

PERILOUS

KORINDO, LAND GRABBING & BANKS

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This report has been prepared in both English and Bahasa Indonesia. In the event of any inconsistency or query as to the significance of language used in the report, the English language version shall apply.



per-il-ous

/ˈpereles/

adjective

synonyms: dangerous, hazardous, risky, unsafe, treacherous;

1. full of danger or risk.

e.g. “a perilous situation for the community and their environment”

2. exposed to imminent risk of disaster or ruin.

e.g. “the investment is in a perilous position”

ABOUT THE AUTHORS

WALHI is the largest and oldest environmental advocacy NGO in Indonesia, with independent offices and grassroots constituencies located in 28 of the nation’s 34 provinces. WALHI works on many issues including agrarian conflict over access to natural resources, Indigenous rights, and deforestation.

TuK-INDONESIA is an Indonesian NGO which seeks the realisation of respect, protection and fulfilment of human rights and social justice by State and non-state actors in the fields of policies, programmes and activities of agribusiness and natural resources management.

Rainforest Action Network (RAN) is a US-based NGO which preserves forests, protects the climate and upholds human rights by challenging corporate power and systemic injustice through frontline partnerships and strategic campaigns.

Profundo is an independent not-for-profit company based in the Netherlands which provides fact-based research and advice on international commodity chains, the financial sector, policy developments and the impacts of businesses and financiers on all aspects of sustainability.

EXECUTIVE SUMMARY



Over recent years, the Indonesian government has taken significant steps to tackle illegality, corruption and tax evasion in the forest commodity sector. It has implemented policies designed to reduce social conflict, slow deforestation, and prevent fires linked to land clearance for plantations. Indonesia's judiciary has also steered reform by affirming Indigenous Peoples' constitutional land rights and citizens' rights to access information on company concessions. And international market demand for 'no deforestation, no peat, no exploitation' palm oil has begun to restrict market access to illegal and unsustainable operations.

Despite these developments, large parts of the forest commodity sector still flout laws and regulations, and siphon profits offshore into low-tax jurisdictions. This results in environmental degradation, human rights abuses, and robs the Indonesian state of tax revenue needed for meeting sustainable development objectives. Such practices are enabled not only by gaps in law enforcement, but are also fueled by reckless banks that extend lines of credit to companies with evidently poor corporate governance standards and illegal and unsustainable operations.

This report focuses on the Indonesian-Korean conglomerate Korindo, and its financiers, including Bank Negara Indonesia (BNI). Based on field investigations, permit analysis and extensive corporate mapping, this report details local communities and NGOs' complaints about Korindo's logging and oil palm operations in North Maluku Province, through its subsidiary PT Gelora Mandiri Membangun (PT GMM), including how these operations have:

- » Obtained permits in clear violation of multiple Indonesian laws and regulations;
- » Occupied and destroyed community farms and forests without the consent of landowners;
- » Misrepresented community support for its plantation project;
- » Used fire to clear land prior to planting oil palm, against Indonesian law;
- » Engaged police who have harassed and mistreated local community members.

Analysis of the broader Korindo group also raises numerous red flags regarding its corporate governance standards, including:

- » Providing false and misleading financial statements of a Singapore holding company, in violation of Singapore company law;
- » Systematic failure to prepare complete financial statements, in violation of Singapore company law;
- » Use of convoluted corporate structures thereby concealing or obscuring ownership of subsidiaries.

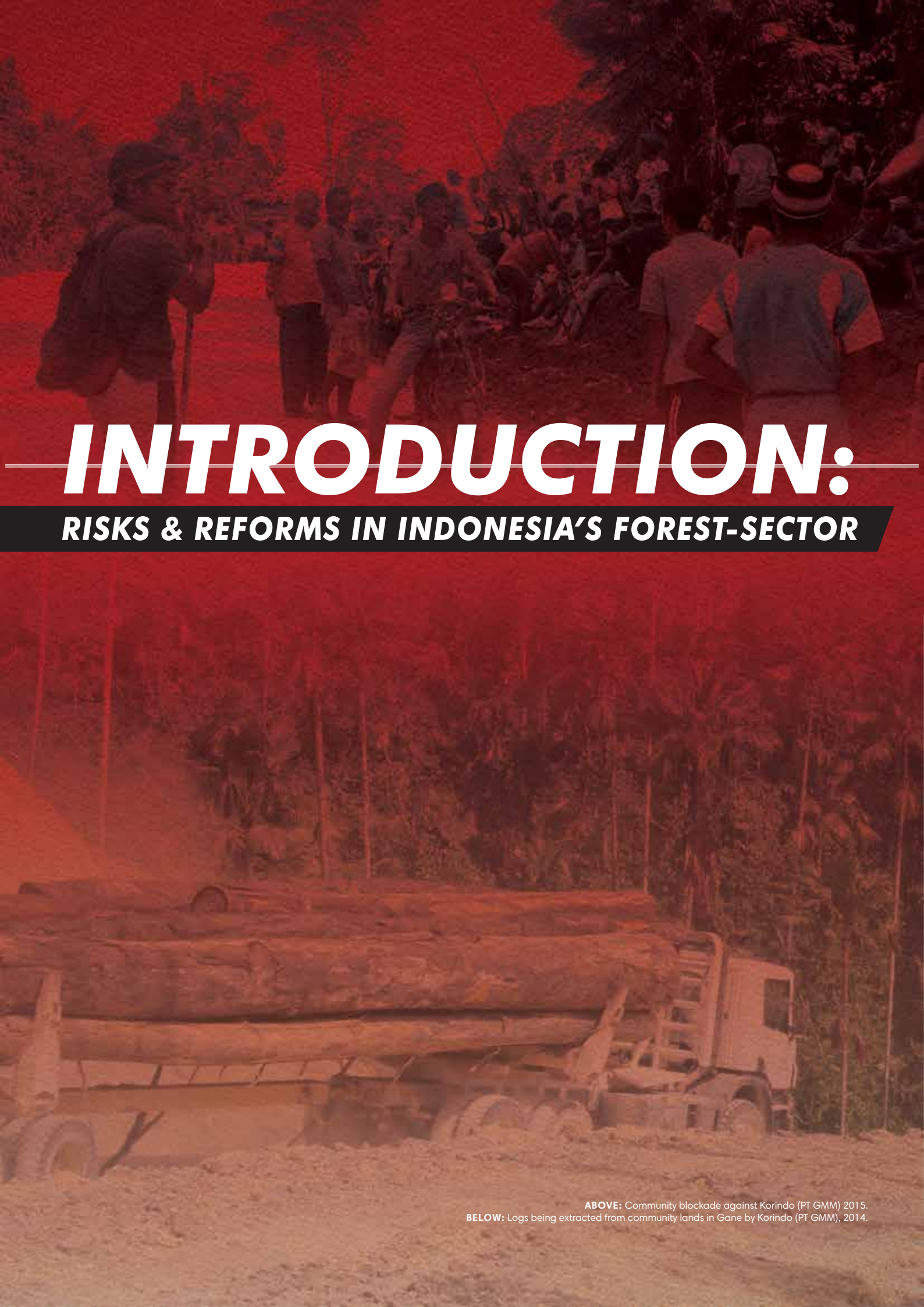


At the end of 2017, BNI had outstanding loans to Korindo's agricultural division totaling USD 190 million. Financiers are decisive enablers — or inhibitors — of illegal and destructive behaviours of clients. To comply with new Indonesian financial sector regulations, banks such as BNI are obliged to address major social and environmental issues connected to its lending. Banks that ignore these fundamentals, as BNI appears to have done in relation to Korindo, put themselves at a heightened reputational and financial risk, as well as being at risk of regulatory non-compliance.

Korindo subsidiaries like PT GMM are prime cases for permit review and revocation, under President's Jokowi's September 2018 oil palm moratorium. Additionally, the group as a whole is sitting on Indonesia's second largest land-bank of 'stranded assets'; areas of forest that may not be able to be developed into plantations in the face of domestic and international reforms and regulatory changes. The material impacts of these developments should be of serious concern to Korindo's creditors and investors.

Indonesia's authorities must take decisive action to investigate and hold Korindo and its executives to account. Illegally obtained land should be returned to local communities, forests and farms restored and affected workers compensated. Korindo's financiers and customers should suspend business links until there is fundamental and verified reform of the group's forest-sector operations. And banks like BNI that finance Korindo and other forest-sector companies must introduce and implement rigorous environmental, social and governance policies in support of new financial sector regulations and international best practice.

The findings in this report were put to Korindo for their comment and response, between June and November 2018. Korindo insists that it operates in full accordance with all laws and regulations and that it is a leader in sustainability. Detailed responses were received on many issues raised, however the company did not respond to some key issues and refused to provide several important documents that are required to verify some of Korindo's claims. A summary of responses received from the company have been incorporated into the report where appropriate.



INTRODUCTION:

RISKS & REFORMS IN INDONESIA'S FOREST-SECTOR



ABOVE: Community blockade against Korindo (PT GMM) 2015.

BELOW: Logs being extracted from community lands in Gane by Korindo (PT GMM), 2014.

LAND GOVERNANCE LEGACY

Indonesia's late President Suharto (ruled 1968–1998) pursued an 'open for investment' policy that encouraged investors to exploit the country's forest areas. He decreed that Indonesia's forests were owned by the state, ignoring the traditional rights of Indigenous communities (masyarakat adat) to customary land, enshrined in Indonesia's constitution. Companies linked to Suharto and his business partners acquired licenses to exploit vast areas of Indonesian forest, with profits and bribes being funnelled to the President and his family to satisfy personal and political expenditures.¹ Suharto's policies have cast a long shadow, resulting in a legacy of grossly concentrated control over land and resources, captured by politically-connected tycoons.²

After Suharto's downfall in 1998, Indonesia's new political system of regional autonomy shifted considerable authority over land and resources from Jakarta to district governments. New district patronage networks emerged and local corruption flourished. Bupati candidates (district regents), seeking large political war-chests for elections formed patronage networks with opportunistic companies hungry for land and resources in their district. Research by Indonesia's anti-corruption agency (KPK) revealed the number one demand on Bupati candidates from their political donors was access to business permits.³ KPK has secured high profile convictions of district level officials who have solicited payment for issuing illegal permits and re-zoning land. Such activity has been shown to spike around election years.⁴

These opportunistic patronage networks, together with weak local institutions that should monitor and intervene in cases of irregular permit issuance and transgression, has created a permissive environment where illegality is often the norm rather than the exception. For instance, many plantations operate without the necessary permits, often on land contested by customary landowners, or exploit areas beyond their agreed boundaries. This report examines in detail one such case. It demonstrates how the Bupati of South Halmahera in the province of North Maluku, ignored laws and regulations, arbitrarily issuing business permits to a logging and plantation company. This set the scene for a protracted conflict with community landowners, and caused irreversible damage to their livelihoods and the environment. Korindo is currently attempting to expand its operations deeper into the forests of North Maluku, which threatens to escalate conflict with local communities and destroy new areas of natural forest.



Korindo (PT GMM) using open burning to clear land in Gane, 2014.

PERMIT TRANSPARENCY AND LAND CONFLICT

Indonesia's complex framework of overlapping legislation has created chronic problems of transparency, enforcement and coordination. A major stumbling block is the lack of accessible public information on spatial plans and on which companies have permits over what exact area. a common transgression is operating without 'Land Use Rights (HGU)⁵ or encroaching beyond the boundaries of the HGU, as has been the case in Korindo's North Maluku operations.

Indonesia's National Land Agency (BPN) has blocked public access to HGU data for years, nurturing a sector which operates with legal ambiguity. This has fuelled land-grabbing, social conflict and damage to the environment. The BPN had also blocked a request for similar data from another government department, but only conceded with intervention from the anti-corruption agency.⁶

In 2017, the Indonesian Supreme Court ordered the Ministry of Land to make all HGU licenses publicly available, and in 2018, the Papua Commission on Information also ruled that its provincial land agency open up information on palm oil concessions to the public.⁷ Despite this decision from Indonesia's highest court, the Land Ministry is still dragging its heels on releasing the data, citing 'technical challenges' of revenue generation.

While lack of transparency prevents a full assessment of the extent of the problem, studies show that legal compliance of forest clearance activities in the establishment of plantations in Indonesia cannot be assumed, even by well-established companies.⁸

Weak governance and arbitrary issuance of licenses has led to widespread land rights violations in the forestry and plantation sectors; both violations of indigenous communities' constitutional rights, and other community land rights. Indonesia's National Land Agency calculated in 2010 that there were 9,500 land conflicts across the country, while in 2011, the Ministry of Forestry calculated that 16.8 million hectares of land was deemed subject to conflict, with active disputes affecting over 1.2 million hectares.⁹ In 2016 alone, the office of the President's Chief of Staff received 268 reports of land conflicts, nearly 75% of these conflicts were linked to plantations.¹⁰



Police photographing community protest against Korindo (PT GMM), 2015. Sign reads "Border of Gane Luar with the company - non-negotiable."

In 2013, Indonesia's Constitutional Court issued a landmark ruling that revoked the state's claim to forest and land customarily held by Indigenous communities.¹¹ This ruling implicitly calls into question the legality of many permits issued over forest areas, in which indigenous rights were not surrendered without proper consent.

Enforcing permit transparency is not just in the interests of communities affected by illegitimate company operations. Banks and institutional investors financing companies without proper legal tenure or problematic valuations for their plantations are leaving themselves exposed to financial and reputational risks (see page 36). Contested land claims resulting from invalid permitting processes puts any operations (and investments) founded on such assets at a very high risk of being encumbered by conflicts, suspension of operations and asset devaluations.

A bank will routinely check whether a real-estate developer has unencumbered tenure over a plot of land, and has planning permission to build, as part of their decision whether to finance or not. In the forest-sector, banks are failing to ensure timber and plantation companies can prove their operations are in full compliance with Indonesian law, indicating either a lack of expertise within banks or a willingness to provide financial services without doing such basic legal checks.

Such baseline checks on legality would also be in line with Indonesian government legislation¹² which established the Indonesian Sustainable Palm Oil (ISPO) standard, and which aims to verify all plantations in Indonesia against the main legality standards, including HGU. As such, permit due diligence by banks can help catalyse legality of the palm oil sector. Despite aiming to have 100% of Indonesia's plantations ISPO certified by 2014, ISPO has only been able to certify 17% of plantations to even this weak standard.¹³



Arial view of Korindo's forest clearance and wood stacking operations in Papua, 2016.

STRANDED ASSETS

The Indonesian government is pushing to improve legality and transparency in the palm oil sector, potentially exposing those companies who are operating, or have operated illegal plantations. In addition, President Jokowi announced in September 2018 a three-year moratorium on the issuance of palm oil permits and a review of the existing permits.¹⁴ The status of Korindo's concessions, which cover vast areas of natural forest, including primary forest, will certainly be at risk in this exercise.

Aside from permit legality, many palm oil companies are sitting on large land banks containing natural forest and peat land, which cannot be developed without breaching market demands for 'no deforestation, no peat, no exploitation' (NDPE) palm oil. These peat land and forested assets are likely to become 'stranded': assets on company balance sheets subject to devaluations, or conversion to liabilities. Chain Reaction Research states that Indonesia's palm oil sector is estimated to be sitting on 6.1 million hectares of forest, peatland and peat forest which are "stranded assets".¹⁵

Of this, Korindo is calculated to have the second highest level of stranded assets of any palm oil producer in Indonesia, with nearly 150,000 ha that cannot be developed without destroying peatland, peat forest or forest cover.¹⁶ In 2016, major palm oil traders including Musim Mas and Wilmar suspended their supply agreements with Korindo over evidence of its massive forest clearance in Papua.¹⁷ Since then Korindo claims to have suspended further forest clearance and implemented a NDPE policy.¹⁸ If adhered to, this policy would prevent Korindo from developing much of its landbank, causing a significant devaluation of its plantation assets. This is a serious risk to Korindo's business partners, and financiers like Bank Negara Indonesia (BNI) which in Q3 2017 had USD 190 million in outstanding loans to Korindo's agriculture division. BNI has increased its exposure to Korindo by 19% in the period 2016–2018.



