



September 23, 2016

## **KLK Customer and Financier Briefing**

### ***Assessment of KLK's Actions in Response to RAN's 2015 Status Report and Customer Briefing: Conflict Palm Oil in Practice, Exposing KLK's Role in Rainforest Destruction, Land Grabbing and Child Labor***

On December 15, 2015 Rainforest Action Network (RAN) issued a Status Report and Customer Briefing<sup>1</sup> on Kuala Lumpur Kepong Berhad's progress to resolve the following four Conflict Palm Oil cases, originally profiled by RAN in April 2014<sup>2</sup>:

1. Expansion by KLK majority-owned Equatorial Palm Oil (EPO) onto customary lands of local communities in Liberia in violation of their Free, Prior and Informed Consent;
2. KLK's plans for expansion onto the customary lands of tribal groups in Collingwood Bay, Papua New Guinea without their Free, Prior and Informed Consent;
3. KLK's use of child labor and forced labor on plantations in Indonesia; and
4. Deforestation on KLK plantations in Indonesia.

RAN called on KLK to take specific actions to move forward good faith efforts to resolve these cases, and on March 1, 2016, KLK responded by publicly committing to address the Conflict Palm Oil cases raised by RAN and our partners.<sup>3</sup> RAN recommends buyers and investors require KLK take the following actions to address remaining risks:

1. Abide by the MOU signed with the Jogbahn communities, which agrees not to develop oil palm in the mapped areas where the communities have said no to oil palm development.
2. Announce a public exit from Lot 5 in Collingwood Bay and move out its remaining machinery before the end of 2016. KLK should explore options to return Lot 5 to the customary landowners of Collingwood Bay.
3. Publicly release its labor assessment findings from East Kalimantan and an action plan to address non-compliances and publicly report against progress.
4. Update its policy to define No Deforestation using the High Carbon Stock Approach and cover all labor risks, and require its third-party suppliers and any labor contractors to meet the same standards.
5. Related to the High Carbon Stock Assessment of Palm Bay Estate Phase 1 (LIBINCO) in Liberia, require KLK to follow the recommendations outlined in the peer review report including redoing the participatory mapping to ensure there is sufficient land for community use and food security, incorporating riparian and HCV data into the patch analysis decision tree, and completing the required field verification and FPIC processes. Once this work has been completed KLK must submit a proposed conservation and land use plan for review.

Below is a more detailed assessment of KLK's actions to date to address the four Conflict Palm Oil cases.



### **Expansion by KLK majority-owned Equatorial Palm Oil (EPO) onto customary lands of local communities in Liberia in violation of their Free, Prior and Informed Consent**

**Case summary:** At the end of 2012 and continuing into 2013, Equatorial Palm Oil (EPO), a UK-based palm oil company which is majority-owned by KLK, began clearing the customary lands of several local Jogbahn communities in Grand Bassa County, Liberia without their Free, Prior and Informed Consent (FPIC). Through a formal RSPO complaint, engagement with government, and direct engagement with EPO, the communities have demanded that EPO and KLK respect their right to say no to palm oil development on their customary lands and formally excise their land claims from the company's palm oil plantation concession.

**Actions Called for in RAN 2015 Report:** EPO and KLK must formally excise the mapped land claims of the non-consenting Jogbahn communities' from EPO's palm oil plantation concession in Liberia.

**Actions Taken by KLK:** In early 2016 KLK and EPO underwent a participatory mapping process with the non-consenting and consenting Jogbahn communities and Liberian NGO Sustainable Development Institute (SDI) to map the areas where the communities do not want the company to develop oil palm. The final map of lands where the communities have not consented to oil palm development and an agreement that EPO/KLK would not develop these areas was formally recognized through a memorandum of understanding signed off by EPO, SDI and the communities in May 2016 and was made public on KLK and EPO's websites.<sup>4</sup>

**Recommended Actions for Buyers and Investors:** KLK customers and financiers must require that KLK/EPO abide by the MOU signed with the Jogbahn communities and not develop oil palm in the agreed mapped areas where the communities have said no to oil palm development.

