeace

by two politically influential individuals.¹⁵⁸ While PT GYP was established as a foreign investment company (PMA), PT LSM was registered as a regular company, meaning it could not be directly owned by PT GYP's Malaysian owners. The registered owners of PT LSM were instead Morkes Effendi's fellow Ketapang-based politician Gusti Kamboja¹⁵⁹ and Gunawan Sukardi Subur, a foreign investment consultant¹⁶⁰ with strong political connections in Indonesia.¹⁶¹ Both Kamboja and Subur also had involvement with PT GYP: Kamboja via his directorship of PT Ketapang Mandiri, which established PT GYP,¹⁶² and Subur through shareholdings and his role as commissioner for PT GYP.¹⁶³

In late 2011, a double deal was struck by the Malaysian owners of PT GYP and PT LSM to sell both companies.¹⁶⁴ Members of the Lim Hariyanto family took over the shares in PT GYP and installed Nita Gartika and Janta Halim as management,¹⁶⁵ while Bumitama took over the shares of PT LSM with Lim Hariyanto family members as directors.¹⁶⁶

PT GYP's terms of sale included 4,190ha planted with oil palm, none of which were inside PT GYP's then-current concession area.¹⁶⁷ Logically, this planted area must have been the area to the north developed illegally by PT GYP.¹⁶⁸ Bumitama entered into an explicit agreement with other Lim Hariyanto interests to manage the plantations, which also gave it exclusive rights to purchase PT GYP's FFB,¹⁶⁹ although such trade would be illegal.¹⁷⁰ Bumitama maintained formal operational management of the illegal plantation area until August 2014.¹⁷¹ Evidence suggests Bumitama's PT LSM mill continued to receive FFB from the illegal plantations after this date,¹⁷² and was still doing so when the plantation area, now divided between two new concessions under the control of PT GMS¹⁷³ and PT DAS, re-entered Bumitama's formal control on

13 September 2016 and 20 December 2016, respectively.¹⁷⁴

PT LADANG SAWIT MAS

In 2006, Ketapang district head Morkes Effendi granted PT LSM a three-year location permit over an area of 9,100ha. In 2008, with the location permit due to expire soon and the company having secured land agreements with local communities for just 818ha, Effendi issued a one-year extension to the original permit.¹⁷⁵ This extension was invalid, as the law allows one only where a company has secured land agreements covering more than 50% of the original location permit area.¹⁷⁶ Although PT LSM had managed to acquire agreements over less than 10% of the land, Effendi nevertheless went on to issue a plantation business permit for 6,450ha shortly before leaving office in 2010.¹⁷⁷ The conclusion must be that this permit too was invalid. The following year, Effendi's newly elected successor Henrikus cancelled PT LSM's location permit, citing the company's failure to secure approval from two out of three affected village. He then issued a new location permit covering only the 818ha for which the company had secured land agreements.¹⁷⁸

Possibly because of this reduction in area, VS Industry – a company belonging to the Malaysian investors who were apparently the real owners of PT LSM – announced in November 2011 that its planned sale of PT LSM to Bumitama, originally intended to involve an area of 6,450ha, had been 'aborted'.¹⁷⁹ In April 2012 VS Industry announced that the sale had finally gone through for the reduced area of 818ha and at a reduced price.¹⁸⁰

Importantly, throughout the period spanning 2011–2012 while VS Industry was informing the Malaysian stock



10 December 2016,
PT Damai Agro Sejahtera, 1°34'55.878"S
110°20'4.439"E: Depth measurements
show the peat in this recently cleared
area is well over three metres deep.
©Ifansasti/Greenpeace



exchange of its Malaysian owners' dealings of PT LSM, Indonesia's corporate registry makes no mention of them, indicating a nominee arrangement of a kind prohibited by Indonesian investment law.¹⁸¹ According to the registry profile, PT LSM was held continuously by its founders Kamboja and Subur from 30 May 2005 until the date that its purchase by Bumitama was finalised in June 2012. Bumitama's announcement on the PT LSM acquisition, made within a day of VS Industry's announcement of its sale, describes the vendors as 'unrelated third parties, namely (i) Mr Gunawan Sukardi Subur; and (ii) Mr Ir. Gusti Kamboja'.¹⁸² Both VS Industry and Bumitama announced the same sale price for PT LSM (US\$1 million), and VS Industry confirmed in June 2012 that it had received payment.¹⁸³

PT LSM eventually won an appeal over the district head Henrikus' decision to reduce the area of its location permit. By this point, it should be noted, the extended location permit issued by Effendi for the larger area had long expired. On 18 July 2013, Henrikus issued a letter authorising the company to recommence activities.¹⁸⁴

Without waiting for this approval, PT LSM had already begun extensive deforestation and plantation development, far outstripping the 818ha for which it had secured land agreements. Indeed, between 2012 and 2013, Bumitama cleared nearly 2,000ha of forest including peatland and orangutan habitat and planted nearly 4,600ha of oil palm plantation¹⁸⁵ before it delivered its New Planting Procedures submission, including a summary HCV assessment, to the RSPO on 9 October 2014.¹⁸⁶

PT GEMILANG MAKMUR SUBUR

In 2012 PT GYP's name was changed to PT Gemilang Makmur Subur.¹⁸⁷ In 2013, the district head revoked PT GMS's permit

for the revised southern concession area, meaning the company had no permits or claim over any land whatsoever.