Resident of Gane Dalam village surveying soil erosion from Korindo (PT GMM) clearance of community land and forest, 2016.

TAX ABUSE

While the Indonesian oil palm sector tax contribution is significant, it is relatively low compared to other sectors in Indonesia, with a tax-to-GDP ratio of only 3% compared to a national sector average of 12%.¹⁹ The country's former director-general of taxes, Sigit Priadi Pramudito stated that major commodities companies, including palm oil companies, are avoiding corporate taxes through artificial international invoicing mechanisms known as transfer pricing.²⁰

The most prominent prosecution of such behaviour in Indonesia concerned the prosecution of Asian Agri group, the palm oil affiliate of Singapore listed Royal Golden Eagle Group which in 2012 was ordered to pay more than USD 440 million in fines and back-taxes. Authorities claimed that Asian Agri used a labyrinth of shell companies in offshore jurisdictions including British Virgin Islands and Hong Kong to manipulate invoices to artificially reduce profits in Indonesia and shift them offshore.²¹

This report demonstrates how Korindo maintains a network of offshore shell companies in tax havens including Singapore, Hong Kong, British Virgin Islands and Curacao. This complex structure may have been used by Korindo to hide financial information, disguise the ownership of Korindo subsidiaries, and gives rise to the potential for tax abuse.

In 2017, Indonesia introduced new transfer pricing laws requiring multinational groups like Korindo to prepare country-by-country reports, showing how much tax it pays in each country of operations, group wide structure and balance sheets.²²

“We are aware that many palm oil plantations are located within the natural forests...From ministries to regents, [they all] have been ordered to review the forest permits for [oil palm] plantations”

– **Prabianto Mukti Wibowo, Office of Economic Coordination**, 19 SEPT 2018



PHOTO: NANANG SUJANA / RAN

An aerial photograph of a tropical bay. In the foreground, a steep, rocky cliff with green vegetation on top meets the water. A large, multi-decked ferry boat is docked near the shore. Numerous sailboats of various sizes are scattered throughout the turquoise water. In the background, a large, forested island is visible. The sky is a deep blue.

KORINDO

IN THE CARIBBEAN

Korindo Group financing and ownership is concentrated in the British Virgin Islands, a tax haven in the Caribbean.

PHOTO: AERIAL-MOTION / SHUTTERSTOCK

OVERVIEW OF GROUP OPERATIONS

Korindo is a privately owned conglomerate founded by South Korean businessman Eun-Ho Seung in 1969. Over the subsequent three decades, Eun-Ho Seung developed Korindo into one of Indonesia's largest logging and plywood companies.²³ An important business partner for Korindo during their expansion was Mohamad 'Bob' Hasan, who was a shareholder and director in Korindo's paper company — PT Aspex Kumbong.²⁴ Hasan was a central proxy for corrupt money funnelled to Indonesia's then President Suharto and his family, and in 2001 he was jailed for the theft of USD 243 million from the state.²⁵ Despite his conviction, Hasan remained a business partner of Korindo until 2017.²⁶

Korindo remains a tightly controlled family conglomerate with business entities registered in at least seven countries, with much of the group financing and ownership concentrated in Korindo entities registered in the British Virgin Islands (BVI). Eun-Ho Seung is Chairman and his son Robert Seung is Senior Vice Chairman.²⁷ Having no publicly listed companies, this family-run conglomerate publishes little information on its business and finances. Rather than being transparent regarding the totality of the Korindo's forest-sector operations, it prefers to create cosmetic separations between its various companies. For instance Korindo-owned 'Tunas Sawa Erma' appears on its website to be an independent palm oil group, making no mention of being part of the Korindo Group.²⁸

The Korindo Group controls oil palm concessions totaling nearly 160,000 ha, all of which are in frontier provinces of Papua and North Maluku, and has plans to develop a 27,000 ha rubber plantation in Maluku Province.²⁹ It operates a 94,000 ha pulpwood plantation in Central Kalimantan and 525,000 ha of logging concessions in Papua and Kalimantan. Korindo is a major Indonesian plywood producer, exporting around 4 percent of Indonesia's total exports. Its mills are located in East Kalimantan (PT Balikpapan Forest Industries), Central Kalimantan (PT Korindo Ariabima Sari) and Papua (PT Korindo Abadi) and its major plywood markets are Saudi Arabia, Japan, United Arab Emirates and Belgium.

Based on Korindo's declarations made to the Indonesian Ministry of Environment and Forestry, nearly half of the wood that Korindo manufactured into plywood in 2016 and 2017 appears to have derived from forest clearance, so-called "conversion timber". Logs cut during forest clearance for Korindo's plantations are one of the major sources of timber to its mills. Korindo is estimated to have cleared over 30,000 ha of natural tropical forest in the period since 2013–2016 and 23,000 ha before 2013. Its plantation licenses today contain at least 150,000 ha of natural forest under threat of conversion. Globally, 71% of tropical deforestation results from forest conversion for commercial agriculture, and Korindo's reliance on conversion timber for its plywood supply demonstrates the lack of sustainability of its timber products.

Korindo group has used open burning as a method to clear land before planting, which is illegal in Indonesia.³⁰ It has also utilized this technique in its pulpwood project operated by PT Korintiga Hutani, where its environmental permit was temporarily suspended in 2015 due to breaches of environmental regulations and fire incidents.³¹ Its operations have involved land grabbing and serious community conflicts, including company involvement in violence against Indigenous communities in areas of operation.³²



EUN-HO SEUNG

CHAIRMAN



ROBERT (BEOM SOO) SEUNG

SENIOR VICE CHAIRMAN

CORPORATE WEB AND SECRECY

While Eun-Ho Seung and his son Robert are the public face of Korindo, they publish little information on the operations of its companies in Indonesia and its offshore tax havens. Korindo's Indonesian operations are managed as a complex maze of interconnected subsidiaries that own stakes in each other, a technique of cross or circular ownership that makes it difficult to identify who the ultimate beneficial owners of a given subsidiary are. Figure 1 is a graphical representation of circular ownership in Korindo's forest sector entities, and related holding companies in Singapore, Hong Kong and the BVI. Such convoluted structures are high risk for investors and financiers undertaking 'Know Your Customer' (KWC) checks. In one instance, Korindo's appointed auditor failed to agree with Korindo directors as to who actually owns one of its major subsidiaries.³⁴ Behind Korindo's Indonesian corporate maze are several layers of offshore companies which should also raise red flags.

The case of PT Balikpapan Forest Industries (PT BFI) demonstrates why Korindo's opaque ownership structures should raise corporate governance red flags. PT BFI is one of Korindo's main plywood mills. Situated in East Kalimantan, this mill has sourced logs from Korindo's illegal plantation in North Maluku and from PT Tunas Alam Nusantara, a third party timber supplier clearing Orang-utan habitat in East Kalimantan. PT BFI manufactures and exports plywood to the EU and Japan, where its plywood has been used in the construction of venues for the Tokyo 2020 Olympics via the Japanese timber and building materials trading company Sumitomo Forestry, as outlined in the report *Broken Promises: A case study on how the Tokyo 2020 Olympics and the Japanese financial sector are fueling land-grabbing and rainforest destruction in Indonesia*, November 2018.³⁵

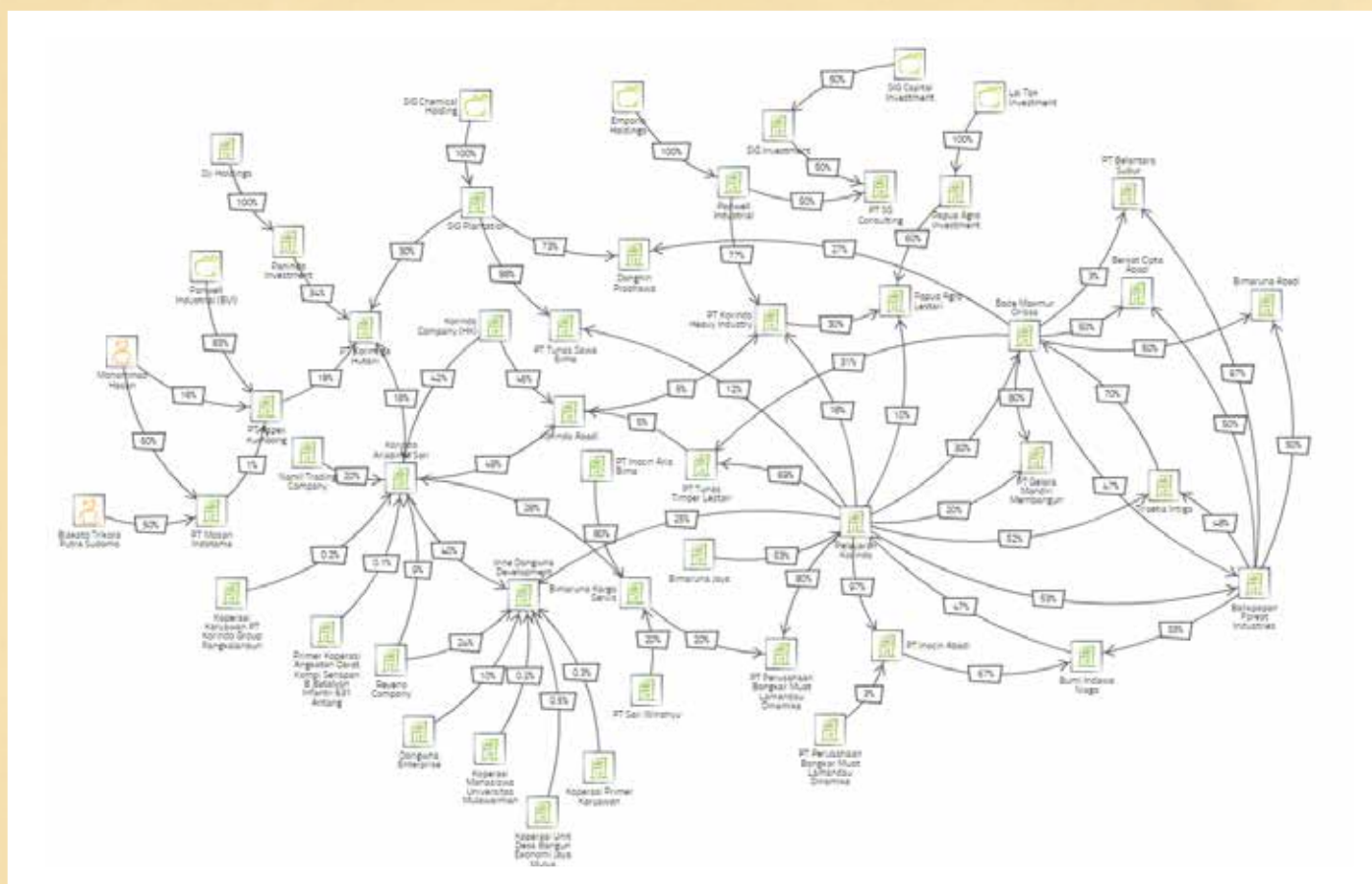


FIGURE 1: CONVOLUTED CIRCULAR OWNERSHIP OF SOME KORINDO FOREST-SECTOR SUBSIDIARIES IN 2016³³

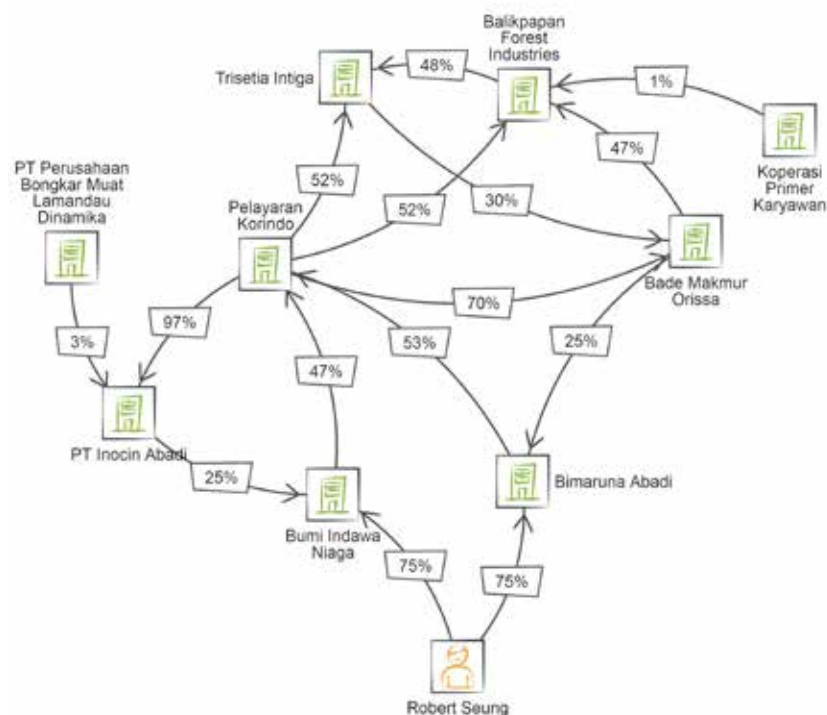


FIGURE 2: ROBERT SEUNG'S MAJORITY OWNERSHIP OF BALIKPAPAN FOREST INDUSTRIES THROUGH A SERIES OF COMPLEX INDIRECT STAKES

vi) Other receivable

The company has claimed that PT Balikpapan Forest Industries is not related party. We were unable to verify their relationship and disclosure according to FRS 24 requirements. The loan to PT Balikpapan Forest Industries was amounted to US\$2,073,200 as at 31 December 2016. The management has yet to carrying out impairment assessment. Due to insufficient appropriate evidence, we are unable to determine the recoverability of the outstanding balances and accordingly, whether any provision for impairment is required.

Extract of auditor statement of Korindo subsidiary SIG Plantation Pte Ltd, demonstrating Korindo had falsely declared that PT Balikpapan Forest Industries was not a related Korindo company.

Figure 2 zooms in on the ownership structure of PT Balikpapan Forest Industries (PT BFI). Korindo's Vice Chairman Robert Seung is not a director or commissioner of PT BFI and at first glance he appears to hold no shares in the company. However, he indirectly owns over 98% of PT BFI through a series of intricate circular shareholdings.³⁶

This deliberate opacity appears to have been used to camouflage transactions within the Korindo Group. For instance, in 2014 PT BFI received a loan of over USD 2 million from a Singapore company called SIG Plantation Pte Ltd (SIG). Robert Seung is a director of SIG and his father Eun-Ho Seung a shareholder. This loan was therefore clearly a 'related party transaction'. Yet in SIG's financials statements prepared by Robert Seung, it claims that PT BFI is *not a related party*.³⁷ Providing false and misleading information breaches Singapore Company law, punishable by fine or imprisonment of up to 2 years, or both.³⁸ Cross-border transactions between related parties attract a greater level of scrutiny because they can be used in international tax evasion schemes. By misreporting that PT BFI is not a related party, SIG is likely attempting to deflect attention from this related party transaction.



All Korindo shell companies in Singapore are registered to a single office in International Plaza, 10 Anson Road.



