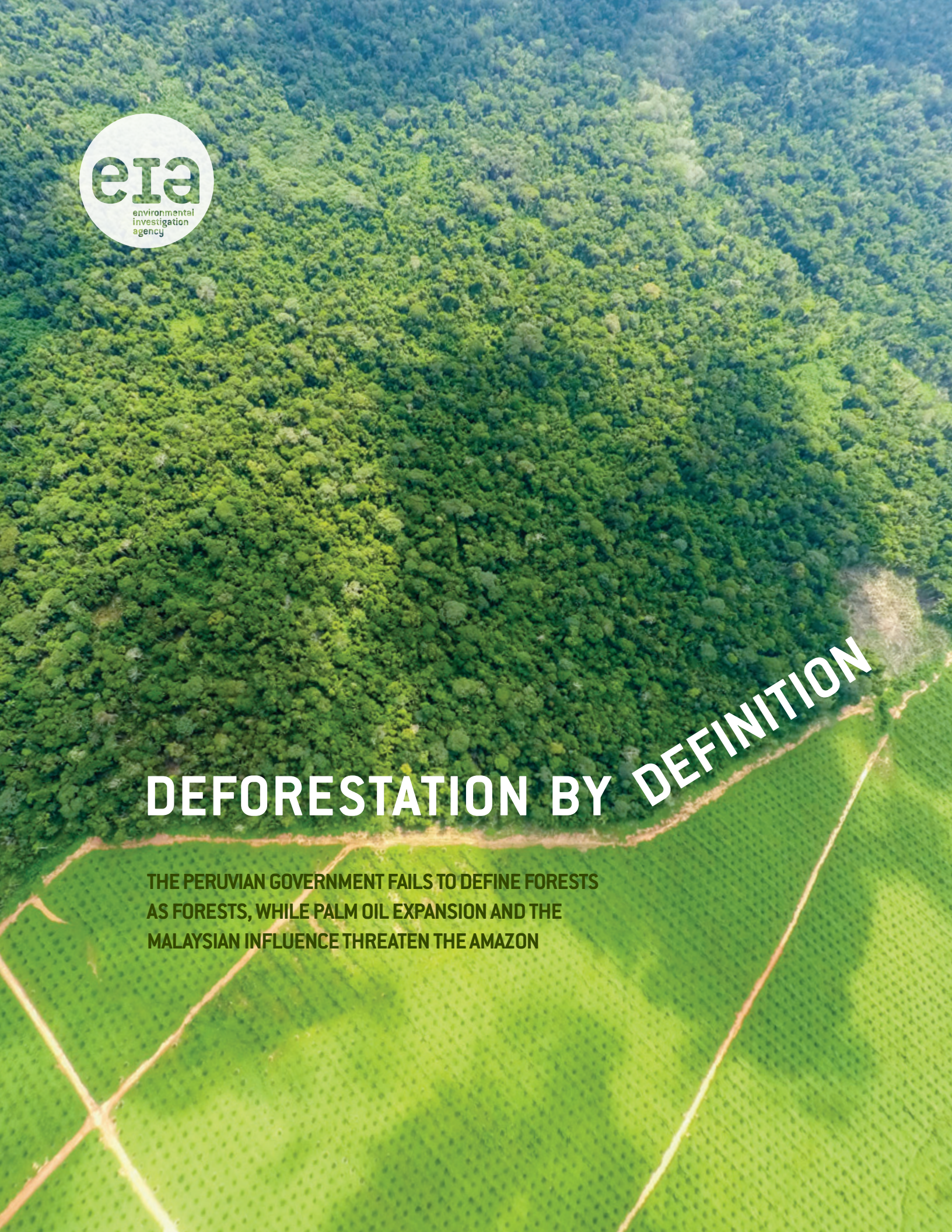

environmental investigation agency

DEFORESTATION BY DEFINITION

THE PERUVIAN GOVERNMENT FAILS TO DEFINE FORESTS AS FORESTS, WHILE PALM OIL EXPANSION AND THE MALAYSIAN INFLUENCE THREATEN THE AMAZON

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EXECUTIVE SUMMARY

Governments, donors, technocrats, activists, local communities and international actors, have begun aggressively pursuing palm oil projects in the Peruvian Amazon. These powerful economic players have already acquired tens of thousands of hectares of primarily undisturbed natural forest in the Peruvian Amazon for palm oil expansion. Grupo Romero, the largest economic actor in the country, already has 22,500 hectares of palm oil plantations in operation and has requested the allocation of more than 34,000 additional hectares of public land for palm oil. If allowed to proceed, the planned projects by Grupo Romero will result in 25,055 hectares of deforestation in violation of Peruvian law (See section 1.1). The Melka Group, a network of companies linked to massive deforestation and corrupt land deals in Malaysia, is illegally operating on 7,000 hectares of forest, has acquired over 450 units of rural private property in the Peruvian Amazon (mostly forested) and has requested at least 96,192 additional hectares of public land from the Peruvian government (See Section 2). Both groups have already illegally deforested massive tracts of forested areas to make way for agricultural plantations and are set to increase their operations.