In November 2015, PT GMS obtained a new plantation business permit covering 5,210ha, in the north of the original PT GYP concession and covering just over half of the illegal PT GYP plantation. In September 2016, Bumitama bought PT GMS from Lim Hariyanto family members for IDR 12,274m (US\$930,000).¹⁸⁸

An HCV assessment was submitted to the High Conservation Value Resource Network on 15 September 2016 and was approved the next month¹⁸⁹ – the report had been commissioned by Bumitama more than a year previously, and describes PT GMS as a 'partner plantation' of 'Bumitama Agri subsidiary, PT Ladang Sawit Makmur [sic]'.¹⁹⁰ The assessor, Resit Sozer, was delicensed by the HCVRN the following month.¹⁹¹

PT GYP/PT GMS was managed by Nita Gartika and Janta Halim from October 2011 until February 2016. This covers periods when the company held a plantation business permit in an area that would later become PT Sejahtera Sawit Lestari (PT SSL), when it had no valid permits whatever, and when it acquired of new permits covering the northern area of the original PT GYP concession, including just over half of the illegally developed oil palm plantations.

PT DAMAI AGRO SEJAHTERA

PT DAS was founded by Rusmin and Santoso on 15 November 2013. On the same day the pair also founded PT LMS, the company which took over Bumitama's troubled PT HPA plantation in Central Kalimantan (see previous case study).¹⁹²

In December 2013, Forestry Minister Zulkifli Hasan excised from State Forest zoning a number of oil palm

plantations, including the 15,000ha of production forest that had been part of the original PT GYP concession.¹⁹³ The move was condemned by West Kalimantan NGOs as whitewashing illegal plantations in forest areas,¹⁹⁴ but it cleared the way for Rusmin and Santoso to apply for permits to develop PT DAS's concession. Up until this moment, PT GYP's operations in the State Forest area had constituted a crime punishable by ten years' imprisonment under the 1999 Forestry Law.¹⁹⁵ A law passed in August 2013 had also meant that by processing or dealing in FFB from planted areas in the State Forest, Bumitama and its officers had been risking fines of up to IDR 15bn (US\$1m) and/or a maximum of 15 years' imprisonment.¹⁹⁶

At the time of the plantation company's establishment in late 2013, roughly 15% of what would become PT DAS's concession had already been developed illegally by PT GYP. Even before Rusmin and Santoso had secured permits for their new concession, illegal canal development and clearance resumed in PT DAS's future concession at some point between July and September 2015, and clearance and peatland drainage continued until at least December 2016. In statements about the purchase, Bumitama said that 'any clearing inside of PT DAS prior to its acquisition by Bumitama was conducted by its previous owners, unrelated to the owners of Bumitama or its subsidiaries'.¹⁹⁷ However, Bumitama appears to have been responsible for this development: Greenpeace field investigations found that a nursery servicing PT DAS was located within Bumitama's PT LSM concession. Other evidence of Bumitama's longer-term involvement includes marker stakes, security posts and a company signboard in the area, all marked BGA (ie Bumitama).¹⁹⁸ It is hard to believe that Rusmin and Santoso themselves had the finances required to employ contractors to clear and drain

peatland inside the PT DAS concession during the same period when, according to Bumitama, the pair 'lacked the resources' to run the ex-PT HPA concession, or indeed to pay Bumitama the agreed purchase price for its assets.¹⁹⁹

At several points in the belated permitting process for PT DAS during late 2015 and 2016, local and national government agencies warned of the presence of peatland in the concession and instructed that it be preserved.²⁰⁰ Yet Greenpeace field investigations in December 2016 confirmed that some of the land then being cleared by PT DAS's contractors was deep peat. In April 2017 the Environment and Forestry Minister sent a letter to the Governor of West Kalimantan vowing law enforcement measures in response to 'peat violations in the PT DAS concession', in particular peat forest fragmentation as a result of the construction of new canals by PT DAS.²⁰¹ Since 1990 peatland of depth greater than 3m has been legally protected via Presidential Decree,²⁰² and in November 2015 the Ministry of Environment and Forestry published formal instructions to all plantation companies ordering them to end any further expansion into peatlands in accordance with a presidential instruction to protect peatland issued the month before.²⁰³

In January 2016 PT DAS was finally granted a location permit covering 9,436ha, which included the southern portion of the illegal PT GYP plantation and the area developed illegally since 2015.²⁰⁴ It obtained environmental impact approval²⁰⁵ and a plantation business permit over the same area²⁰⁶ in August 2016. Prior to that date, all development and business operations on that land were illegal, including deforestation, peatland drainage, and trade in FFB from the mature plantation.





13 December 2016, PT Damai Agro Sejahtera, 1°30'28" S 110°15'49"E: Greenpeace Indonesia fire prevention team documents peatland clearance and drainage. ©Ifansasti/Greenpeace

On 20 December 2016, just four months after Rusmin and Santoso obtained the plantation business permit for PT DAS, Bumitama announced that it had bought the concession.²⁰⁷ In statements about the purchase, Bumitama said ‘we have managed to persuade them [Rusmin and Santoso] to sell the concession’²⁰⁸ because of the impact the company’s deforestation was having on Bumitama’s efforts to build an orangutan corridor in neighbouring PT GMS.²⁰⁹ In both the initial PT DAS acquisition announcement and its ‘further clarification’ news release Bumitama made no mention of the Lim Hariyanto family and Bumitama’s long-term relationship with the area. Bumitama did not acknowledge having formally managed the illegally developed plantations of PT GYP until mid-2014, nor address whether it had processed and traded FFB from those illegal plantations during its formal management period and subsequently. Rusmin and Santoso were again described as ‘unrelated’ to Bumitama and the Lim Hariyanto family,²¹⁰ although this was at least the tenth concession that had been traded between them since 2012.

Bumitama claimed that its 2016 pre-purchase due diligence had ‘confirmed’ that PT DAS had completed an HCV study;²¹¹ no evidence was found by Greenpeace for this claim. An HCV assessment for PT DAS was submitted

to the High Conservation Value Resource Network by Bumitama in June 2018.²¹²

PT SEJAHTERA SAWIT LESTARI

PT SSL was founded by members of the Lim Hariyanto family in March 2007.²¹³ Management passed from the family to Fransiskha Lusiane, a personal assistant in the family’s Harita mining group,²¹⁴ in July 2011. Ownership passed to Gartika and Halim in August 2011, then in October 2012 ownership and management passed to Rusmin and Santoso. In April 2015, Citro Utomo became a part-owner.²¹⁵ In March 2016, the head of finance and accounting at Bumitama, Willy Heriadi,²¹⁶ came in to manage the company. In October 2016, Bumitama formally took over ownership from Utomo, Rusmin and Santoso.