Fire and resulting haze from forest and peat fires in Indonesia is a public health and ecological disaster across Southeast Asia.

TAX HAVENS AND FINANCIAL MISREPORTING

SIG Plantation Pte Ltd in Singapore is just one of a number of offshore shell companies that form part of Korindo's offshore corporate structure. These investment-holding companies are used to hold shares in, and finance its operations in Indonesia.

These offshore companies are run in an opaque and secretive manner, with several of its Singapore subsidiaries breaking company reporting laws in Singapore. Analysis of four key Korindo companies in Singapore - which have financed Indonesian forestry operations with at least USD 177 million since 2011 - show that they routinely fail to produce consolidated financial statements that would reveal the true financial position of Korindo's shell companies in Singapore and their parent companies in British Virgin Islands (BVI). This may be in violation of the Singapore Companies Act.³⁹

This is even more concerning given that these four companies have total liabilities of USD 163 million, and their auditors are either providing an adverse opinion on the accounts prepared by Korindo management, or are unable to provide an audit opinion because they do not have access to adequate financial information.

In response to these allegations, Korindo stated *"although required to consolidate financial statement under IFRS [International Financial Reporting Standards], additional audits cost much more; no investor or financial institution has demanded such a costly additional expense."*

In 2016, the Indonesian government embarked on a Tax Amnesty program which gave Indonesian companies and individuals the opportunity to declare foreign assets hidden from the Indonesian tax authorities in countries like Singapore, Hong Kong and British Virgin Islands,⁴⁰ and repatriate them back under favourable terms, and without criminal sanction.⁴¹

Around the same time, Korindo restructured the ownership of a number of its oil palm and timber companies, and in doing so revealed Eun-Ho Seung as the beneficial owner of a number of British Virgin Islands shell companies that had invested USD 177 million since 2011 (See Page 39).

Korindo has confirmed that this restructuring exercise was connected to their participation in Indonesia's tax amnesty program, yet emphasized this was *"through an official, open and transparent and public process"*. Korindo has not provided any information on the value of assets it declared or has repatriated as part of the scheme, nor did it provide an explanation as to why it would need to take part in a tax amnesty program if its tax affairs were entirely legal.

Korindo's Chairman, Eun-Ho Seung is currently under investigation by the South Korean tax authorities, who accuse him of evading USD 47 million in taxes from the group's businesses in South Korea and Indonesia. The authorities suspect that the group used offshore shell companies incorporated in tax havens using nominees to evade tax.⁴² In response to these allegations, Korindo has stated its offshore companies *"are not evading taxes, facilitating corruption and money laundering, or engaging in any illegal conduct"* and that in relation to the South Korea issue, the *"dispute"* concerns whether or not Eun Ho Seung is a tax resident in South Korea.

In our opinion, because of the significance of the matter discussed in the Basis of Adverse Opinion paragraph, the financial statements of the company do not give a true and fair view of the financial position of the company as at 31 December 2016 and the financial performance, changes in equity and cash flows of the company for year then ended in accordance with the Provisions of the Act and Singapore Financial Reporting Standards.

Adverse opinion declared by an auditor of Korindo's Panwell Industrial Pte. Ltd financial statements, 2016.

KORINDO

IN NORTH MALUKU

Smouldering wood debris after Korindo's PT GMM forest clearance and use of fire, observed by members of the Gane community on their land, 2014.

Indonesia's Eastern Province of North Maluku is situated in the bio-geographical region of Wallacea, rich in endemic flora and fauna, including the spices like nutmeg, mace and cloves. North Maluku has suffered from degradation and environmental pollution from excessive mining. However, unlike other Indonesian provinces, is yet to experience high levels of deforestation and retains the highest level of natural forest cover, relative to landmass, of any province.⁴³

Korindo's subsidiary PT Gelora Mandiri Membangun (PT GMM), threatens to open the floodgates of land grabbing and deforestation for oil palm in North Maluku. In South Halmahera district, Korindo's oil palm project faces widespread opposition from community landowners for razing their farms and forests without consent, and failing to meet basic legal requirements. Korindo is now attempting to cement its occupation by constructing an oil palm mill, and expanding its plantation into adjacent areas of community farms and forest. This plantation, in an area known as Gane⁴⁴ exemplifies the corporate practices that taint Indonesia's oil palm sector. It shows how opportunistic companies exploit weak local government to gain access to valuable timber and land, destroying existing economic activity and causing irreversible social and environmental impacts.



“I was harvesting rice and corn. Suddenly the heavy machinery came to clear the land. I got on the heavy machinery yelling, “don’t you dare clear my farm... I asked, who sent the orders? The operator said that the company gave the instructions. I said, I don’t want them to clear my farm. I will protect my land to my very last breath”

– **Yani**, RESIDENT, GANE DALAM

GA NE COMMUNITY LAND RIGHTS

Residents of Gane mostly belong to the ethno-linguistic *Masyarakat Gane* group which traditionally has well-defined community rights to support their agriculture. Their land and forest ownership is found in historical records that document Gane villages as far back as the 1600s, with detailed accounts from 1858.⁴⁵ Traditional land ownership is protected under Indonesia's constitution, which recognizes and respects customary law communities, protecting their existence and rights.⁴⁶ Gane is a region established by law, and the people have managed their farms and forests for centuries. In addition, Indonesia's Land registration laws⁴⁷ and Civil Code⁴⁸ also show that the Gane community meets legal requirements to be regarded as the rightful *de facto* land rights holder, and cannot be forced to prove title to their land. Land and forest ownership by the Gane community has been established in good faith, without prior disputes with anyone.

With this legal certainty the Gane community are the legitimate tenurial rights holder of Gane's land and forest. Therefore, any investor seeking land owned by the Gane community must⁴⁹ obtain the consent from the current rights holders, before they can develop the land for a plantation.

Today, the Gane community manage their farmlands as their primary source of income through agriculture commodities including cloves, nutmeg and coconut (copra). While fruits from Gane's coastal mangrove forests are also harvested and processed into food products by local cooperative Mo Det Hapso, allowing the community to sustain a forest-dependent cottage industry. The peninsula's dense inland forests provide communities with a sustainable source of food, medicine, materials and clean water.



Message of resistance against Korindo (PT GMM) painted on the side of a house in Gane Dalam, 2016.

The Indonesian government is open to investment in large-scale plantations, but to invest and operate their business, every investor must follow and comply with every step of the business licensing process. As detailed in Annex , there are specific sequential steps that a company must follow. These include obtaining a location permit, Environmental Impact Assessment Permit (AMDAL), Plantation Business License (IUP) and Land Use Right (HGU). If one step is incomplete or obtained improperly, the operation will be in violation of the law and subject to administrative, civil or criminal penalties. There is strong evidence to indicate that PT GMM/Korindo has violated a number of plantation business license regulations.

AN ILLEGAL LAND GRAB

Indonesian law states that plantation companies must have 'Land Use Rights' (HGU) before they begin planting.⁵⁰ Before applying for HGU, the land must be unencumbered ("clean and clear" in Indonesian) of existing land rights. To achieve this a company must first obtain a Location Permit (Izin Lokasi) over a desired area of land. Prior to issuing a Location permit, there must be consultation with community land rights holders and permits issued without such consultation is a violation of the law.⁵¹ A Location Permit allows a company to negotiate and acquire land from existing owners through lawful purchase and compensation agreements.⁵² Korindo acknowledges that "all" the 11,100 ha it sought for its plantation was subject to claims of community ownership, but maintains that "such claims were not appropriate in light of Indonesian law and customs".⁵³ As outlined above, this position appears to be entirely without legal basis.

Location Permits are not a right to land and prior to land acquisition, the permit holder is prohibited from using or developing the land, or restricting others' access to it. PT GMM obtained a Location Permit in 2011 and commenced logging and land clearing in 2012.⁵⁴ Yet PT GMM's records, provided by Korindo, show that at this time the company had not reached a single agreement with community landowners. These facts indicate clear legal violations.

Location permits also stipulate a time limit for land acquisition, typically three years from the date of issuance.⁵⁵ PT GMM's records show that by May 2014 - the deadline for land acquisition under its location permit⁵⁶ - Korindo had only managed to obtain compensation agreements for just 412 ha, or 4% of its proposed license area.⁵⁷ By this time, Korindo had already illegally cleared and planted 3,673 ha of land (see satellite image 2 in the figure below indicating forest clearance over time, by PT GMM). By 2017, three years after its window for land acquisition had expired, these same records purport to show compensation payment for just 2,283 ha of land (only 22% of its license area). However, since its Location Permit became invalid in May 2014, all the land acquired after this date was procedurally defective.



FIGURE 3: FOREST CLEARANCE AND OIL PALM PLANTING BY KORINDO'S PT GMM WITHIN GANE COMMUNITY TERRITORY, NORTH MALUKU, 2012-16

The documents underpinning Korindo's claims of land acquisition and compensation are themselves also legally flawed and defective. The company states that it considers "rightful compensation" to be based upon Memoranda of Understanding (MoU) signed in 2013 between its representative and a minority of residents from seven affected villages. These MoU bind signatories to "admit" that PT GMM has Land Title (HGU) over the area in exchange for conditional agreement not to raze their farms. PT GMM did not have any Land Use Rights (HGU) at this time. Therefore this is the opposite of the proper legal process, whereby a company negotiates and acquires rights from community landowners. The agreements also imply that only those who accept or acquiesce to Korindo's occupation of the area are legitimate landowners with pre-existing land rights. Moreover the signatories include a small minority of names from each village. For example, Gane Dalam's MoU contains only 22 signatures out of a population of 283 families (or 1,213 residents).⁵⁸ By contrast, over 400 landowners from five villages (including 120 from Gane Dalam) wrote to relevant ministries in 2016 urging them not to grant 'land rights use' (HGU) to PT GMM.⁵⁹

In 2016, National Land Agency (BPN) confirmed that PT GMM *did not have* HGU,⁶⁰ meaning it had been clearing and planting illegally since 2012. Letters sent by Korindo in 2018 imply that they have *applied* for HGU with modified boundaries. Despite HGU being public documents, Korindo refuse to clarify details on whether the HGU was issued and when. Satellite analysis indicates that PT GMM has, however, already cleared well beyond the boundaries of its proposed HGU, including 231 ha near Sekely village in 2015.



Excavator operated by Korindo's PT GMM clearing community forests in Gane, 2016.

INVALID PERMITS AND ALLEGED FRAUD

Alongside acquiring land during the period of its Location Permit, a plantation company must also conduct a mandatory social and environmental impact assessment (AMDAL).⁶¹ Only when the AMDAL is approved by a technical committee can a plantation company apply for a Agricultural Business License (IUP).⁶² Once this IUP is issued, the permit holder must then secure tenure to its proposed plantation land through issuance of a Land Use Rights (HGU) permit within two years.⁶³

Communities and local NGOs complain that PT GMM flouted every step of this process, first being issued with an Agricultural Business License (IUP) in 2006 without having conducted a Environmental Impact Assessment (AMDAL) and without engagement with affected Gane communities.⁶⁴ The company did not even begin its AMDAL process until 2010, four years after being issued with an IUP. As such, PT GMM's IUP has always been non-procedural and void. As stipulated by law, after PT GMM's IUP issuance in 2006, it was required to secure 'Land Use Rights' (HGU) by 2008.⁶⁵ As PT GMM did not obtain HGU until 2016 at the earliest, its HGU should be considered invalid, which was a cumulative violation on top of an already invalid IUP.

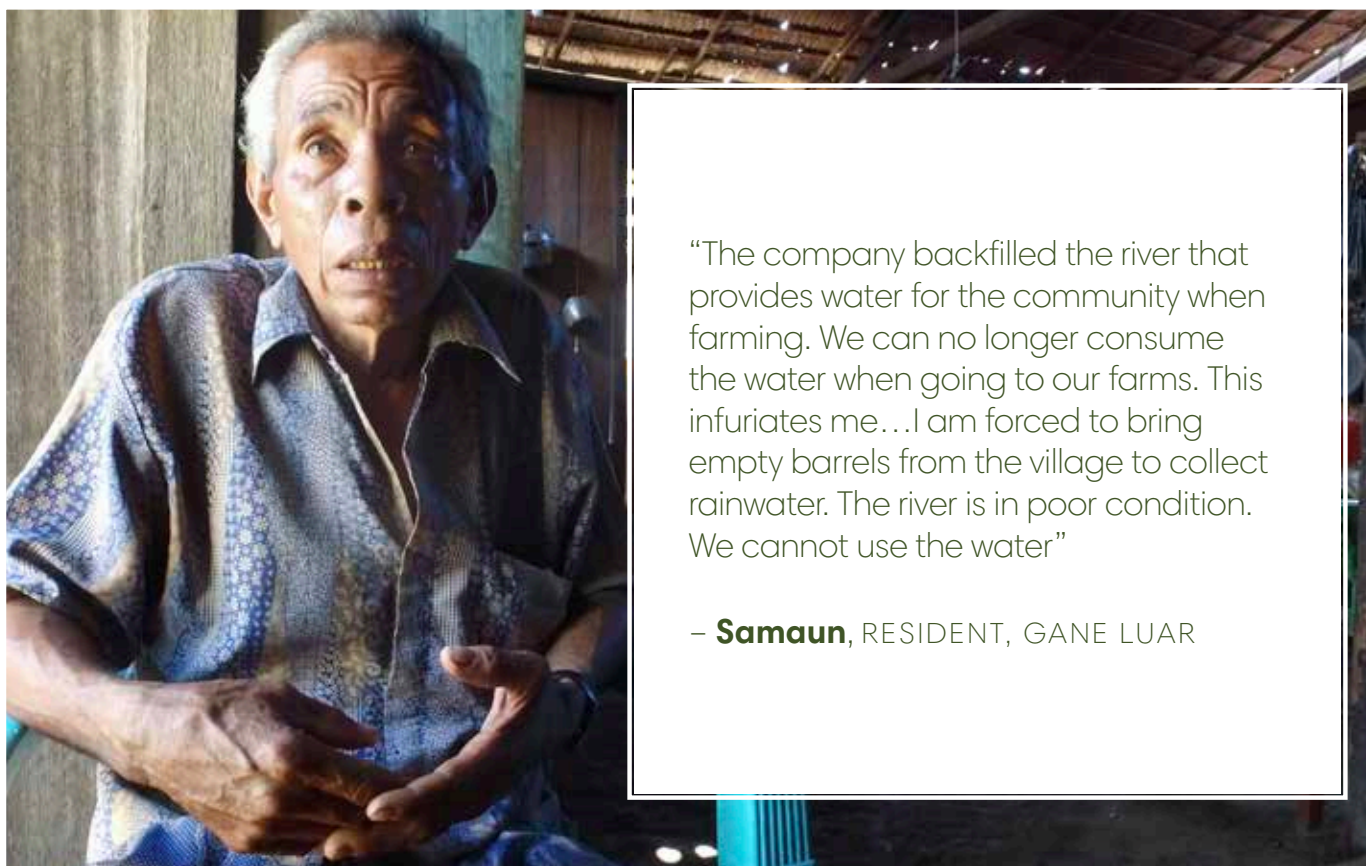
"For the past year I would not give up my land, not even an inch. This is my life. But they have already planted oil palm... I told the company people to stop, but they would not listen. Korindo said it had bought the land from the government."