### **KLK's plans for expansion onto the customary lands of tribal groups in Collingwood Bay, Papua New Guinea without their Free, Prior and Informed Consent**

**Case summary:** In December 2012 KLK acquired a majority interest in Collingwood Plantations Pte Ltd (CPPL), a company claiming to have rights over three lots covering more than 40,000 hectares in the Collingwood Bay region of Papua New Guinea. The densely forested Collingwood Bay watershed is home to nine Indigenous tribes, who have constitutionally protected rights to decide if, how and where development can occur within the communities' ancestral lands. The communities have a long-standing public position of opposing logging and palm oil development on their lands, and when the communities learned of KLK's claims in Collingwood Bay, a RSPO complaint was filed and lawsuit initiated contesting two of the three leases.



In May 2014, the National Court of Papua New Guinea declared two of three land development leases claimed by KLK null and void and ordered cancellation of the title deeds. As a result, KLK lost its claim to the 38,350 hectares of land and currently only claims one 5,582 hectare lease in Collingwood Bay, State Lot 5.

From a forest cover analysis conducted by Aidenvironment in 2014, over 80 percent of State Lot 5 is covered in primary forest, with the rest being grassland and gardening areas, which have customary uses by the local communities. State Lot 5 is also only accessible via customary lands held by the Collingwood Bay communities that are opposed to the development of palm oil on their lands.

**Actions Called for in RAN 2015 Report:** KLK publicly announce its exit from the Collingwood Bay region in Papua New Guinea.

**Actions Taken by KLK:** To date, KLK has not announced its exit from Collingwood Bay. The company has committed “to remove all machineries from the area by end of 2016 should the situation remain status quo.”<sup>5</sup>

**Recommended Actions for Buyers and Investors:** KLK customers and financiers must require that KLK announce a public exit from Lot 5 in Collingwood Bay and move out its remaining machinery before the end of 2016. KLK should explore options to return Lot 5 to the customary landowners of Collingwood Bay.

### **KLK’s use of child labor and forced labor on plantations in Indonesia**

**Case summary:** Workers on KLK plantation PT 198 located in East Kalimantan, Indonesia, reported being trafficked and working under forced labor conditions in 2010. After the workers escaped from the plantation with the help of a local truck driver, KLK responded by reportedly blacklisting the labor contractors responsible, including a man by the name of Handoyo. However, in 2012 and 2013 investigations by Indonesian NGO Sawit Watch found workers still recruited by the labor contractor Handoyo, working under a new enterprise called CV Daun Mas. Sawit Watch’s investigations also found child laborers and workers working without labor contracts while contractors held their IDs and other valuable documents.

**Actions Called for in RAN 2015 Report:** KLK release the full labor audit conducted by an external party on KLK’s East Kalimantan operations and publish a plan for bringing its global operations into compliance with fundamental labor rights as outlined by ILO.

**Actions Taken by KLK:** KLK hired Veritè, an independent US-based not-for-profit organization, to undertake a voluntary labor audit of its East Kalimantan operations. Veritè concluded its assessment of four plantations at the end of February 2016. KLK has committed to make the summary of findings publicly available along with an action plan to address non-compliances. The report and action plan have not yet been made public.

**Recommended Actions for Buyers and Investors:** KLK customers and financiers must require that KLK release the assessment findings and action plan to address non-compliances. Moving forward, KLK should publicly report against its Corrective Action



Plan on a bi-annual basis, and update its policy to cover relevant labor risks in its own operations and require compliance from labor contractors.

### **Deforestation on KLK's plantations in Indonesia**

**Case summary:** Satellite monitoring and field investigations undertaken by Greenpeace in 2013 and early 2014 found active clearance of forests within two KLK plantations in Central and East Kalimantan. Rather than adopt the leading approach to achieving No Deforestation called the High Carbon Stock Approach, KLK along with IOI Group and Sime Darby commissioned their own study that would support development plans that allowed the ongoing clearance of forests.

**Actions Called for in RAN 2015 Report:** KLK take the most rigorous approach to implementation of its No Deforestation commitment by implementing the methodology governed by the High Carbon Stock Steering Committee.