PT SSL only obtained a plantation business permit in March 2015, although local press reports indicate that Bumitama was managing the area in 2013²¹⁷ (despite PT GMS losing its permits). Most deforestation inside PT SSL took place from 2013 to 2016, with plantation development taking place in 2013 and 2014, before PT SSL’s permit was issued, and continuing into 2015. No HCV assessment for this concession has been submitted to the High Conservation Value Resource Network.²¹⁸



10 December 2016,
PT Damai Agro Sejahtera,
1°34'56"S 110°20'5"E:
©Ifansasti/Greenpeace



10 September 2013,
Tanjung Puting National Park
©Ifansasti/Greenpeace

REFERENCES

ENDNOTES

- 1 Mondelēz International (2017)
- 2 Kusumaningtyas R and van Gelder JW (2017) p8
- 3 Manufacturing variations may mean that palm, canola, or soybean oil is used in different regions or factories.
- 4 Mondelēz International (2018)
- 5 Mondelēz International (2014a)
- 6 Mondelēz International (2018b)
- 7 RSPO website 'RSPO supply chains'
- 8 Mondelēz International (2014b)
- 9 RSPO website 'Board of Governors'
- 10 New York Declaration on Forests website
- 11 Mondelēz International (2016)
- 12 Hereafter, unless otherwise stated, 'Greenpeace' refers to Greenpeace International.
- 13 Greenpeace International (2018a)
- 14 Greenpeace mapping analysis
- 15 Greenpeace analysis of Wilmar refinery summary reports and mill lists (source: Wilmar International website 'Supply chain map')
- 16 Greenpeace analysis of Wilmar refinery summary reports and mill lists (source: Wilmar International website 'Supply chain map')
- 17 Intergovernmental Panel On Climate Change (2018)
- 18 United Nations Secretary-General (2018)
- 19 Watts J (2018)
- 20 Mondelēz International (2018a)
- 21 Consumer Goods Forum website 'Our members'
- 22 Consumer Goods Forum website 'Deforestation'
- 23 Consumer Goods Forum (2015)
- 24 RSPO (2013)
- 25 RSPO website 'Board of Governors'
- 26 <https://eia-international.org/report/who-watches-the-watchmen/> and <https://www.greenpeace.org/archive-international/en/publications/Campaign-reports/Forests-Reports/Certifying-Destruction/>
- 27 PT Austindo Nusantara Jaya Tbk, PT Bio Inti Agrindo, Bumitama Agri Limited, FELDA/Felda Global Ventures, IOI Group, Noble Plantations Pte Ltd and PT Tunas Baru Lampung Tbk (TBL) are RSPO members. Producer groups that are not themselves RSPO members but that encompass RSPO member companies alongside non-member companies involved in the palm oil sector include Citra Borneo Indah (with RSPO member PT Sawit Sumbermas Sarana), the Fangiono family (First Resources), Genting Berhad (Genting Plantations Berhad), Hayel Saeed Anam Group (Pacific Inter-Link Sdn Bhd [PIL], Pacific Oils & Fats Industries Sdn Bhd [PACOIL], PT Pacific Indopalm Industries, PT Pacific Palmindo Industri and PT Pacific Medan Industri), Lembaga Tabung Haji (PT Synergy Oil Nusantara), the Salim group (PT Salim Ivomas Pratama Tbk [SIMP] and PT PP London Sumatra [Lonsum]) and the Tee family (Future Prelude Sdn Bhd). Gama Plantation is very closely associated with RSPO member Wilmar; see Greenpeace International (2018b).
- 28 Greenpeace International (2018a) pp34–35
- 29 Greenpeace International (2018b)
- 30 RSPO website 'Search members'
- 31 RSPO (2017) pp6–7, clauses 5.2 and 5.3
- 32 Greenpeace International (2018a) pp80, 84–85
- 33 Greenpeace International (2018a) pp80–82
- 34 Greenpeace International (2017a)
- 35 Greenpeace International (2018a) pp130–134; RSPO website 'Search members'
- 36 Greenpeace International (2018a) pp122–124
- 37 In addition to the above cases, RSPO members First Resources, FELDA/Felda Global Ventures (FGV), Future Prelude Sdn Bhd, Genting Plantations Berhad, IOI Group, Noble, PT Sawit Sumbermas Sarana (PT SSMS), PT Synergy Oil Nusantara and PT Tunas Baru Lampung Tbk (TBL) have all (as recorded in Greenpeace International (2018a)) either directly breached the RSPO's Principles and Criteria or New Planting Procedures or are members of wider producer groups whose non-RSPO member companies have done so. Moreover, First Resources (part of the Fangiono group), Future Prelude Sdn Bhd (part of the Tee family group), Genting Plantations Berhad (part of Genting Berhad), PT SSMS (part of the Citra Borneo Indah group) and PT Synergy Oil Nusantara (part of Lembaga Tabung Haji), like Wilmar and the subsidiaries of HSA and the Salim group, appear to be in breach of the RSPO requirement for group-level membership, as the wider groups to which they belong include non-RSPO companies active in the palm oil sector. No action has been taken against any of these member companies.
- 38 Greenpeace International (2018a)
- 39 To aid comprehension, the term 'Bumitama' is used throughout this section when referring to companies owned, controlled or managed by the officially recognised parent company, ie Bumitama Agri Ltd (BAL) and its subsidiaries. When describing explicit ownership links between companies, the term 'BAL' is used.
- 40 Held through Wellpoint Pacific Holdings Ltd, a wholly owned subsidiary of Fortune Holdings Ltd. Source: Bumitama Agri Ltd (2018a) p142.
- 41 Held through Oakridge Investments Pte Ltd and Lynwood Capital Resources Pte Ltd, both wholly owned subsidiaries of IOI Corporation Berhad. Source: Bumitama Agri Ltd (2018a) p142.
- 42 Castle J et al (2007) p82
- 43 IOI Group website 'Dato' Lee Yeow Chor'
- 44 Bumitama Agri Ltd website 'Dato' Lee Yeow Chor'