– **Mico**, RESIDENT, GANE DALAM



Indonesian law and regulations state that an Environmental Impact Assessment (AMDAL) must seek the views of affected communities and other stakeholders in a *transparent manner*.⁶⁶ However, Gane landowners allege that PT GMM fraudulently misrepresented community support for the project. In 2010, the company invited several village heads to a presentation of its AMDAL, which reportedly contained no explanation of the environmental impacts of the project, and was rejected by three village heads from both Gane sub-districts. Nevertheless, PT GMM proceeded to 'socialize' this sub-standard report to some affected villages. Community landowners from three villages refused to attend these meetings, but they allege that their signatures were later forged on documents of attendance, an apparent violation of Indonesia's Criminal Code.⁶⁷ These documents were used by PT GMM to fraudulently claim community support for their project as part of their AMDAL application. This fraud was highlighted by the Government's Human Right Commission (KOMNAS-HAM) who recommended "*transparent, effective and accountable investigation process*".⁶⁸ Despite the alleged victims filing a police report, there has been no investigation.⁶⁹

Korindo maintain that when they bought PT GMM in 2011, the former proprietor had obtained "*all licenses*". It did not comment on specific questions relating to the company's systematic breach of Indonesian laws and regulations, in obtaining its licenses. Nor did it respond to allegations that its AMDAL submission contained fraudulent signatures of community landowners. Korindo stated that it "*does not use any illegal wood*" and pointed to its timber 'legality certificates' under the Indonesian Timber Legality Assurance System (SVLK). However, since Korindo's operations in Gane were founded on permits issued in violation of Indonesian law, any timber extracted should be considered illegally-harvested.



"The company backfilled the river that provides water for the community when farming. We can no longer consume the water when going to our farms. This infuriates me... I am forced to bring empty barrels from the village to collect rainwater. The river is in poor condition. We cannot use the water"

– **Samaun**, RESIDENT, GANE LUAR

CONFLICT AND VIOLENCE

The failure of the South Halmahera government to halt PT GMM from operating meant that local landowners took steps to stop their forests and farms being cleared. In 2013, they set up a blockade. In response, Korindo secured the cooperation of local police, who raided villages, arresting 15 residents from Gane Dalem, Sekely and Awis villages who took part in the protest, charging them with destruction of property and objectionable behaviour. After two months detention awaiting trial, they were eventually acquitted due to insufficient evidence. This began a pattern of intimidation by the police, who have set up a station in the PT GMM camp. The 2013 detention of residents was the subject of a complaint filed with the National Human Rights Commission (KOMNAS HAM), which responded with recommendations for North Maluku Police to “restore allegedly violated community rights” and PT GMM “to ensure that any actions planned and implemented will not harm or violate human rights.”⁷⁰

In 2014, a Korindo employee was struck and injured by an arrow near the village of Gane Luar, while using a bulldozer to clear farms and forest. The Gane Luar community are opposed to Korindo’s operations and claim full rights over the land that the company has cleared in their vicinity. Korindo alerted police to the incident, who arrived several hours later, and detained two residents who were farming nearby. The two community members, one just fifteen years old at the time, were handcuffed and taken to the police station in Korindo’s camp, and then transferred to Bacan Police station.

“From the time we were arrested until we were released was sixty days... After the arrest, the company opened the blockades. Community farms were cleared for the second time, including my farm.... When we were arrested, it hurt us to see what our families had to put up with. They travelled much during those two months... Why were we treated like criminals for fighting for our own land?”

– **Sanusi**, RESIDENT, GANE DALAM



It is alleged that, over the course of 24 hours, they were beaten and subjected to torture in order to elicit false confessions to the arrow incident. The two community members claim that their feet were pinned under a chair leg while police officers repeatedly sat on the chair forcing their weight down on the community members' feet. The fifteen year old boy also alleges that he had a gun held against his leg, as part of police efforts to illicit a false confession. During the detention, the police allegedly told the community members that any attempt to prevent Korindo's activities would result in arrest.⁷¹

While violence against company workers should not be condoned in any situation, the response of the company and police is deeply disturbing. The community believes that the two people were arbitrarily selected, detained and tortured as a message to the whole community against resisting company theft of their land. Korindo responded that *"the police officers arrested 2 suspects in the field investigation and took them to police substation in GMM's main camp for questioning. And they brought the suspects to police station in Bacan next day. All procedures such as finding and investigation of the suspects were sole authority of and conducted by Police. GMM didn't and couldn't intervene in the process"*.

Korindo has been accused of similar abusive tactics in its pulpwood plantation in Central Kalimantan, where its subsidiary PT Korintiga Hutani was accused of mobilizing "hired thugs" to incite clashes with community members, leading to their arrest by the police.⁷²

"The district police chief told us that the land doesn't belong to us, it belongs to the Korean investors"

– **Resident**, GANE DALAM



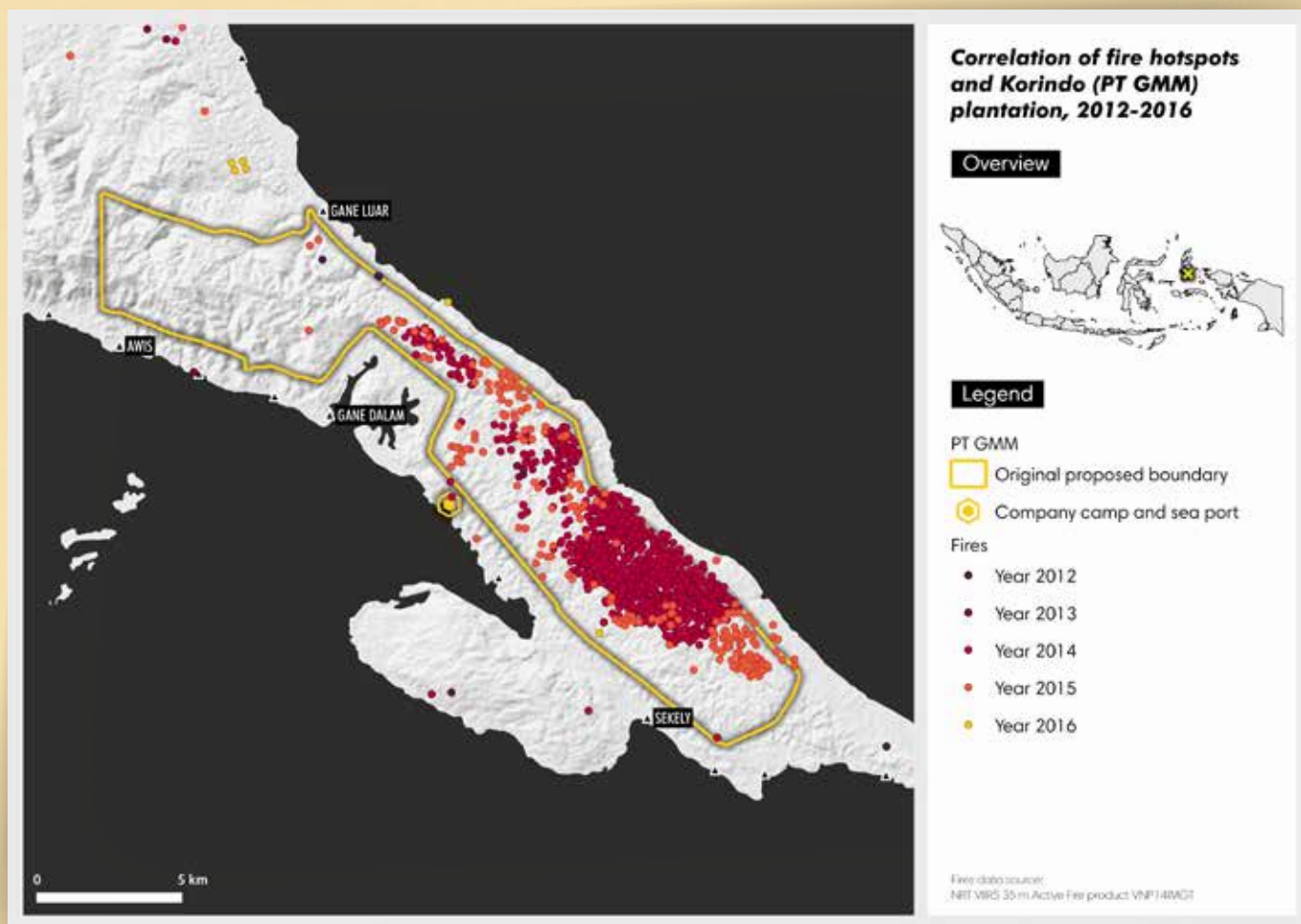
"They kept questioning me, and I didn't know anything. They hit me again, and even crushed my foot under a chair leg... I could not take it anymore and I screamed. There were three police officers interrogating me... They said if you try and stop the company then we will arrest you... [My nephew] said he was also forced to confess, he had a gun held against his thigh"

– RESIDENT, GANE LUAR

ILLEGAL OPEN BURNING

Korindo's land clearing activities in 2012-2016 show a strong correlation with satellite recorded fire 'hotspots' within PT GMM's concession area. In the years prior to land clearing operations, there were no recorded incidents.⁷³ These hotspots indicate 'open burning' of wood debris, an illegal method of land clearance⁷⁴ following deforestation and before planting, which saves considerable time and cost vis-a-vis mechanical disposal.

FIGURE 4: CORRELATION BETWEEN SATELLITE RECORDED FIRE 'HOT SPOTS' IN FOREST AREAS CLEARED BY KORINDO'S PT GMM, 2012-16



Residents of Gane and local activists from Walhi North Maluku documented incidents of open burning near Gane Dalam and Sekely villages in 2014-2015. Residents stated that the fires came from piles of wood debris that company workers had stacked ready for burning.

A detailed investigation of Korindo's land clearing processes published in 2016 also alleged that Korindo systematically used fire to clear land in its oil palm concessions in Papua and North Maluku, finding that in the period from 2013 to 2015, no less than 894 fire hotspots were recorded within Korindo company concession boundaries.⁷⁵ This satellite data was corroborated by aerial photographs showing 'stacking' and burning inside company concessions. In 2015, Korindo's pulpwood subsidiary, PT Korintiga Hutanti also had its license temporarily suspended due to fires.⁷⁶

Open burning causes severe damage to public health and the environment, and is punishable by fines and imprisonment.⁷⁷ This practice has been a major contributor to fires and haze in Indonesia,⁷⁸ which caused major public health impacts across Southeast Asia and cost Indonesia's economy at least USD 16 billion.⁷⁹

In response to the allegations contained in this report, Korindo attached a letter signed 16 February 2016 from the District Forestry Services stating that land clearance in PT GMM *"has been executed mechanically with use of heavy equipment and there has been no any land clearing by fire [sic]"*.⁸⁰ Given the photographs and satellite evidence of open burning in PT GMM, the authors of this report contest the veracity of this local government field inspection, which commented on events 1–2 years prior.

Korindo has publicly denied deliberately using fire as part of its operations and stated that it has no reason or benefit to burn the forest and that some of the fires on its concessions occurred because of drought conditions.

Open burning by Korindo's PT GMM in Gane community land, 2014.





Smoke rising from burning wood stacks in Korindo's PT Berkas Cipta Abadi concession in Papua.
PHOTO: ARDILES RANTE / GREENPEACE; PT BERKAS CIPTA ABADI (KORINDO GROUP), 26 MARCH 2013

EXPANSION AND TIMBER GRABBING

“My coconut farm used to give me one tonne per harvest, but Korindo cleared most my farm so now I only get 200 kg and it’s not enough to sustain my family. So I’ve had to move away to the city, away from my family to find work”

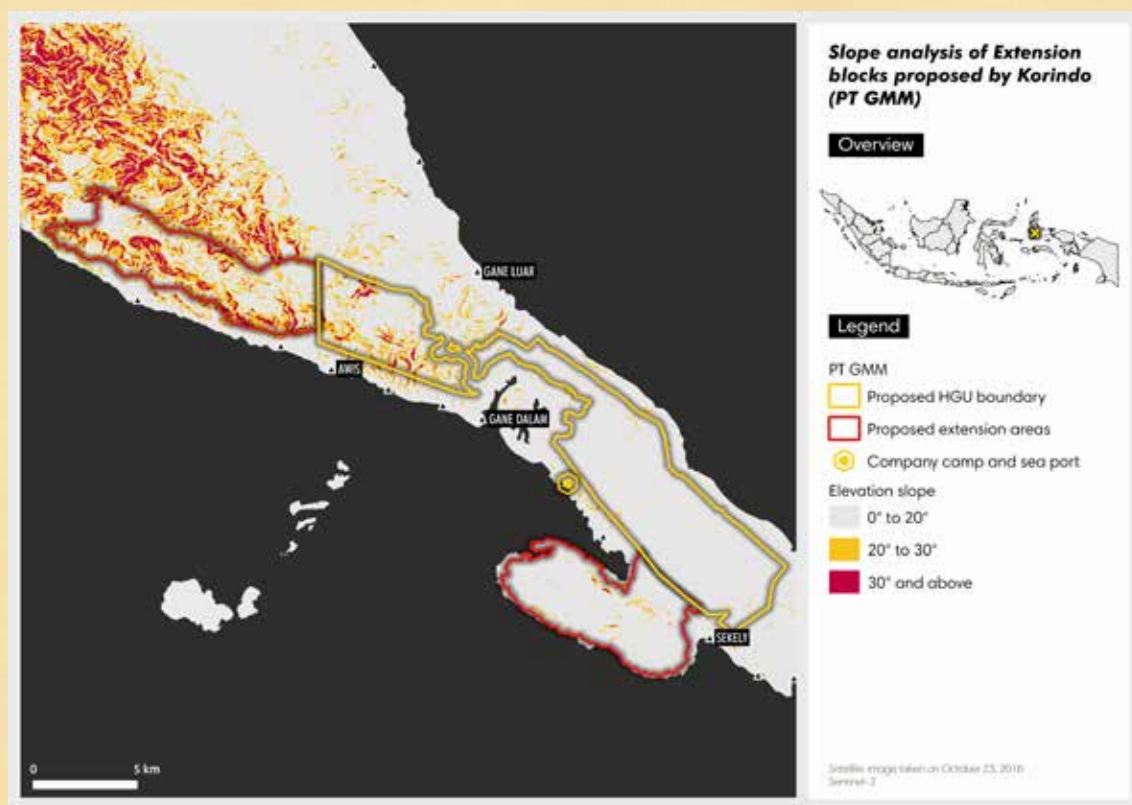
– **Amin Haji Salim**, LANDOWNER, GANE DALAM

Documents prepared by PT GMM in 2017 show that the company is now attempting to expand its logging and palm oil plantation by over 82 percent into two areas to the North and West of its current boundaries, totaling over 7,000 ha.⁸¹ This will encroach further into community land, including the villages of Sekely, Pasipalele and Tawa.⁸² These new areas are dense canopy natural forest with reportedly high concentration of valuable *merbau* timber.

Topographical data shows that the Northern block (Blok Tawa-Pasipalele) mainly consists of steep slopes of over 20 degrees, making it unsuitable for oil palm cultivation because of fertilizer runoff and severe erosion. The prospect of deforesting these two new blocks would, however provide Korindo with a likely lucrative supply of timber to feed its plywood mills.

Korindo's declarations made to the Indonesian Ministry of Environment and Forestry show that Gane has been a major supplier of logs for its plywood mills in East Kalimantan. In 2016, PT Ariabima Sari expected to use 20,000 m³ from PT GMM, making it the mill's second largest wood supplier. In the same year Korindo recorded that PT Balikpapan Forest Industries had used 3,534 logs from PT GMM.