**Actions Taken by KLK:** In KLK's May 2016 Progress Report it stated, "While efforts of convergence are ongoing, KLK has taken the stand to adopt the HCS Approach for any new oil palm development and impose a moratorium on areas unsuitable for oil palm development."<sup>6</sup>

KLK also underwent a High Carbon Stock (HCS) assessment for Palm Bay Estate Phase 1 New Planting Area (LIBINCO) in Liberia using the High Carbon Stock Approach. This proposed new development is located in an area adjacent to where the Joghahn communities who oppose EPO's oil palm development live. The HCS assessment and peer review have been completed, and reports on both are publicly available on the High Carbon Stock Approach website.<sup>7</sup>

The peer review indicates there are questions on whether there is adequate land available for communities in Phase 1 for their own use and food security. The peer review report recommends that the participatory mapping is redone following the detailed guidance outlined in the HCSA toolkit and that the company report on the outcomes of the process. The peer review also questioned the adequacy of the High Conservation Value assessment undertaken and recommended that it be revised to include detailed maps and justifications of the individual HCVs identified, and information supporting determinations on the absence of HCVs. It also stated that riparian zones needed to be identified and protected or restored, and included in the patch analysis. In order to complete the HCS assessment and finalize a proposed conservation and land use plan, the peer review states that the patch analysis decision tree should be re-done with revised participatory maps, riparian and HCV data, along with the outcomes from field verification (which appears to have not yet been undertaken) and the process to determine if the Free, Prior and Informed Consent can be obtained or has been withheld from local communities.

**Recommended Actions for Buyers and Investors:** KLK's customers and financiers must encourage KLK to commit to the ongoing implementation of the High Carbon Stock Approach beyond the HCS convergence process. KLK must update its policy to define No Deforestation using the High Carbon Stock Approach and require its third-party suppliers to meet the same standard. KLK must commit to reforming its palm oil



production and supply chains to achieve third party verified compliance with no deforestation, no peat, and no exploitation policies of its customers.

Related to KLK/EPO's HCS Assessment of Palm Bay Estate Phase 1, customers and financiers should require KLK to follow the recommendations outlined in the peer review report including redoing the participatory mapping to ensure there is sufficient land for community use and food security, incorporating riparian and HCV data into the patch analysis decision tree, and complete the required field verification and FPIC processes. Once this work has been completed KLK must submit a proposed conservation and land use plan for review.

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<sup>1</sup>2015 Status Report and Customer Briefing: *Conflict Palm Oil in Practice, Exposing KLK's Role in Rainforest Destruction, Land Grabbing and Child Labor*, Rainforest Action Network. December 2015.

<sup>2</sup> *Conflict Palm Oil in Practice, Exposing KLK's Role in Rainforest Destruction, Land Grabbing and Child Labor*, Rainforest Action Network. April 2014. <http://tinyurl.com/znmqgg8>

<sup>3</sup> "KLK Commits to Address Grievances Raised by Rainforest Action Network ("RAN")," Kuala Lumpur Kepong Berhad. March 2016. <http://www.klk.com.my/wp-content/uploads/2016/03/ResponsetoRAN.pdf>

<sup>4</sup> Memorandum of Understanding between EPO and non-consenting Jogbahn communities, May 2016.

<http://www.klk.com.my/wp-content/uploads/2016/07/MOUPalm-Bay.pdf>

<http://www.csr21.org/company/equatorial-palm-oil/epo-signs-important-mou-local-communities>

<sup>5</sup> "KLK Sustainability Policy Implementation Progress Report July 2015-April 2016," Kuala Lumpur Kepong Berhad. May 2016. <http://www.klk.com.my/wp-content/uploads/2016/05/2016-05-09-KLKSP-SPPR2-final.pdf>

<sup>6</sup> "KLK Sustainability Policy Implementation Progress Report July 2015-April 2016," Kuala Lumpur Kepong Berhad. May 2016. <http://www.klk.com.my/wp-content/uploads/2016/05/2016-05-09-KLKSP-SPPR2-final.pdf>

<sup>7</sup> "Registered HCS Assessments," High Carbon Stock Approach. <http://highcarbonstock.org/registered-hcs-assessments/>