- 45 Bumitama Agri Ltd (2013c) p101; Bumitama Agri Ltd (2018a) p97
- 46 For example, the PT Gunajaya Harapan Lestari (PT GHL) and PT Golden Youth Plantation Indonesia (PT GYP) concessions were managed by Bumitama under the GHL Cooperation Agreement and the GY Cooperation Agreement for several years from 2011 while they continued to be owned by members of the Lim Hariyanto family. Source: Bumitama Agri Ltd (2012a) p33; see also Bumitama Agri Ltd (2014b).
- 47 Corporate registry profiles; see case studies for details.
- 48 Bumitama Agri Ltd (2015b)
- 49 Bumitama Agri Ltd (2018a) pp98-9
- 50 Bumitama Agri Ltd (2018a) p3
- 51 RSPO website 'Bumitama Agri Ltd'
- 52 Bumitama Agri Ltd (2013b)
- 53 Bumitama Agri Ltd (2013a)
- 54 Bumitama Agri Ltd (2012a) p25
- 55 Bumitama Agri Ltd (2012a) p47: 'As at the Latest Practicable Date, 79.3% of the aggregate land owned and/or controlled by our Group (including land under the Plasma Programme and land managed by our Group on behalf of LSK) is uncertified. Uncertified land refers to land for which title ... has not been conferred on the landholder'. 'Title' here refers to HGU and/or freehold (Hak Milik).
- 56 Bumitama Agri Ltd (2012a) p45: '(a) Ijin Prinsip of 11,104 hectares, of which 8,684 hectares have expired Ijin Prinsip; (b) Ijin Lokasi of 136,320 hectares, of which 111,820 hectares have expired Ijin Lokasi'.
- 57 The IPO prospectus stated that the company owned and/or controlled 191,948ha of land (p32), and that a total of 119,162ha of this land had been planted (p175). Excluding the roughly 44,500ha to which it had title (p46: '(c) Hak Guna Usaha of 32,729 hectares; and (d) Plasma Programme of 11,795 hectares where the plasma holders have obtained their own Ijin Lokasi and/or Hak Milik'), Bumitama thus appeared to implicitly acknowledge that at least 74,000ha of its landbank had been unlawfully planted.
- 58 For an explanation of the legal permits required to establish and develop an oil palm plantation, see Annex 1 of Greenpeace International (2018a).
- 59 PT Agriplus, PT Andalan Sukses Makmur, PT Damai Agro Sejahtera, PT Fajar Bumi Nabati, PT Golden Youth Plantation/PT Gemilang Makmur Subur, PT Gemilang Subur Maju, PT Gunajaya Harapan Lestari, PT Hatiprima Agro/PT Langgeng Makmur Sejahtera, PT Hungarindo Persada, PT Investa Karya Bhakti, PT Nabati Agro Subur, PT Raya Sawit Manunggal, PT Rimbaborneo Palma Sentosa, PT Sejahtera Sawit Lestari, PT Sentosa Prima Agro, PT Tanah Tani Lestari, PT Wahana Hijau Indah, and PT Kalimantan Prima Agro Mandiri. Note PT Rimbaborneo Palma Sentosa never formally entered Bumitama's portfolio, but was founded by members of Lim Hariyanto family, passed through Gartika/Halim ownership then entered Harita executive Ferry Kadi's hand before being dissolved in December 2016; it is not known under what name its plantations are currently controlled and no maps for its operations are available.
- The analysis is based primarily on a review of publicly available information. Primary sources of information used included RSPO Annual Communications of Progress (ACOPs) and Bumitama's annual reports and stock market disclosures, as well as official Indonesian or Singaporean corporate registry profiles, which detail current and historic shareholders, commissioners and directors in addition to registered addresses for companies. Social network profiles (eg Facebook, Instagram, LinkedIn), media reports, court transcripts and other public domain sources were also drawn upon, while photographs and testimonies from workers and reports from other NGOs provided supporting evidence. Unless otherwise referenced, details of ownership or management are based on corporate registry profiles.
- 60 PT Energi Baharu Lestari
- 61 RSPO website 'Case tracker: PT Hati Prima Agro'
- 62 Bumitama Agri Ltd (2018c)
- 63 RSPO (2015) p9
- 64 RSPO (2015) p12
- 65 RSPO (2015)
- 66 RSPO (2015) p12
- 67 RSPO (2015) p12
- 68 RSPO website 'Complaints'
- 69 Chain Reaction Research (2014) pii
- 70 The following calculation is based on mapping analysis by Gaveau DLA et al (2016) and the formula provided by the RaCP procedures (RSPO (2015) pp11-12):
- Lower liability based on assumed loss of heavily degraded forest**
- 280.7 (forest clearance 2008-09) + 15,129.4 (7,564.7ha * 2 cleared 2010-14) = 15,410.1ha area liability * 0.7 assumed vegetative coefficient [forest quality] in November 2005 = 10,787.07ha adjusted area liability. Monetary liability based on adjusted area = US\$26,967,675 (10,787.07 * US\$2,500) for the period 2008-14.
- Clearance after May 2014 without conducting HCV assessments or otherwise following RSPO Principles and Criteria and New Planting Procedures should generally result in expulsion. Clearance after this date of land controlled by a non-RSPO member at the time of clearance and subsequently acquired by a member, or clearance by an RSPO member of an area subsequently bought by another RSPO member, carries a liability of twice the area cleared multiplied by the area's assumed vegetative coefficient in November 2005 (just as for clearance of land controlled by a member between 2010 and 2014). Given lack of provision within the RaCP formula for clearance by a member after 2014, for the purposes of this assessment, the liability is calculated using the double area liability applicable in the case of clearance by a non-member. Using this formula, the post-May 2014 liability would be 2,294.6ha * 2 = 4,589.2ha area liability * 0.7 assumed vegetative coefficient = 3,212.4ha adjusted area liability. Monetary liability based on adjusted area = US\$8,031,100.
- This gives a total for the 2008-present period of US\$35m.