FIGURE 5: NEW AREAS OF NATURAL FOREST, INCLUDING COMMUNITY TERRITORY, THAT KORINDO'S PT GMM IS CURRENTLY TRYING TO EXPAND INTO



FALSE CLAIMS OF SUSTAINABILITY

Korindo insists it is a leader in environmental sustainability and community engagement. Its website claims that it now operates a “no peat, no exploitation, no burning, and no deforestation” policy and does not “develop in High Conservation Value (HCV) or High Carbon Stock Forest (HCS)”. It additionally states that it only offers Indonesian Sustainable Palm Oil (ISPO) certified palm oil, and that its principles are “consistent with the guidelines of the Roundtable on Sustainable Palm Oil (RSPO)”.⁸⁴ However these claims do not stand up to scrutiny as the group still has a landbank of natural forest and peatland covering over 150,000 ha that is under threat of conversion to plantation. Only one of its five operational oil palm plantations⁸⁵ is certified to the weak ISPO standard,⁸⁶ and Korindo group clearly violates RSPO’s core principles.⁸⁷

Following a report by AidEnvironment documenting open burning and deforestation in its Papua operations, two of Korindo’s biggest buyers of crude palm oil, Muslim Mas and Wilmar Group, temporarily stopped sourcing from Korindo.⁸⁸ In September 2017, Samsung also stepped away from a planned joint venture with Korindo in its logistics division.⁸⁹ In response, Korindo announced a moratorium on further deforestation (which it subsequently broke)⁹⁰ and undertook High Conservation Value (HCV) and High Carbon Stock (HCS) assessments of its concession areas. However, it hired a discredited auditor, who had a track record of producing incorrect and misleading audits,⁹¹ and whose license was later terminated by ALS in May 2018 after his reports, including those for Korindo subsidiaries, were deemed unsatisfactory.⁹² As such, credible HCV/HCS assessments are still to be prepared and submitted for several of its oil palm projects including PT GMM.

Korindo’s operations are also in apparent violation of the Forest Stewardship Council’s Policy for Association, which is intended to prohibit companies from being FSC certified where they are directly or indirectly involved in significant illegal logging or trade, destruction of High Conservation Value Forests, wide conversion of natural forests to plantations and/or violations of traditional and human rights in their operations.⁹³ Korindo was issued an FSC controlled wood/forest management certificate for its Korintiga Hutani subsidiary in 2013, and a Chain of Custody (COC) for a mill that processes timber extracted from PT GMM’s operation in Gane. In May 2017 a Policy of Association complaint was filed with the FSC, on the basis of field and remote sensing data demonstrating Korindo Group involvement in “significant conversion of forests to plantations...destruction of high conservation values and violation of traditional and human rights”.⁹⁴ This complaint will likely result in Korindo being suspended, should the FSC board faithfully apply their Policy of Association. The FSC Board has taken an unusually long time to reach its decision, which is now delayed until its March 2019 meeting.⁹⁵

GENUINE REVIEW OR WHITEWASH?

In response to reports on the multiple environmental and social impacts of Korindo’s operations, the group’s directors have asked former Canadian Minister and lawyer Donald Johnston PC OC QC to review the multitude of allegations against it.⁹⁶ However, Korindo refused to clarify details on the funding, structure, terms of engagement or mandate of the commission. The lack of transparency or multi-stakeholder engagement indicate this review is a closed, Korindo-funded study and not an ‘independent commission’ as claimed.⁹⁷ Mr Johnson has so far failed to solicit views and evidence from communities and organisations who have presented evidence on the negative impacts of Korindo’s business.



ABOVE: A screenshot of Korindo’s website, claiming to be ‘protecting natural spaces’.
RIGHT: Korindo’s Senior Vice Chairman Robert Seung, on the cover of Korindo’s internal bulletin called ‘Green Tomorrow’.



KORINDO'S

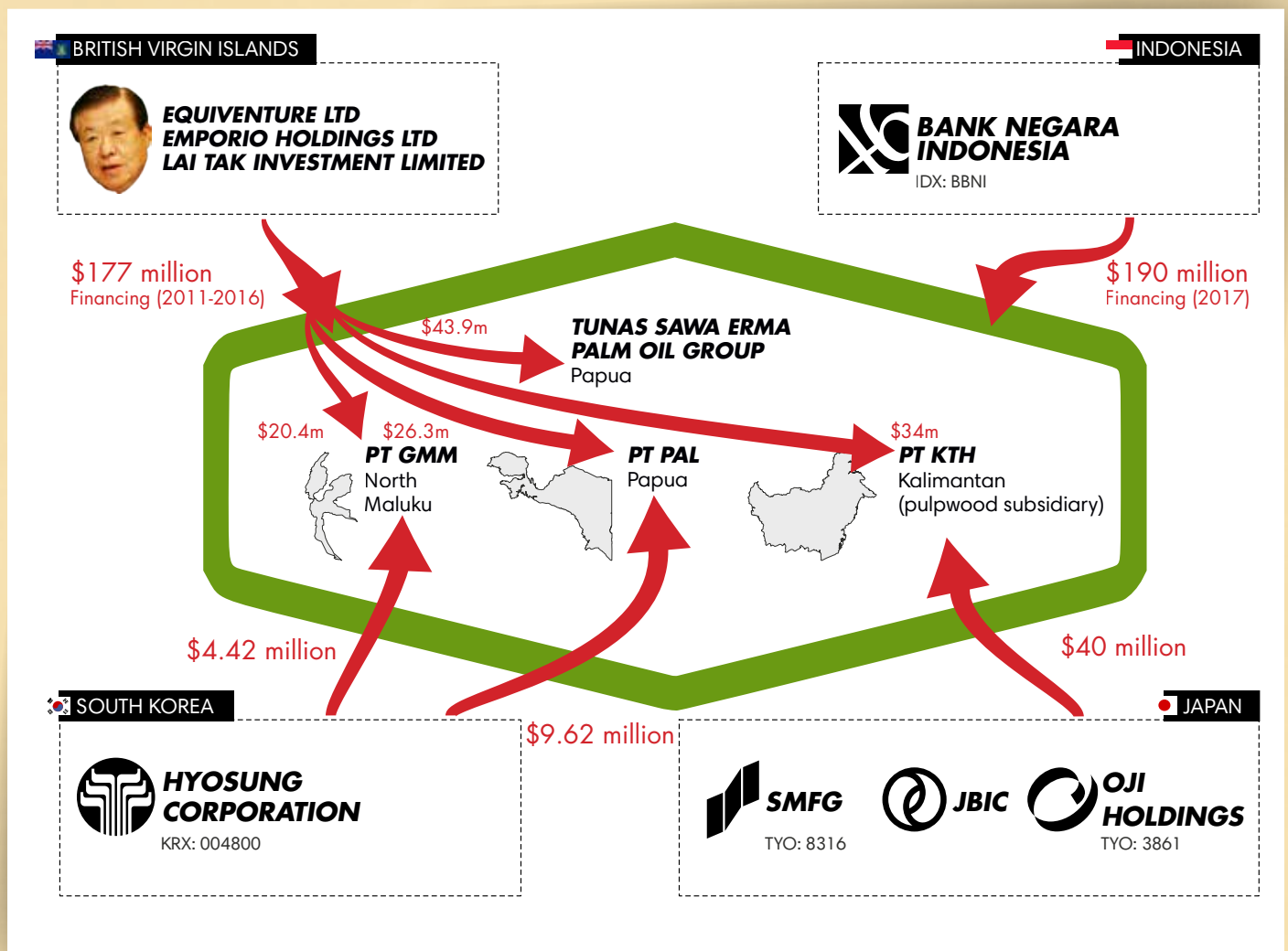
FINANCIERS



CASH FLOW

Korindo is run as a complex, interconnected web of subsidiaries without a single holding company or publicly listed entity. It publishes little information on its structure and therefore it is difficult to get a complete picture of Korindo's investors and bankers, and conversely for investors and bankers to understand risks associated with the Korindo Group. Despite these challenges, it is possible to identify some of the major financial flows to the group, through analysing its wider corporate structure and related information. This analysis reveals three major sources of direct investment into the Korindo group: commercial and government-owned banks in Indonesia and Japan, joint venture partners in South Korea and Japan, and finance via offshore shell companies controlled by Korindo Chairman Eun-Ho Seung.

FIGURE 6: KNOWN LOANS AND INVESTMENT INTO THE KORINDO GROUP'S FOREST-SECTOR OPERATIONS [USD]



FINANCIAL SECTOR REFORMS

Financiers have a critical role to play in ensuring capital allocation serves society as a whole, encouraging positive development outcomes and a healthy environment for all. They also have a unique ability to cut off financing to companies causing egregious social and environmental harms. Recognizing this, a range of countries have implemented regulations designed to improve corporate disclosure on environmental, social and governance (ESG) risks, and some have also introduced mandatory reforms to bank ESG processes and standards. The Organisation for Economic Co-operation and Development (OECD), representing 34 industrialised countries, has gone further still and placed obligations on member country financial institutions to avoid and mitigate resulting harms caused by client actions.

The Indonesian government has recently begun to integrate sustainability concerns into Indonesia's financial services. New regulations on the Implementation of Sustainable Finance (POJK), issued by the Financial Services Authority of Indonesia (OJK), come into effect in 2019. These regulations mark a significant first step towards encouraging more stable, inclusive and sustainable economic growth in Indonesia, while urging the financial sector to recognise its responsibilities towards communities and the natural environment.

"To achieve such steadily growing, inclusive and sustainable national economy, it is imperative that support be rallied to prevent against financing or investment practices contributing to business activities that involve excessive use of natural resources, increase social inequality and lead to the destruction of environment." (NO. 51/POJK.03/2017 ON APPLICATION OF SUSTAINABLE FINANCE)

The POJK requires banks to improve their understanding, disclosure and internal systems for how they address environmental, social and governance risks connected to their financing of client operations. These obligations include new board-level duties, the preparation of a sustainable finance action plan, annual sustainability reporting, and internal policy and systems reforms to address identified barriers to sustainable finance objectives.

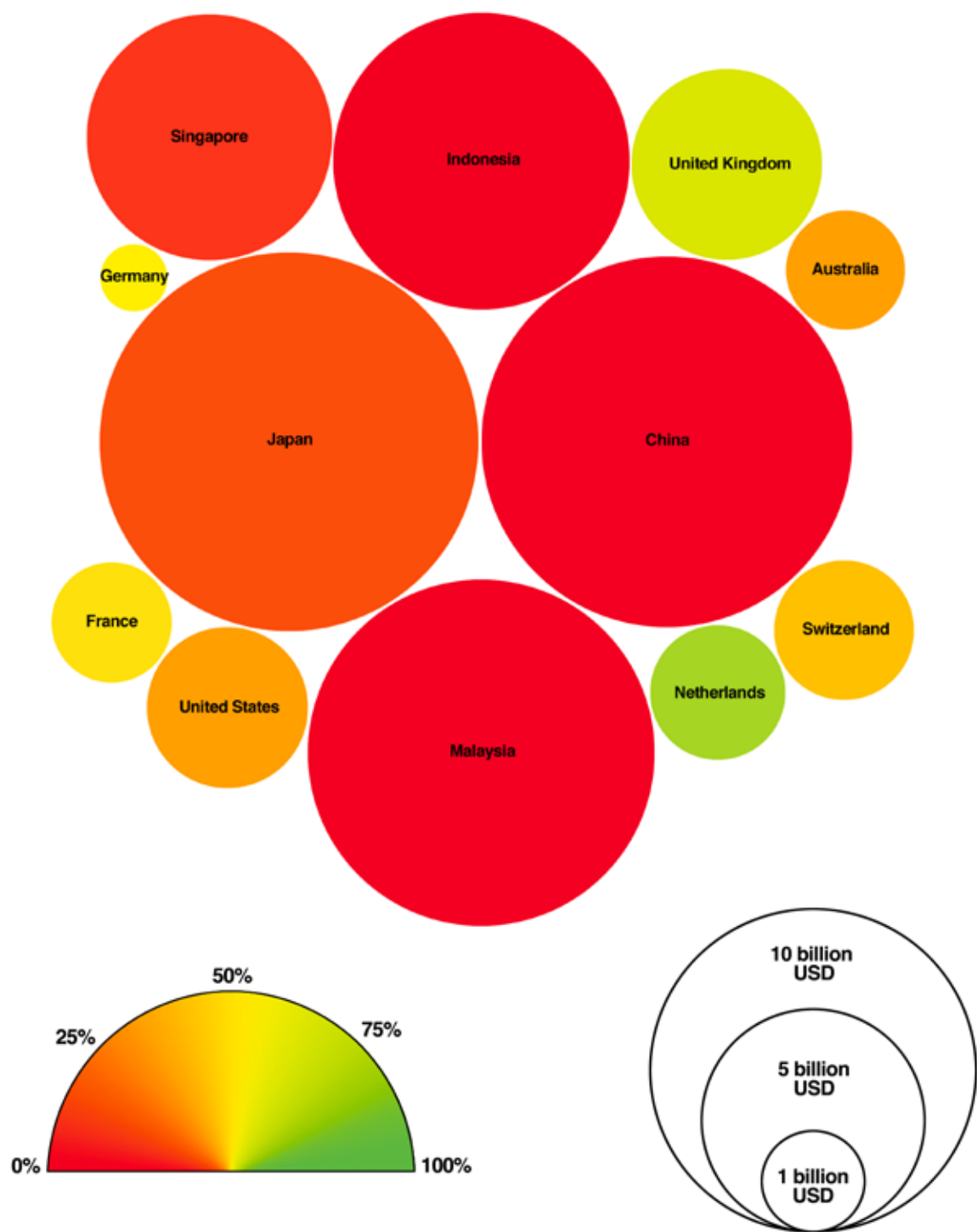
In a 2018 assessment of lending policies across the top 35 financial institutions exposed to forest-risk commodity sectors in Southeast Asia, Indonesian banks ranked amongst the very lowest.⁹⁸ Though Indonesia is the world's largest palm oil producer, and its banks a major source of finance to forest-risk commodity sectors, none of Indonesia's large domestic banks have comprehensive forest-sector policies that require clients to prove the legality of their operations, ensure the free, prior and informed consent (FPIC) of landowners, or to protect important High Conservation Value and High Carbon Stock forests and other ecosystems.

Banks will have to dramatically improve their ESG screening policies and systems to address the key issues connected to client operations in high risk sectors in order to progress Indonesia's sustainable finance reforms. The OJK could accelerate this shift by strengthening its guidance provided to banks as part of POJK reforms. This guidance should include requirements on banks to engage a wider range of stakeholders, including local communities and NGOs, in their determination of what constitutes risk 'materiality' – or – the range of issues considered important to measure. This is essential for banks to give proper consideration to potential impacts on local communities and the environment during client screening processes.



Korindo (PT GMM) access road cutting through community land in Gane, December 2014.

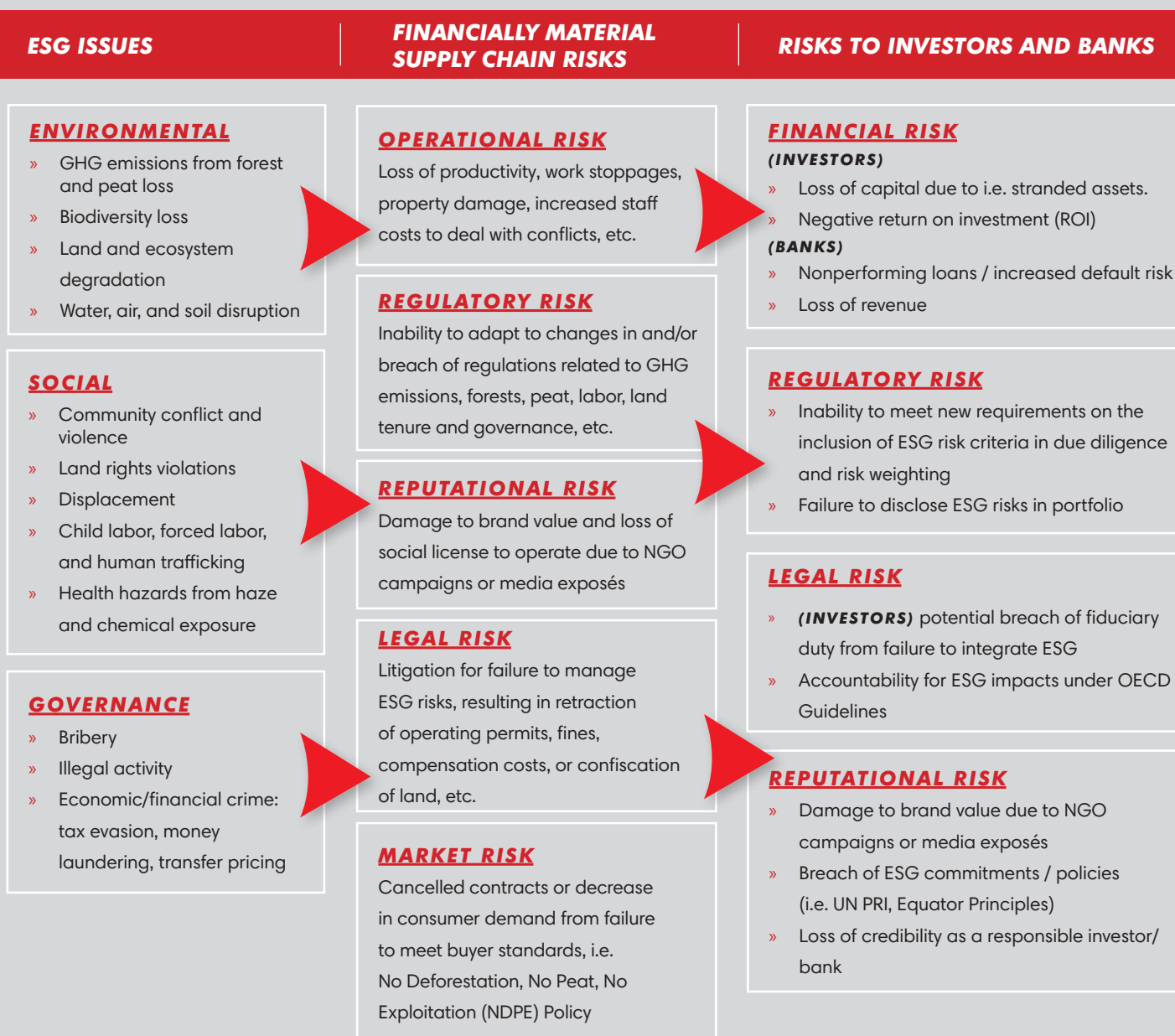
FIGURE 7: QUALITY OF BANK POLICIES (AVERAGE) AND SIZE OF BANK LENDING (TOTAL) TO SOUTHEAST ASIAN FOREST COMMODITY SECTORS, 2013-18, BY BANK COUNTRY OF ORIGIN



ASSESSMENT OF BANK FOREST-SECTOR ESG POLICY STRENGTH (AVERAGED), BY BANK COUNTRY OF ORIGIN

SIZE OF LOANS, CREDIT AND UNDERWRITING (TOTAL 2013-18, USD BILLION), BY BANK COUNTRY OF ORIGIN

FIGURE 8: KEY ESG RISK ISSUES IN THE FOREST COMMODITY SECTOR AND RELEVANCE TO THE FINANCIAL SECTOR



RIGHT: Cover page of BNI's 2017 Sustainability Report, called 'Towards Sustainable Finance'. In the report, BNI includes its lending to Korindo - and all palm oil companies - as part of its 'Green' Portfolio.

BANK NEGARA INDONESIA (BNI)

The largest identified source of credit to the Korindo group is Jakarta-listed Bank Negara Indonesia (IDX: BBNI). BNI lists Korindo as its sixth biggest client in the agriculture sector, with outstanding loans in Q3 2017 of USD 190 million (IDR 2.84 trillion), and reports to be increasing its exposure to Korindo year-on-year, with over 19% increase year-on-year 2016-2018.⁹⁹ BNI is majority owned by the Indonesian Government, and the bank states that it has been selected by Indonesia's Financial Services Authority (OJK) as a "first mover" to implement Sustainable Banking under the POJK regulation.

BNI's financial services to the Korindo group suggests, however, that the bank lacks effective due diligence systems to meet POJK regulations or even BNI's own policies. Basic bank checks on Korindo operations should have revealed serious red flags such as the group's permit violations in North Maluku, or concerns regarding the failure of Korindo's offshore subsidiaries to prepare proper financial statements, a violation of Singapore law. Identifying these types of client risks not only demonstrates a commitment to implementing POJK, but also reduces bank exposure to material credit risks rising from lending to badly governed businesses that flout laws and regulations.

FLAWED SUSTAINABILITY REPORTING

BNI's sustainability reporting illustrates some critical flaws in its current approach to Sustainable Finance. While the 2017 report shows some improvements compared to previous years, it also exhibits glaring contradictions and errors. For example, BNI reports on the proportion of its lending that it categorizes as 'green' or environmentally sound on the basis of its lending to entire sectors, rather than distinguishing between 'good' and 'bad' practices within a sector. The automatic 'green' classification of all palm oil clients, for example, ignores clear scientific evidence on the cumulative and irreversible environmental impacts of deforestation and greenhouse gas emissions associated with the sector, or its central role in driving community conflict and social harms. This error is made apparent when evaluating the operations of a particular client in detail, such as Korindo. BNI's claim that its financing to Korindo contributes positively to the POJK sustainable finance objectives is entirely disingenuous, and is actually in violation of POJK standards.

DUE DILIGENCE FAILURES

BNI's Sustainability Report details some of its internal Risk Rating and compliance procedures, including assessing the creditworthiness of applicants through assessment of their Environmental Impact Assessment (AMDAL). Studies have shown that these impact assessments are routinely poor quality and require independent scrutiny by an expert.¹⁰⁰ PT GMM failed to complete the AMDAL process prior to acquiring its plantation business licence, contrary to what is required by law. And when Korindo tried to retrospectively conduct an AMDAL process, it is alleged by communities that the company manipulated community signatures to fraudulently claim community consent when it had not been given; a complaint that was highlighted by the Indonesian Human Rights Commission (KOMNAS HAM).

THE RISKS OF POOR DUE DILIGENCE ON CLIENT PERMITS - MEIKARTA CASE

A recent high profile case in the construction sector illustrates BNI's failure to properly evaluate clients' permits, including AMDAL, as part of its due diligence and ESG risk screening. Meikarta is a proposed USD 21 billion new planned city constructed by Indonesian conglomerate Lippo Group. In October 2018, Indonesia's anti-graft agency KPK arrested staff and raided homes of senior Lippo executives linked to alleged bribes paid to local politicians to ensure that construction continued.¹⁰¹ These payments came after revelations in 2017 that Lippo Group had continued to market property sales without having finished its application for the necessary permits to begin construction, including Environmental Impact Assessment (AMDAL).¹⁰² In 2017, Indonesia's ombudsman stated that Lippo group cannot market Meikarta properties before it has the mandatory permits. However, BNI continued to provide credit to consumers buying units in Meikarta, only stopping following the action of the anti-corruption commission in 2018.¹⁰³

BNI's 'Credit Risk Compliance' procedures also relate to its preference for clients certified under the Roundtable for Sustainable Palm Oil (RSPO) or weaker Indonesia Sustainable Palm Oil (ISPO) schemes. BNI states that it is mandatory for clients to be either certified with RSPO or ISPO, or "at least already registered in the process".¹⁰⁴ BNI provides no deadline or timeframe however for when a company needs to actually achieve certification. A check of Korindo oil palm subsidiaries shows that none are RSPO members, and that only one of its five subsidiaries currently cultivating oil palm plantations has an ISPO certificate. ISPO's website does not register any of the other four as even being in the process of being certified. As such, BNI's client relationship with Korindo is clearly inconsistent with BNI's minimal palm oil policy standards.

BNI did not respond to the authors about these findings.

SUMITOMO MITSUI BANKING CORPORATION (SMBC)

Japan is an important export destination for Korindo's wood chip and timber products, with the support of major Japanese companies Oji Holdings and Sumitomo Forestry. SMBC Group (also known as Sumitomo-Mitsui Financial Group, or SMFG), a publicly listed company (TYO: 8316), is one of the largest financial institutions in Japan. SMBC, has enabled Korindo's high risk operations through its financing of Korindo's pulpwood subsidiary PT Korintiga Hutani (PT KTH) as well as its significant financing of Korindo's two major Japanese business partners named above.

In 2012, SMBC Group and the government-owned Japan Bank for International Cooperation (JBIC) provided direct loans in the amount of USD 40 million loan to PT KTH, which is a joint venture with major Japanese paper manufacturer Oji Holdings (TYO: 3861).¹⁰⁵ The loan was intended to finance the manufacture and sale of wood chips to the Oji Group, itself a major client of SMBC. During the duration of the loan, Oji's ownership represented 33 percent of the joint venture. PT KTH had its environmental permit temporarily suspended in 2015 following fires in its concession area and other breaches of environmental regulations.¹⁰⁶ It has also been accused of mobilizing "hired thugs" to incite conflict with local communities.¹⁰⁷ This loan is believed to have matured at the end of 2017, but was active during the time of Korindo's egregious activities that are detailed in this report.

At the time the loan was active, SMBC had no human rights or forest sector-specific policy, but applied its Credit Policy which committed to not "fund activities that contravene public order and morality" nor "execute loans to companies and businesses with the potential to negatively impact the environment to a significant degree."¹⁰⁸ Notably, in early 2018, SMBC issued a Statement on Human Rights, pledging "to [seek] to avoid doing any business where such business may conflict with SMBC's human rights responsibilities," and on June 18 2018, SMBC revised its Credit Policy to clarify that "it will not provide financing to businesses that are involved in illegal logging and/or land clearing activities which are against applicable national laws and regulations."¹⁰⁹ SMBC's loans to Korindo were a likely violation of its original Credit Policy, and would be a clear violation of its revised policies. SMBC's significant financing of Oji Group and Sumitomo Forestry also point to the importance of a bank considering supply chain risks associated with its clients.



Tokyo city and skyline from above.

PHOTO: CENDHIKA / SHUTTERSTOCK

JOINT VENTURE PARTNERS

Korindo has positioned itself as an Indonesian group, managed by South Koreans, and it has sought to bolster its business through joint ventures and contracts with some of South Korea's biggest family-owned conglomerates.

In Papua province, Korindo shares a close relationship with POSCO-Daewoo (KRX: 047050), where it advises on its plantation PT Bio Inti Agrindo¹¹⁰ which adjoins its own plantation PT Papua Agro Lestari. Both of these plantations were called out for large-scale deforestation and opening burning in April 2018¹¹¹ and both were founded by the same South Korean businessman, Kim Nam Ku,¹¹² being sold on to Daewoo and Korindo in 2011 and 2013 respectively.

Another Korean family-owned conglomerate, Hyosung Corporation (KRX: 004800) has injected large amounts of capital into both PT Papua Agro Lestari and PT GMM in North Maluku, acquiring a 15% stake in both companies in 2014 for USD 9.62 m and USD 4.47 m respectively.¹¹³ In its financial statements, Hyosung claims that despite holding *"less than 20% of the associate's equity shares, the Company [Hyosung] has significant influence of associate as the Company has [sic] involved in making decision and management communication"*. Hyosung were contacted about the findings in this report but did not respond.

OFFSHORE FINANCING

Korindo's operations are also financed by a cluster of opaque companies in the British Virgin Islands, beneficially owned by Korindo chairman Eun-Ho Seung, that have invested at least USD 177 million in Korindo forest-sector operations since 2011.¹¹⁴ These funds were all channelled into Indonesia through Korindo shell companies listed in Singapore which are likely to have violated Singapore company law (see Page 15). This analysis is limited in scope and likely only captures a fraction of international transactions within the Korindo group. For instance, SIG Plantation Pte Ltd in Singapore has provided investments and loans of USD 34.3 million to Korindo's joint venture with Oji, PT Korintiga Hutani.¹¹⁵ SIG has provided false and misleading information in its financial statements [see page 15].

It is possible that these intra-group loans are themselves underpinned by corporate or private loans taken out by the offshore entities, however, the financial secrecy of the British Virgin Islands makes it impossible to ascertain the details. Therefore, this analysis likely only captures a fraction of international transactions within the Korindo group.



Korindo's PT GMM company camp and 'log pond', where logs extracted from community lands are loaded onto barges destined for Korindo timber mills in Kalimantan.

CONCLUSION



Clearance in Korindo plantation in Papua, 2016.

This report presents compelling evidence demonstrating the destructive and predatory nature of Korindo's logging and palm oil operations. It reveals a ruthless opportunism that targets the vulnerabilities in Indonesia's governance systems and isolated communities, resulting in devastating impacts on the people and ecosystems where it operates.

The company's claims of being a leader in sustainability and its insistence that it adheres to all laws and regulations do not stand up to scrutiny. A review of the group's operations in North Maluku - and wider corporate governance standards - reveals a pattern of serious legal and ethical violations.

Ultimately, this case presents Indonesia's authorities with an opportunity to review and revoke the license of a company operating in blatant disregard of the law, and hold its executives and facilitators to account. This would also serve to fulfil recent Presidential Decrees designed to stop companies like Korindo profiting from illegally acquiring land.

This report also lays bare the reckless practices of Korindo's financiers - principally BNI - in keeping the cash flowing to an evidently rogue company operating in violation of basic laws and ethics. At a time when BNI is embarking on a shift towards sustainable finance principles, to meet new financial sector regulations, it has no business continuing to provide financial services to Korindo or companies like it.

Regrettably, Korindo is not an isolated case. Rather, it is symptomatic of the type of business model still being financed and still expanding into remote tropical forest regions in Indonesia. Such operations routinely ignore the constitutional rights and livelihoods of customary landowners, to the peril of local communities, their forests and society as a whole.



Clearance of community farms and forest in Gane by Korindo (PT GMM), May 2016.

RECOMMENDATIONS



Mangrove forests outside Gane Dalam, May 2016.

KORINDO

Suspend PT GMM operations

Immediately suspend all PT GMM operations in Gane, including efforts to construct a palm oil mill and expand logging and plantation development into adjacent areas in Tanjong Rotan and Tawa-Pasipalele, which does not have the support of local landowners and communities.

Prove group-wide legal compliance

Prove the basic legality and regulatory compliance of all Korindo group operations by immediately publishing all key permits and documents, including Location Permits (Izin Lokasi), AMDAL and HGU. Where defective, suspend operations.

Return land and remedy rights violations

Vacate all land areas taken from local communities, whether through illegal land grabbing or procedurally flawed processes, including those involving intimidation and misrepresentation. Permanently excise these areas from plantation licence areas. Remedy rights violations of local communities and workers, loss of livelihoods, and restore affected ecosystems.

Implement group-wide social and environmental safeguard policies

Immediately implement 'no deforestation, no peat land development, and no exploitation of communities or workers' policies. Ensure policies and all concession documentation is made public, with independent verification of policy compliance.