Note: this estimate uses the vegetative coefficient of 0.7 to calculate an adjusted area/ financial liability for the period 2008–14. This coefficient covers loss of 'structurally simplified or degraded forest with even or single-layered canopy. This category includes forest regenerating after large-scale disturbance including intensive and/or recent logging, wind and/ or fire damage (or some combination of these factors). Coefficient 0.7 also includes swamp, mangrove, and peatland forests regenerating after logging or other disturbance.' In fact, much of the forest lost within these case studies would more accurately be assessed using a coefficient of 1, described as 'structurally complex forest with uneven or multi-layered canopy' and including 'forest that has been subjected to low intensity selective logging and/or is at a late stage of recovery after long rotation shifting agriculture' as well as 'closed canopy swamp, mangrove, and peatland forests with no signs of drainage' (RSP0 (2015) p11). An alternative estimate based on this higher coefficient is given below.

Higher liability based on assumed loss of good-quality forest and undrained peatland

Assuming that the deforestation involved good-quality forest (equating to a coefficient of 1), the area liability would rise to 20,000ha and the financial liability to US\$50m.

71 Mapping analysis by Gaveau DLA et al (2016). The maps used in this briefing show loss of natural forest from 2001 to 2017, based on corrected annual tree loss data (Hansen MC et al (2013)) and excluding data outside the area occupied by natural forests in 2000 (based on Margono BA et al (2014)).

Annual expansion of industrial oil palm plantations is based on annual Landsat image mosaics in Google Earth Engine (GEE 2018). Development of an area was declared based on the observed presence of

large rectangular elements, long linear boundaries and distinctive grid or contour planting patterns, which characterise industrial plantations.

Description of the methodology can be found in Gaveau DLA et al (2016).

- 72 CIFOR website 'Atlas of deforestation and industrial plantations in Borneo'
- 73 Bumitama Agri Ltd (2018c)
- 74 IOI Group (2018)
- 75 Greenpeace (2017b), Greenpeace (2018a), Greenpeace (2018b)
- 76 Greenpeace (2018), Greenpeace (2018b)
- 77 Greenpeace International (2018a)
- 78 Bumitama Agri Ltd (2012a)
- 79 According to paperwork relating to 'affiliated transactions' filed with Indonesian regulators in 2012 and 2013: Cita Mineral Investindo Tbk (2012) and Cita Mineral Investindo Tbk (2013).
- 80 Archived at <https://web.archive.org/web/20180404191258/http://portal.haritanickel.com:80/extequity>.
- 81 Language used to describe Michael Raben's relationship with the company management in Bumitama Agri Ltd (2018a) p45.
- 82 Established by members of the Lim Hariyanto family, this is now an IOI-Bumitama joint venture with IOI the majority shareholder.
- 83 IOI Group (2018) p34 covers permit history for the concession.
- 84 Location permit extensions are valid for one year only. See Annex 1 of Greenpeace International (2018a) on legal permits.
- 85 Mach M (2017a)
- 86 See eg Bumitama Agri Ltd (2018a) p101, Bumitama Agri Ltd (2016a,b).
- 87 Mach M (2017a)
- 88 The second question was posed as part of the reopened RSP0 complaint against PT Hatiprima Agro in July 2017.
- 89 Mach M (2017b) p5
- 90 Corporate registry profiles
- 91 Bumitama Agri Ltd (2018a) pp97–99
- 92 Interestingly, Potenza, which has now been struck off the Singapore company register, occupied the same floor in the same building as Bumitama's headquarters (11th Floor, International Plaza, 10 Anson Rd

Singapore). See SGP Business website 'Potenza Holdings Pte. Ltd.'

- 93 Singapore Accounting and Corporate Regulatory Authority official profile for Potenza Holdings Pte Ltd.
- 94 Djoni Rusmin appears in the ICIJ Offshore Leaks Database (<https://offshoreleaks.icij.org/nodes/12168418>) as sole shareholder of Oriental Pride Management Ltd, with the same registered home address in Jakarta as shown in several corporate registry profiles of companies he holds in Indonesia.
- 95 Bumitama Agri Ltd (2018a) p101
- 96 Through PT SSL (95% share), itself a plantation and holding company formerly held by Lim Hariyanto family members, and holding company PT SGA (5% share).
- 97 According to her Facebook profile (<https://www.facebook.com/elisabeth.lilina>). Postings on her personal Facebook 'wall' by another BGA employee date back to at least 2011.
- 98 LinkedIn social media profile for Setya Pribadi, 'Asisten Deputy COO di PT. Bumitama Gunajaya Agro', now offline. Copy held by Greenpeace.
- 99 Prayono has roles in PT Agriplus, PT Hungarindo Persada, PT PSA, PT SHS and PT SGA.
- 100 https://groups.yahoo.com/neo/groups/mene02_friendsbracelet/conversations/topics/1176 shows someone sending an email message to artahady.pranata@bumitama.com on 2 July 2008. Similar emails also found dated to 2009.
- 101 Cita Mineral Investindo Tbk (2013) p4
- 102 An email was sent from the address Nita.Gartika@TirtaMahakam.com on 29 January 2009 to a family mailing group entitled 'Soewardi's Family mailing list' as archived in Yahoo Groups at <https://groups.yahoo.com/neo/groups/swd/conversations/topics/917>; one of the recipients was Artahady Pranata, see above.
- 103 Bumitama Agri Ltd (2016e) p100
- 104 Ferry Kadi is a senior executive in the Lim Hariyanto family's Harita Group and has roles in Bumitama-connected holding companies PT LGA, PT MLI, PT PSA, PT SHS and PT SGA. Kadi is director of Harita company PT Widaka Indonesia and