STATE AGENCIES

INDONESIA

Ministry of Environment and Forestry (MoEF)

- » Consider the suspension of PT GMM's right to operate pending investigations
- » Conduct full permit review of PT GMM investigating legal and procedural compliance, land acquisition process and use of fire to clear land
- » Where evidence of illegalities is proven, revoke PT GMM's permits, prosecute company executives and apply punitive damages, including for compensating affected local communities and workers
- » Refuse PT GMM application to release forest in Blocks Tawa-Pasipalele and Tanjong Rotan
- » Instruct the National Accreditation Committee (KAN) to revoke any SVLK certificates awarded to PT GMM or Korindo mills processing PT GMM timber, and review Korindo's wider SVLK compliance.

National Land Agency (BPN)

- » Make HGU documents, including all Korindo subsidiaries, available to the public as per ruling of the Supreme Court
- » Conduct a full investigation and review into PT GMM's legal compliance with HGU regulations and acquisition procedures with all affected local landowners.
- » Initiate consultations with local communities and workers regarding land return, ecosystem restoration, and compensation for loss of livelihoods

Environmental Agency (BLH)

- » Provide copy of PT GMM's AMDAL to affected communities and local civil society groups
- » Suspend PT GMM's current Environmental Impact Assessment application to construct a palm oil mill and expand its logging and palm oil in North Maluku.
- » Conduct a full investigation into environmental impacts already experienced by affected communities, including water source destruction and pollution, infestation of pests from PT GMM's plantation affecting community crops, and impact of palm oil operations on the local marine ecosystem

National Police

- » Investigate the conduct of local police in its interactions with communities objecting to PT GMM, including allegations of violence and arbitrary arrest against community members
- » Ensure all police officers dispatched to areas affected by PT GMM act with neutrality and in accordance with Indonesian laws, including the protection of rights of vulnerable local communities
- » Refer any non-criminal matters and investigations to the appropriate authorities mandated with investigating civil authority matters

National Commission on Human Rights (Komnas HAM)

- » Follow up on its recommendations from its investigation into PT GMM in 2014, specifically including its requests to MoEF, BPN and Bupati

Corruption Eradication Commission (KPK)

- » Review whether any public officials provided undue assistance or favouritism to Korindo in its acquisition of permits or licences issued
- » Investigate any associated financial transactions if its review finds any wrongdoing

The Financial Services Authority (OJK)

- » Provide additional guidance to banks financing high risk sectors, to include as priority:
- » Requiring client proof of licence and permit compliance and proof of protection of the rights of local communities, in the case of land-based sectors
- » specify that bank materiality assessments of sustainability issues must include consultation and consideration of groups that are negatively impacted by client operations

SINGAPORE

Police Commercial Affairs Department (CAD) / Corporate Regulatory Authority of Singapore (ACRA)

- » Investigate and prosecute any violations of the Singapore Company Act by Korindo subsidiaries and directors

FINANCIAL INSTITUTIONS

Bank Negara Indonesia (BNI)	Suspend credit to the Korindo group, pending full investigations into PT GMM and wider group operations.
Sumitomo Mitsui Banking Corporation (SMBC)	Suspend credit to the Korindo group and any Japanese clients that continue to purchase Korindo products, pending full investigations into PT GMM and wider group operations.
All banks operating in Indonesia with forest commodity sector clients (consistent with OJK regulations and international best practice)	
Understand risk exposure	Quantify portfolio and credit exposure to forest commodity sector related assets and specific ESG risks, which must include underrepresented groups in materiality assessments, including the views and priorities of local communities and civil society
Assign responsibility	Assign board-level responsibility for ESG issues and implement bank-wide training on ESG issues, policies and processes for managing ESG risks.
Adopt safeguard policies	Formulate specific policies to govern investment and credit decision-making in high-risk sectors (see box below for critical policy elements of a forest sector commodity policy).
Conduct due diligence	Screen potential and existing client companies for compliance with own policies and conduct enhanced due diligence.
Secure company commitments	Formalize company commitments with reference to specific standards, through the form of binding agreements or covenants.
Engage stakeholders	Regularly monitor client activities and periodically consult with communities affected by company operations, civil society organizations, and governmental bodies to do “reality checks” on company performance.
Divest	Sell investment / terminate financing agreements if the company violates the terms of agreements and fails to take prompt corrective actions.
Disclose	Routinely report on exposure to specific ESG risks, implementation of policies, monitoring activities and client engagement (using the GRI G4 Financial Services Sector Disclosure Framework)

CRITICAL ELEMENTS OF A FOREST COMMODITY SECTOR LENDING POLICY

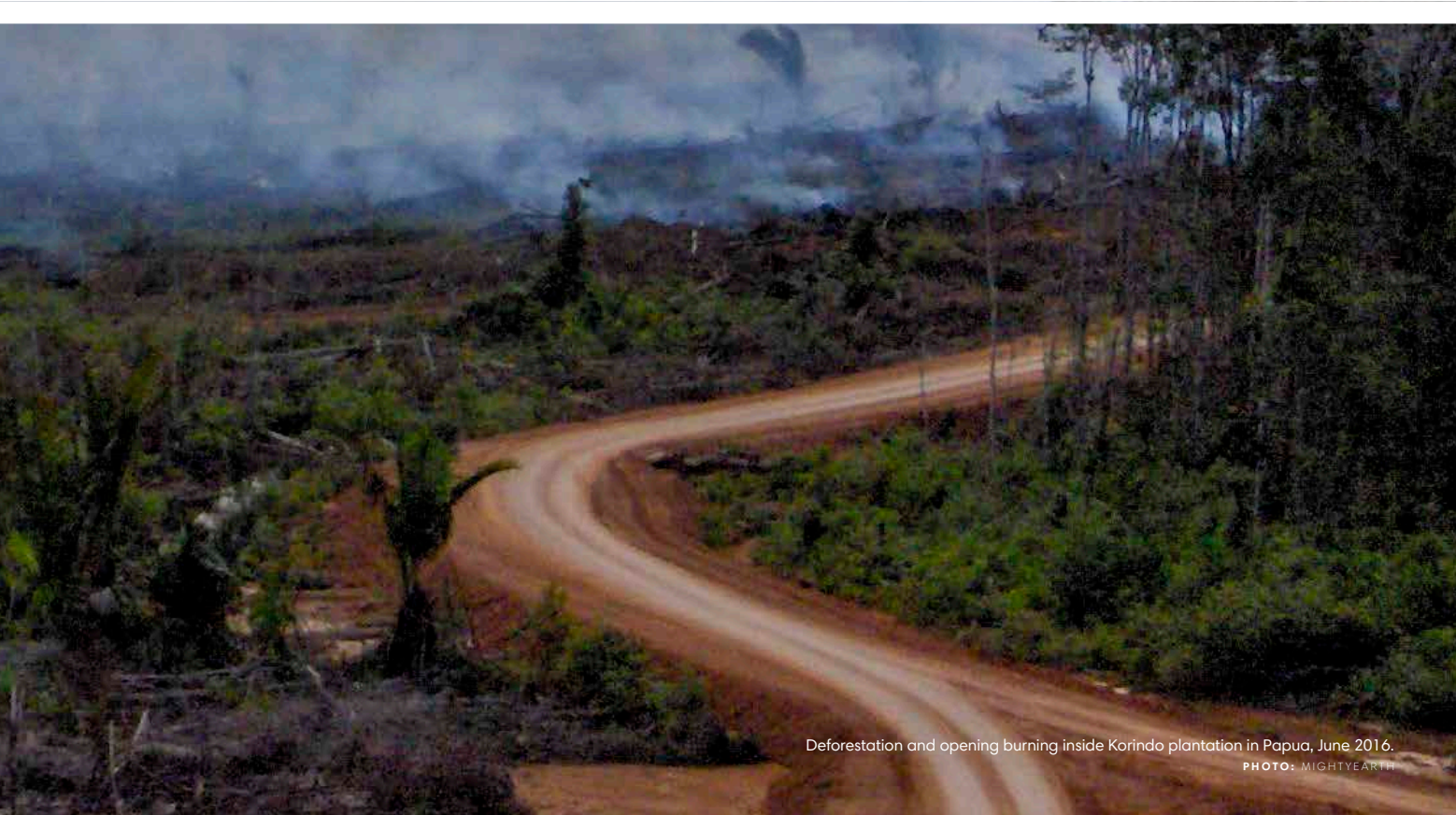
- » Proof of the underlying legality and regulatory compliance of client operations (group-wide), including through the provision of all licences and permits, including:
 - » Location Permits (Izin Lokasi);
 - » Environmental Impact Assessment (AMDAL);
 - » Plantation Business License (IUP);
 - » Land Use Rights (HGU);
- » Proof that land tenure, use, and other rights of Indigenous Peoples and local communities, have been respected and upheld, through fully transparent processes using the principles and standards set out through FPIC, including the right to refuse consent;
- » Assess indicators of tax evasion, corruption, money laundering, fraud, or suspicious corporate governance structures;
- » Prohibit company operations that affect areas protected by law, moratoriums, HCS forests, HCV areas, peatland or mangroves;
- » Zero-tolerance for client use of fire in land clearing or plantation establishment
- » ILO core labor rights and other internationally recognized human rights are respected and upheld.
- » The company has a legitimate, accessible and transparent grievance mechanism that aligns with UN Guiding Principles on Business

CUSTOMERS & BUSINESS PARTNERS

Palm Oil	Traders and buyers of Korindo palm oil should implement and publicly report a group-wide 'no-buy' policy of Korindo palm oil products.
Timber	Traders and buyers of Korindo timber products, including Japan's Sumitomo Forestry and Belgium's Fepco, should implement and publicly report a group-wide 'no-buy' policy of Korindo timber products.
Wood Chip and Paper	Traders and buyers of Korindo wood chip and paper products, including Japan's Oji Holdings and Australia's News Corp, should implement and publicly report a group-wide 'no-buy' policy of Korindo wood chip and paper products. Oji Holdings should exit its joint venture with Korindo in PT Korintiga Hutani (PT KTH).
The Forest Stewardship Council (FSC)	The FSC should immediately suspend Korindo's membership of the FSC and ensure the suspension is duly applied to all Korindo group companies, including its joint venture with Oji Holdings - PT KTH (which was Korindo-controlled at the time the current FSC complaint was filed).
Manufacturing division customers	Buyers of Korindo's wind turbine products including Siemens, Gamesa, Iberdrola, Nordex and Suzlon should cease purchases from Korindo and switch to wind turbine suppliers not implicated in deforestation and human rights abuses.

ANNEX 1: LEGAL FRAMEWORK FOR PLANTATIONS IN INDONESIA

NO.	LAWS AND REGULATIONS	SUMMARY
1.	Government Regulation No. 40 of 1996 on Land Use Right (HGU), Right of use of Structures (HGB), and Right of Use (HP)	Implementing regulation for Law No. 5 of 1960 on Agrarian Principles that stipulates in further details about HGU application process Land Use Right
2.	Government Regulation No. 24 of 1997 on Land Registration	Stipulates land registration, including registration of old rights whose ownership is secured.
3.	Regulation of Minister of Agraria/Head of National Land Agency No. 2 of 1999 on Location Permit	Stipulates license to obtain land for investment, and stipulates the requirements, license validity period, maximum license limit for all businesses.
4.	Regulation of Minister of Agraria/Head of National Land Agency No. 3 of 1999 on Transfer of Authority to Grant and Revocation of Decision to Grant Rights to State Land	Stipulates authority for HGU issuance from Minister/Head of BPN with Head of Regional BPN.
5.	Regulation of Minister of Agraria/Head of National Land Agency No. 9/1999 on Procedures for Granting and Revoking Rights to State Land and Management Rights	Stipulates procedures for purchase and revocation of rights to land, including HGU.
6.	Regulation of Head of BPN No. 7 of 2007 on Land Inspection Committee	Stipulates B Committee as HGU land inspectors



Deforestation and opening burning inside Korindo plantation in Papua, June 2016.
 PHOTO: MIGHTYEARTH

NO.	LAWS AND REGULATIONS	SUMMARY
7.	Regulation of Head of BPN No. 1 of 2007 on Standards of Service and Land Arrangements	Stipulates requirements if anyone requires standard services to apply for right to land
8.	Law No. 2 of 1982 on Company Mandatory Registration	Stipulates that company with business in Indonesia must be registered with the government.
9.	Law No. 21 of 1997 juncto Law No. 20 of 2000 on Duty Imposed on Land Acquisition on Land and Building	Regulates duty to be paid to the State if one is granted right to land and building. The company that is granted HGU must pay this duty fee.
10.	Law No. 41 of 1999 on Forestry and implementing regulations	Stipulates release of Forest Areas and procedures that must be followed
11.	Law No. 25 of 2007 on Investment	Stipulates foreign as well as domestic investment.
12.	Law No. 26 of 2007 on Spatial Plan and implementing regulations	Stipulates, among others, spatial plan and prohibits the issuance of licenses that violate existing spatial plans
13.	Law No. 40 of 2007 on Limited Liability Company	Stipulates the establishment of limited liability companies in Indonesia.
14.	Law No. 32 of 2009 on Environmental Protection and Management and implementing regulation	Stipulates, among others, responsibility of businesses to implement AMDAL and obtain Environmental Permit
15.	Government Regulation No. 13 of 2010 on Non-Tax State Revenue	Stipulates licenses object to non-tax state revenues.

ENDNOTES



1. Brown, D W., 1999, 'Addicted to Rent: Corporate and Spatial Distribution of Forest Resources in Indonesia: Implications for Forest Sustainability and Government Policy', Indonesia-UK Tropical Forest Management Programme, Provincial Forest Management Programme
2. TuK-Indonesia, Profundo, 12 February 2015, 'Tycoons in Indonesian Palm Oil', <https://bit.ly/2NiNisO>
3. Tempo, 17 January 2018, 'Mahar Pencalonan Suburkan Korupsi' <https://bit.ly/2xd1sq4>
4. Walhi, 2018, 'Masa Depan Keadilan Ekologis di Tahun Politik', not yet published
5. Hak Guna Usaha (HGU) literally means Business Use Right but is more accurately 'Land Use Right' as a leasehold on state land. Issuance of HGU has the effect of extinguishing customary or community rights, and so HGU can only be issued where the land is unencumbered.
6. Mongabay, 03 August 2018, 'Public access to Indonesian plantation data still mired in bureaucracy', <https://bit.ly/2RBxtB5>
7. The Palm Scribe, 11 July 2018, 'Commission Orders Land Agency to Make Papua's Palm Oil Concession Documents Public', <https://bit.ly/2xkixyL>
8. Eric Wakker, Aidenvironment Asia, 03 Oct 2014, 'Indonesia: Illegalities in Forest Clearance for Large-Scale Commercial Plantations', <https://bit.ly/2xjXXgX>
9. Santoso (2011), 'Revitalisation of forestry industry and future challenges for Director-General of Forest Industry Development', Indonesian Forestry Congress, 22-24 November
10. Land Office of Cilacap District, 09 Nov 2010, 'Kasus Cilacap, Landreform Terbesar Era Reformasi', <https://bit.ly/2D6qSL0>
11. Library of Congress, 03 June 2013, 'Indonesia: Forest Rights of Indigenous Peoples Affirmed', <https://bit.ly/2laG4EK>
12. Regulation of Minister of Agriculture No.19/Permentan/OT.140/3.2011 on Indonesian Sustainable Palm Oil/ISPO
13. Indonesia-investments.com, 29 August 2018, 'Only 16.7% of Indonesia's Oil Palm Plantations ISPO Certified', <https://bit.ly/2wh4RUR>
14. Jakarta Post, 20 September 2018, 'Jokowi imposes moratorium on palm oil plantations', <https://bit.ly/2xFRTPY>
15. Chain Reaction Research, 8 February 2017, 'Indonesian Palm Oil's Stranded Assets: 10 million football fields of undevelopable land', <https://bit.ly/2wHU0IT>
16. Chain Reaction Research, 8 February 2017, 'Indonesian Palm Oil's Stranded Assets: 10 million football fields of undevelopable land', <https://bit.ly/2wHU0IT>
17. See: Musim Mas, 22 February 2017, 'Engagement with Korindo', <https://bit.ly/2m65HwV>; Wilmar, 01 March 2017, 'Grievance N23' <https://bit.ly/2C6EyE7>
18. See: Korindo, 'Sustainability policies and management systems', <https://bit.ly/2PCTEZt>
19. Climate Policy Initiative, 2015, 'Improving Land Productivity through Fiscal Policy: Early Insights on Taxation in the palm oil supply chain', <https://bit.ly/2qvFIUJ>
20. Reuters 24 February 2015, 'Indonesia to crack down on corporate tax avoidance', <https://reut.rs/2D6FQzt>
21. International Consortium of Investigative Journalists (ICIJ), 08 November 2017, 'Leaked Records Reveal Offshore's Role In Forest Destruction', <https://bit.ly/2zuqaiK>
22. International Tax Review, 25 January 2017, Indonesia: New transfer pricing requirements in Indonesia', <https://bit.ly/2yjnbgO>
23. Brown, D W. Addicted to Rent, 1999, 'Addicted to Rent: Corporate and Spatial Distribution of Forest Resources in Indonesia : Implications for Forest Sustainability and Government Policy', Indonesia-UK Tropical Forest Management Programme, Provincial Forest Management Programme



Scene from Gane Dalam, May 2016.

24. Indonesia Corporate Registry documents of PT Aspex Kumbong
25. BBC News, 15 March 2001, 'Suharto associate's sentence tripled', <https://bbc.in/2D0BefY>
26. Indonesia Corporate Registry documents show Bob Hasan was only removed as a director and shareholder of PT Aspex Kumbong during Korindo's restructure in 2017
27. Corporate Registry documents from Indonesia and Singapore show Robert Seung (also known as Beom-Soo Seung) declared himself as South Korean national until 2016/17 when he began registering his nationality as Indonesian.
28. See: Tunas Sawa Erma's website which makes no mention of Korindo, <https://bit.ly/2AEvuW4>
29. See: Korindo's website which states that it plans to operate a 27,000 ha rubber plantation on Buru Island, <https://bit.ly/2zxreWE>. This is thought to be operated through its subsidiary Pt. Panbers Jaya. In 2016, this investment was criticised by a Regional Representative Council (DPRD), and it was not clear whether the company planned to plant rubber or oil palm. See: Warta Maluku, 24 April 2016, 'PT. Pambers Jaya Tak Miliki Izin, DPRD Buru Kecam Pengolahan Kelapa Sawit', <https://bit.ly/2wLtbY5>
30. Forest Trends, 2014, 'Consumer goods and deforestation: an analysis of the extent and nature of illegality in forest conversion for agriculture and timber plantations', <https://bit.ly/2jBoZd2>
31. SGS Assessor Report, 28 August 2014, <https://bit.ly/2OqNEij>
32. Independent Forest Monitoring Network (JPIK), 2018, 'SVLK: A process toward accountable governance', p48, <https://bit.ly/2JF9GLr>
33. Analysis of 49 Korindo subsidiaries with links to its Indonesian forest-sector operations. Data from Indonesian, Singapore and Hong Kong corporate registries. The director and ownership information contained in these corporate registry documents enabled the authors to map and identify complex patterns of circular ownership between Korindo entities.
34. Financial Statements for SIG Plantation Pte Ltd (FY2016), Kreston David Yeung PAC could not verify that PT Balikpapan Forest Industries was not a related party
35. Rainforest Action Network, *Broken Promises* www.ran.org/korindo-report
36. In the whole ownership structure of Balikpapan there are only 2 entities not related to Robert (Koperasi Primer Karyawan and PT Perusahaan Bongkar Muat Lamandau Dinamika). The 98% figure is calculated by subtracting the Koperasi Primer Karyawan stake in Balikpapan (1%), and mapped all the routes from PT Perusahaan Bongkar Muat Lamandau Dinamika, and subtracted these as well. Using this approach comes to a total of 98.59% for Robert's stake in Balikpapan.
37. SIG Plantation Pte Ltd, Financial Statement 2016, p5
38. Providing false or misleading information in financial statements is a breach of Section 401(2) of the Singapore Companies Act (Cap. 50), meaning the directors will be liable on conviction to a fine not exceeding SGD 50,000 or to imprisonment for a term not exceeding 2 years, or both. Furthermore, as the directors also handed these financial reports to their auditor, they are also in breach of s 402 (1) or the Companies Act (Cap.50) and will be liable on conviction to a fine not exceeding SGD 10,000 or to imprisonment for a term not exceeding 2 years of both.
39. The auditors for the group's Singapore companies state that "they meet the criteria for exemption from preparing consolidated financial statements in the relevant Financial Reporting Standards" given the immediate holding company has given its consent not to prepare consolidated financial statements. However, upon further investigation, it is unclear if this is in fact true as the relevant exemption under FRS 110 ultimately still requires that the "ultimate or any intermediate parent produces financial statements that are available for public use, in which subsidiaries are consolidated or are measured at fair value through profit or loss". Pursuant to Section 201(5) of the Companies Act (Cap.50), the directors of a Singapore company are required to prepare consolidated financial statements which must be laid before the company at its annual general meeting. If they fail to do so, S204 of the same Act prescribes that the punishment for such a breach would be liability on conviction to a fine not exceeding SGD 50,000. Korindo companies that have not filed consolidated financial statements include: Papua Agro Investments Pte Ltd, SIG Plantation Pte Ltd, East Indonesia Investment Pte Ltd (consolidated financial statements for FY2014-2016 not filed) and Panwell Industrial Pte Ltd (consolidated financial statements for FY2013-2016 not filed)

40. Bloomberg, 29 March 2017, 'Indonesia to Widen Crackdown on Tax Cheats as Amnesty Closes', <https://bloom.bg/2ny3jzR>
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42. The Korea Times, 6 October 2014, 'Korindo head probed for alleged tax evasion', <https://bit.ly/1TV5wiR>
43. See: Global Forest Watch, <https://bit.ly/2PiHxgy> 'In 2010, North Maluku had 2.28 million ha of natural forest cover, around 79% of its landmass'.
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45. Wallace, A.R, 1869, 'The Malay Archipelago: The Land of the Orang-utan and the Bird of Paradise, Volume 2', Chapter 34.
46. Constitution of the Republic of Indonesia of 1945, Article 18B paragraph (2).
47. Gane community has been in physical ownership of the land for 20 (twenty) or more consecutive years. See Government Regulation No. 24 of 1997 on Land Registration, Article 24 paragraph (2) on Evidence old rights.
48. Indonesian Civil Code, Article 1963 in Book Four Chapter III on providing evidence with witnesses. This article strengthens the Gane community's position as rights holders to the land and forest because the community has physically possessed said land and forest in good faith for more than 30 years.
49. See regulations on requirements for issuance of Location Permit and Business Permit.
50. See: Indonesia Constitutional Court, Decision No 138/PUU-XIII/2015, 1.8
51. On location permits, refer to Regulation of Minister of Agraria No. 2 of 1999, amended to Regulation of Minister of Agraria and Spatial Plan No. 5 of 2015, amended to Regulation of Minister of Agraria and Spatial Plan No. 17 of 2017 on Location Permit, and the current Regulation of Minister of Agraria and Spatial Plan No. 14 of 2018.
52. Peraturan Menteri Negara Agraria/ Kepala Badan Pertanahan Nasional Nomor 2 Tahun 1999 Tentang Izin Lokasi (Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 2 of 1999 on Location Permits). Chapter V: Rights and Obligations of Location Permit Holders. Pasal 8 (1) Location Permit holders are permitted to free land in the Location Permit area from the rights and interests of other parties, based on an agreement with the right holders or parties who have such interests, by means of buying and selling, compensation, land consolidation or other means in accordance with applicable regulations. Law concerning lawful agreements is Indonesian Civil Code, Book Three-Contracts. Chapter II, Commitments arising from contracts or agreements, Section 2 Concerning the conditions that are required for the validity of agreements. Article 1320 states that in order to be valid, an agreement must satisfy the following conditions: 1. there must be consent of the individuals who are bound thereby; (Bw.28, 1321v.) 2. there must be capacity to conclude an agreement; (Bw. 1329v.) 3. there must be a specific subject; (Bw. 1332v.) 4. there must be an admissible (halal) cause. (Bw.1335v.; Civ. 1108)
53. Letter from Korindo to TuK & RAN, 22 June 2018
54. Decree of Head of South Halmahera District No. 103 of 2011 on Agreement for Location Permit Issuance on behalf of PT GMM; Community testimony and remote sensing data shows groundwork beginning near the company's camp and sea port in 2012
55. Regulation of Minister of Agraria No. 2 of 1999 on Location Permit.
56. PT GMM's location permit was issued on 5 May 2011, with a three year timeframe to the acquire land.
57. Letter from Korindo to TuK & RAN, 22 June 2018
58. Gane Census Data, 2014 produced by Central Statistics Body (BPS)
59. Letters dated 23 February 2016 sent to Ministry of Agriculture and Spatial Planning, and Head of National Land Agency by landowners in Gane Dalam (120 signatories), Gane Luar (64 signatories), Jibubu (31 signatories), Pasipalele (132 signatories) and Sekely (56 signatories).
60. Meeting between BPN and TuK-Indonesia/Walhi North Maluku in Jakarta Head Office, 16 May 2016
61. Regulation of Minister of Environment No. 2 of 2012 on Types of Business Plans and/or Activities Required to Have Environmental Impact Assessments.
62. Agriculture Ministry Regulation, 22 May 2002, Chapter 3, Article 10 (k) states that company must have approval of their AMDAL by the Regional AMDAL Commission. This regulation has been updated in 2007 and 2013 but all require approved AMDAL before applying for IUP.
63. Ministry Of Agriculture Decree No. 357/Kpts/HK.350/5/2002 On Guidance Regarding The Licensing Of Plantation Businesses. Chapter V, Guidance and supervision, article 19 (1) plantation companies that have obtained plantation business licenses (IUP) must: a. Complete land rights no later than 2 (two) years from the issuance of the IUP.
64. PT GMM's own records, provided by Korindo indicate that 'Communication with Communities' would not begin until October 2012, nearly six years after receiving its IUP license.
65. Decree of Minister of Agriculture No. 357/Kpts/Hk.350/5/2002 on Guide to Plantation Business Licenses, Article 19 Paragraph (1)
66. See: Law No 32, 2009 concerning Protection and Management of Environment, Article 26 and Environmental Ministry regulation, No 16/2012 concerning Guidelines for Development of Environmental Documents
67. Criminal code, Book: II. Crimes. Chapter: XII. Forgery of writings. Article 263
68. Letter No 3.522/K/PMT/XII/2014 from KOMNAS HAM, 15 December 2014, sent to Minister of Environment & Forestry, PT GMM and others
69. Interviews conducted with complainants, 2016 and 2018
70. Letter No 3.522/K/PMT/XII/2014 from KOMNAS HAM, 15 December 2014, sent to Minister of Environment & Forestry, PT GMM and others
71. Interviews conducted with the complainants (2016 & 2018)
72. Independent Forestry Monitoring Network (JPIK), 2018, 'SVLK: A process toward accountable governance', p48, <https://bit.ly/2JF9GLr> 2018
73. AidEnvironment, 2016, 'Burning Paradise: The oil palm practices of Korindo in Papua and North Maluku', <https://bit.ly/2la22MD>
74. While the Plantation Law (18/2004) imposes administrative sanctions on permit holders that break the terms of the IPL by burning land, doing so also contravenes the Environmental Protection Law (32/2009, Article 69) violation of which is a criminal offence carrying a potential prison sentence and/or substantial fines. If the criminal action is conducted by, for, or on behalf of a business entity then criminal sanctions can be imposed on both the business entity and the individuals who led or gave the order to commit the criminal act.
75. AidEnvironment, 2016, 'Burning Paradise: The oil palm practices of Korindo in Papua and North Maluku', <https://bit.ly/2la22MD>
76. SGS Assessor Report, 28 August 2014, <https://bit.ly/2OqNEij>

77. Under Indonesian Law 32/2009 on Environmental Protection and Management
78. World Resources Institute, 16 February 2017, 'Exploring Indonesia's long and complicated history of Forest Fires', <https://bit.ly/2INZIs6>
79. World Bank, 25 November 2015, 'Indonesia's Fire and Haze Crisis', <https://bit.ly/2SSSZWc>
80. Government of South Halmahera Regency, Forestry Services, 16 February 2016, letter 522.01/110/2016
81. Maps from draft ANDAL document produced by PT GMM, 2017
82. PT GMM's lokasi permit covers 11,004 ha. Korindo claims to have 'carved out' 2,559 ha making the net HGU application area 8,444 ha
83. Steep slopes restrict oil palm cultivation through increasing planting, maintenance and harvesting costs, and shallow soils mean weak anchorage of the plants and surface fertilizer runoff. Planting on steep slopes frequently causes soil erosion, which is an exclusion criterion in an assessment of High Conservation Value (HCV). The Good Agriculture Principles prohibit planting on slopes over 20 degrees; see Pirker, J et al, 2016, 'What are the limits to oil palm expansion?', <https://bit.ly/2yaGYiv>
84. See; Korindo 'Sustainability policies and management systems' <https://bit.ly/2PCTEZt>
85. Only PT Tunas Sawa Erma currently holds an ISPO certificate, see <https://bit.ly/2SSOneM>
86. For reference of ISPO's weaker standards see Forest Watch Indonesia, May 2017, 'Enam Tahun ISPO', <https://bit.ly/2yvtS8U>
87. For instance, Korindo has not made its license documents publicly available (violating Principle 1: Commitment to Transparency) and has destroyed large areas of High Conservation Value natural forest in its operations (violating Principle 5: Environmental Responsibility and Conservation).
88. Mighty Earth, 1 September 2016, 'Burning Paradise: Palm Oil in the Land of the Tree Kangaroo', <https://bit.ly/2qxHgf2>
89. Mongabay, 14 September 2017, 'Samsung won't partner with Korindo following outrage over forest destruction in Indonesia', <https://bit.ly/2k6eT7c>
90. Mighty Earth, 15 February 2017, 'Satellite Data Shows Korindo Violates Deforestation Moratorium', <https://bit.ly/2Qmsm6x>
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92. See: HCV Network 'Assessors who are no longer licensed', <https://bit.ly/2QIARyF>
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110. Both PT Papua Agro Lestari and PT Bio Inti Agrindo have shared key personnel and were incorporated by the same individuals, sharing the same office. See: Indonesian Corporate Register documents and Mighty Earth, 1 September 2016, 'Burning Paradise: Palm Oil in the Land of the Tree Kangaroo', <https://bit.ly/2qxHgf2>
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112. PT BIA and PT PAL were incorporated by Kim Nam Ku in 2007 and 2006 respectively
113. Hyosung Corporation, Finance Audit, 2014, p46 and 52, <https://bit.ly/2rgNVuM>
114. This figure was generated through adding up the loans and investments to subsidiaries and joint ventures for FY2016 recorded by four main Singapore companies: Papua Agro Investment Pte Ltd, SIG Plantation Pte Ltd, East Indonesia Investment Pte Ltd and Panwell Industrial Pte Ltd.
115. SIG Plantation Pte Ltd, Financial Statements, 2016, p8 reports total investment in joint venture of \$34.3 million



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Deforestation by Korindo (PT Papua Agro Lestari) in Papua, June 2016.

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