- is listed at Harita Equity and Harita Bauxite within Harita's internal phone directory (<http://www.haritanickel.com/phonebook.php>, accessed July 2018). He also appears in social media circles with Gunawan Lim (and Tio Kok Lay, Director of PT Harita Guna Dharma Bhakti): see <https://plus.google.com/104463446659658549690> (accessed November 2018).
- 105** Bumitama Agri Ltd (2012c) p1
- 106** Bumitama Agri Ltd (2016e) p100
- 107** Via Harita executive Ferry Kadi, and Lim Hariyanto family holding company PT Tani Mitra Jaya. Source: corporate registry profiles.
- 108** During the period 8 August 2011 to 31 August 2015. Source: corporate registry profiles.
- 109** Corporate registry profiles
- 110** JL. Melawai Raya No.10, Kebayoran Baru, South Jakarta. See corporate registry profile for PT GHIL and Bumitama Agri Ltd website 'Contact us'.
- 111** 'Pursuant to the GY Cooperation Agreement and GHIL Cooperation Agreement, the Group will (i) manage and operate the plantations of GMS and GHIL in return for a management fee; (ii) have the exclusive right to purchase any FFB produced from the plantations of GMS and GHIL; and (iii) have a call option over up to 95% and 80% of the total issued shares in GMS and GHIL (ie the GY Call Option and the GMS Call Option), respectively.' Source: Bumitama Agri Ltd (2014b) p1.
- 112** Bumitama Agri Ltd (2016d) p2
- 113** Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency (1999) Article 5(3). See Annex 1 of Greenpeace International (2018a) on legal permits.
- 114** Bumitama Agri Ltd (2014b)
- 115** Corporate registry profiles show that PT Selaras Hijau Sentosa, the company Rusmin and Santoso used to buy the PT GHIL concession, was registered on 1 July 2014, just a few weeks before Bumitama terminated the GHIL Cooperation Agreement (on 31 July 2014).
- 116** In Bumitama Agri Ltd (2016c) the company states that 'the approval of the Minister of Marine and Fishery [is] now no longer being required'; however, there was no relevant legal revision.
- 117** Bumitama Agri Ltd (2016d). Corporate registry profiles show that during the nine-month period from 30 September 2014 to 10 June 2015, PT GHIL was owned by PT Selaras Hijau Sentosa (235 shares) and Tommy Santoso (15 shares). Immediately prior and subsequent to these dates, it was owned by PT Karya Manunggal Sawitindo (PT KMS; 50 shares) and PT Sukses Manunggal Sawitindo (PT SMS; 200 shares rising to 950 shares on 10 June 2015). PT SMS was directly controlled by the Lim Hariyanto family until February 2016, when BSL bought 95% of shareholdings, with PT KMS holding the remainder.
- 118** Bumitama Agri Ltd (2016d) p2
- 119** HCV Resource Network website 'Ongoing and historical evaluations of assessment reports'
- 120** This is the spelling used by the company and which appears on its corporate registry profile; however, most government correspondence uses the conventional three-word company name form, ie Hati Prima Agro.
- 121** Corporate registry profile
- 122** Corporate registry profile
- 123** For an explanation of the legal permits required to establish and develop an oil palm plantation, see Annex 1 of Greenpeace International (2018a).
- 124** See RSPO website 'Case tracker: PT Hati Prima Agro' and Minister of Forestry (2008).
- 125** Orders 3(1) and 3(2) in Minister of Forestry (2008)
- 126** Chain Reaction Research (2014) pp14–5. In court documents the company stated it had planted areas of PT HPA during 2010–2012 (source: Palangkaraya High Court, Central Kalimantan (2015) p6).
- 127** Kotawaringin Timur District Head Supian Hadi (2012a,b)
- 128** RSPO website 'Case tracker: PT Hati Prima Agro'
- 129** Krishnan R (2012)
- 130** Supreme Court of Indonesia (2013)
- 131** Corporate registry profile. Djoni Rusmin was commissioner and 10% shareholder; Tommy Santoso was managing director and 90% shareholder.
- 132** Bumitama Agri Ltd (2014a)
- 133** Kotawaringin Timur District Head Supian Hadi (2014a)
- 134** Kotawaringin Timur District Head Supian Hadi (2014b). The letter serves to issue plantation business permit (IUP) no. 009/IUP-B/PT.LMS/Kec. Antang Kalang-1 Kec – Kab. Kotim/2014.
- 135** Bumitama Agri Ltd (2015a). The sale involved PT HPA's 'plantation (biological assets) and other fixed assets over the Land, inventories and plasma receivables (collectively, the "Assets")'.
- 136** Minister of Forestry (2008) p4 ruling 6(3) reads '[Task the Governor of Central Kalimantan] to undertake inventorisation of the immovable objects within the ex-plantation area of PT Hati Prima Agro, which based on prevailing laws become Government property without compensation.' ([Menugaskan Gubernur Kalimantan Tengah untuk] 'melakukan inventarisasi terhadap barang-barang tidak bergerak yang terdapat dalam areal eks perkebunan PT. Hati Prima Agro yang berdasarkan ketentuan yang berlaku menjadi milik Pemerintah tanpa ganti rugi.')
- 137** In Mach M (2017a) Bumitama cites a 'horizontal separation' principle enacted by the Agrarian Law No 5/1960 but does not reference any specific article. Bumitama argues that this 'horizontal separation principle' meant that PT HPA could retain ownership of immovable objects on (and planted in) the concession land over which it had lost permission to operate. However as noted in the preceding endnote, the Minister of Forestry (2008) decision expressly contradicts Bumitama's interpretation of PT HPA's rights. Indonesia's Supreme Court (2013) examined the contents of the Minister of Forestry's 2008 letter, before finding it valid; the judges did not take exception to the Minister emphasising that PT HPA's immovable assets had become government property. Mach M (2017a) cites further documents from the District Head, which hold that PT HPA has rights over its ex-plantation assets; these can only reasonably

- be taken to be accurate as far as they mean rights to movable assets. Of the claimed US\$32m value of PT HPA's assets according to Bumitama in its agreement with PT LMS, the greatest part must related to immovable assets such as plantings and buildings.
- 138** State Treasury Law 2004 and Government Regulation on Management of State Assets 2006 (Article 51), superseded from 24 April 2014 by Government Regulation on Management of State Assets 2014 (Article 61) [PP 27/2014]
- 139** RSPO website 'Case tracker: PT Hati Prima Agro'
- 140** PT Karya Manunggal Sawitindo – also owned by the Lim Hariyanto family – was the minority shareholder. Source: Bumitama Agri Ltd (2016b).
- 141** Bumitama Agri Ltd (2017c)
- 142** Bumitama Agri Ltd (2016b) p2
- 143** As evidenced by Greenpeace field investigations and by a criminal case instigated by 'PT. HPA BGA Group' in late 2014 claiming theft of FFB from the company's plantation on 15 October 2014, a point in time after PT LMS had begun applying for plantation permits and was already holding a location permit over the area. Source: Palangkaraya High Court, Central Kalimantan (2015).
- 144** Bumitama Agri Ltd (2017b) p23
- 145** RSPO website 'Case tracker: PT Hati Prima Agro'
- 146** Email from RSPO to complainants, 22 June 2018
- 147** HCV Resource Network website 'Ongoing and historical evaluations of assessment reports'
- 148** Mach M (2017b)
- 149** Public filings to Bursa Malaysia by Malaysian company VS Industry Bhd indicate that it owned not just PT GYP but also PT LSM. Both were sold as part of a double deal in 2011, with the company noting that PT GYP's sale price included 'PT GYP's interest in a piece of land measuring 6,450ha held through PT Ladang Sawit Mas' and that the 'interest in the said piece of land [PT LSM] is referring to the Ijin Usaha Perkebunan (Plantation Business License) and Ijin Lokasi (Location Permit) currently held'. Sources: VS Industry (2011a,b).
- 150** Via district government enterprise PT Ketapang Mandiri. In March 2004 PT GYP became a joint enterprise with a Malaysian conglomerate, which provided a capital injection and registered the foreign direct investment company of PT GYP. Sources: Aksenta (2016) p12; PT GYP/PT GMS corporate registry profiles.
- 151** Roughly 15,500ha were classified as production forest, legally available only for selective logging and not clearance or plantation development (source: Greenpeace mapping analysis).
- 152** Jaya Pos (2014a)
- 153** Friends of the Earth Europe (2013) p13; VS Industry (2011a)
- 154** The move came in the wake of a central government initiative to address corruption in the plantation sector. See Friends of the Earth Europe (2013) p13.
- 155** Friends of the Earth Europe (2013) p13
- 156** Friends of the Earth Europe (2013) p15
- 157** VS Industry (2011b)
- 158** The corporate registry profile shows PT LSM was established on 30 May 2005.
- 159** Gusti Kamboja is Malay royalty, chairing the Association of Families of the Kingdom of Matan Tanjongpura, and conferred upon Morkes Effendi the title of Dato' Sri Petinggi Kyai Mangku Negeri in 2010.
- 160** Bloomberg website 'Company Overview of PT Techventure Indocoal: Executive Profile: Gunawan Sukardi Suboh'
- 161** Faizal A (2005) p50
- 162** Ketapang District Government (2010)
- 163** Gunawan Sukardi Subur was a part owner of PT GYP via his company PT Mandiri Sumberdaya Perkasa. Subur sold his stake in PT GYP to Bumitama and left the board on 21 October 2011.
- 164** On 13 July 2011, VS Industry made agreements to sell the PT GYP plantation to members of the Lim Hariyanto family and to sell PT LSM to Bumitama. VS Industry (2011a,b)
- 165** VS Industry (2011a); the PT GYP/PT GMS corporate registry profile indicates a handover date of 21 October 2011.
- 166** As discussed below, the sale was delayed; Bumitama's initial announcement put the purchase agreement date at 25 April 2012; PT LSM's corporate registry profile indicates a handover date of 30 May 2012.
- 167** VS Industry (2011a)
- 168** Greenpeace mapping analysis
- 169** Via the GY Cooperation Agreement dated 1 November 2011; Bumitama Agri Ltd (2012a) p123.
- 170** Illegal initially because PT GYP was operating without permits; after the enactment of the Prevention and Eradication of Forest Destruction Law 2013, additional illegality would have arisen from any trade or processing of PT GYP's FFB.
- 171** Bumitama Agri Ltd (2014b)
- 172** Friends of the Earth Europe (2013) p15
- 173** PT GMS controlled the northern area of the original PT GYP concession, including just over half of the original plantation area.
- 174** Bumitama Agri Ltd (2016c,a)
- 175** Ketapang District Government Secretariat (2014)
- 176** Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency Regulation No. 2, 1993: On procedures for obtaining location permits and land rights for companies involved in investment. See Annex 1 of Greenpeace International (2018a) on legal permits.
- 177** Morkes Effendi, Ketapang District Head (2010)
- 178** Henrikus, Ketapang District Head (2011)
- 179** VS Industry (2011c)
- 180** VS Industry (2011d)
- 181** Article 33 of the Investment Law No. 25 Year 2007 reads in translation: "(1) Domestic investors and foreign investors who make investments in the form of a limited liability company are prohibited from entering into an agreement and/or making a statement asserting that share ownership in a limited liability company is for and in the name of another person." Elucidation of Article 33 section(1) reads: "The purpose of this section is to prevent a situation where a

<p>company is formally owned by a person, but in actuality or in substance the owner of the company is someone else." See Indonesia Investments website 'Indonesian Law No. 25 of 2007 on Capital Investment (Investment Law)'.</p>	<p>verification. It stated that PT DAS was required to ensure no activities in contravention of regulations were undertaken before permits were acquired. An Informasi Lahan letter from the Ketapang District on 10 December 2015 noted the new peat ban of 5 November 2015, and required PT DAS to do a peat survey. Finally, the environmental impact statement (AMDAL) for PT DAS approved on 3 August 2016 included maps showing extensive peatland inside the concession. Copies held by Greenpeace.</p>	<p>211 Bumitama Agri Ltd (2017a) 212 HCV Resource Network website 'Ongoing and historical evaluations of assessment reports' 213 Corporate registry profile 214 From social media profile at https://www.linkedin.com/in/fransiskha-lusiane-89343a67/.</p>
<p>182 Bumitama Agri Ltd (2012b)</p>		<p>215 When Utomo took up a share of PT</p>
<p>183 VS Industry confirmed it had received its share of the sale proceeds on 6 June 2012. VS Industry (2011e)</p>	<p>SSL on 23 April 2015, Rusmin and Santoso's majority ownership of PT SSL was transferred to their holding company, PT PSA. Source: corporate registry profiles.</p>	<p>216 From social media profile at https://id.linkedin.com/in/willy-heriadi-270607b0.</p>
<p>184 As set out in Ketapang District Government Secretariat (2014) p2</p>		<p>217 Jaya Pos (2014b)</p>
<p>185 Greenpeace mapping analysis</p>		<p>218 HCV Resource Network website 'Ongoing and historical evaluations of assessment reports'</p>
<p>186 https://www.espo.org/certification/new-planting-procedures/public-consultations/bumitama-pt-ladang-sawit-mas</p>	<p>201 As announced in Forest Hints (2017). Forest Hints is widely regarded as the semi-official news website of the Indonesian Ministry of Environment and Forestry.</p>	
<p>187 Corporate registry profile shows name change from GY Plantation Indonesia to Gemilang Makmur Subur on 18 July 2012.</p>	<p>202 Presidential Decree No.32/1990 on Management of Protected Areas, clauses 4(2) and 37(1); see President of the Republic of Indonesia (1990).</p>	
<p>188 Bumitama Agri Ltd (2018a) p103</p>		
<p>189 HCV Resource Network website 'Ongoing and historical evaluations of assessment reports'</p>	<p>203 Minister for Environment and Forestry (2015), Ministry for Environment and Forestry (2015) and President of the Republic of Indonesia (2015)</p>	
<p>190 Aksenta (2016) inside cover and p5</p>		
<p>191 HCV Resource Network website 'Assessors who are no longer licensed'</p>	<p>204 Location permit no. 27/PEM/2016, granted 8 January 2016</p>	
<p>192 Corporate registry profiles</p>		
<p>193 Fachrizal A (2014)</p>	<p>205 Decree of Ketapang Regent no. 525/KLH-B/2016, 3 August 2016</p>	
<p>194 Fachrizal A (2014)</p>		
<p>195 Forestry Law 1999 Articles 50 and 78.</p>	<p>206 Bumitama Agri Ltd (2016a) p1</p>	
<p>196 Prevention and Eradication of Forest Destruction Law 2013 Article 93(3)(c).</p>	<p>207 Bumitama Agri Ltd (2016a) p3. The total sum paid by BSL (90%) and the Lim Hariyanto company PT KMS (10%) for the 9,436ha PT DAS concession was a mere IDR 250m (US\$18,500). For comparison: BSL paid IDR 175,662m (US\$12,366,000) for 80% of a similar concession in 2013 (the 11,000ha PT Nabatindo Karya Utama), bought from parties which appear to have been genuinely unconnected to Bumitama; and the sale price for PT HPA's planted assets was approximately US\$30m. The explanation for the extremely low price paid for PT DAS was that 'DAS did not incur any profits or loss for the 9-month period ended 30 September 2016'.</p>	
<p>197 Bumitama Agri Ltd (2017a)</p>		
<p>198 GPS coordinates: - Marker stakes (10 34' 56.02"S 1100 20' 6.33"E) - Security post (010 35' 44.06"S 1100 19' 55.26"E) - Welcoming sign of PT LSM-BTJE (010 35' 11.91"S 1100 20' 17.10"E)</p>		
<p>199 Bumitama Agri Ltd (2016b). The period from January 2015 until June 2016 when Rusmin and Santoso had agreed to pay for the plantation assets of PT HPA, but reneged, making only a deposit. See Mach M (2017b) p4.</p>		
<p>200 A letter dated 18 November 2015 from the Ministry of Environment and Forestry's Planology Department in Pontianak noted that the 2015 moratorium map showed the area requested by PT DAS included 113ha of peatland, and called for field</p>	<p>208 Mach M (2017a) 209 Bumitama Agri Ltd (2017a) 210 See Bumitama Agri Ltd (2016a) p3. As recently as 2018 Bumitama was claiming no prior connection to PT DAS; see Bumitama Agri Ltd (2018b).</p>	

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13 October 2013,
Tanjung Puting National Park,
2°49'56"S 111°47'56"E: Orangutans
at a feeding station in an area
temporarily removed from national
park and allocated to the Bumitama oil
palm company PT Andalan Sukses Makmur.
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