International donors are dedicating unprecedented funds to forest protection in Peru, with the most recent commitment coming from Norway in September 2014 for US$300 million to help reduce deforestation. In announcing the agreement, Peruvian President Ollanta Humalla noted, “[This]…is a major step forward in realizing the vision of deforestation-free tropical timber or palm plantations.[2] Start-up capital for palm plantations was used to purchase new land and clear forests. Land was repeatedly allocated at far below market rates and subsequently reappraised for its true value, with hidden offshore accounts. (See Section 3). The massive allocation of land and forests for cheap and without public transparency constitutes, in essence, theft of resources that Peruvians depend directly on land and forests for their livelihoods. (See Section 3.)

While the links between these companies were initially obscured by a complex network of shell companies and offshore accounts, a closer look at national records reveal a new empire of deforestation that reaches across the Pacific, globally increasingly opaque corporate ownership structures are also globally relevant, as they complicate the implementation and enforcement possibilities of recent “zero-deforestation” pledges by powerful, multinational corporations.[14] These pledges rely on supply chain traceability and excluding suppliers that are responsible for deforestation and human rights abuses. However, if responsibility for such acts is obscured through a network of shell companies, commodities linked to deforestation will continue to enter the supply chain.

ILLEGAL DEFORESTATION: FOREST DEFINITION WORD GAMES

Procedural loopholes and violations of national law are facilitating palm expansion in the Peruvian Amazon. While forest resources are protected by national law, the Peruvian government has nonetheless approved private sector requests to clear massive tracts of forests must be protected. With 70 percent of its national territory covered by forests and 74 million hectares of forest land to its name, Peru has resources to protect its forests. Despite national and international commitments, a major new threat to Peruvian forests is being ushered into the country with open arms: large scale monoculture oil palm projects.

A NEW FRONTIER

Malaysia and Indonesia currently produce 85 percent of the world’s palm oil. Demand is projected to rise, but land suitable for palm oil expansion is expected to run out in this region by 2022, and costs of labor are rising.[4] With global demand for palm oil projected to increase, and diminishing available lands in Southeast Asia, companies are aggressively seeking new terrain for oil palm. The Peruvian Amazon provides an ideal environment for rapid palm growth and the Peruvian state an even more ideal political environment for palm investors. Peru has announced it has the capacity to dedicate a minimum of 1.5 million hectares of land for oil palm.[5] The government has not been able yet to show, however, where the suitable available land, as has been promised, will not have to be deforested.

The fate of oil palm cultivation in Malaysia provides a cautionary tale, as the same corporate actors that have decimated Malaysian forests are now pursuing forested land in Peru. Logging companies operating forest concessions, given by politicians to curry favor with local ethnic leaders,[6] subsequently

agricultural plantations throughout the country. 7KH JRYHUQPHQW FODLPV WKDW ODQG LV FODVVLoHG DFFRUGLQJ WR D WHFKQLFDO GHoQLWLRQ NQRZQ DV "best land use capacity (BLUC)," that only includes soil and climatic characteristics and ignores the presence of standing trees. Relying solely on the BLUC assessments to determine the FODVVLoFDWLRQ RI WKH ODQG LV DQ LOOHJDO of the law that recognizes standing trees as part of the national forest patrimony.[13] The law also holds that forests cannot be used for agriculture or other activities that affect the vegetation cover, the sustainable use and the conservation of forest resources.[14] (See Section 1.1)

7KH LOORJLFDO GHoQLWLRQ RI &DQ the government not only runs afoul of national legal protections for forested land, but also results in perverse approvals of projects that UHVXOW LQ VLJQLoFDQW GHIRUHVWDWLRQ 2IWHQ &/8& FODVVLoFDWLRQ VWXGLHV investors interested in developing the land for which the assessment is being carried out. Relevant governmental authorities lack the resources or the political will to verify the accuracy of the company-conducted studies. Th often results in the validation of BLUC studies that assert primary forested land is in fact best suited to agricultural production, including land WKDW KDG SUHYLRXVO\ EHH SURWHFWHG ODQG E\ WKH methodologies (See Section 1.1).[15]

&XUUHQWO\ RXW RI 3HUX forests,[16] there are approximately 20 million hectares of forests in the country that have not EHHQ FODVVLoHG DQG ODF GHoQH W Forests within these 20 million hectares are vulnerable to BLUC assessments that, based on soil and climate FKDUDFWHULVWLFV PD\ GH agriculture land.[17] [18]

Further, these companies acquired land throug LUUHJXODU SURFHGXUHV in the chain of decision-making authority within the Peruvian government. Clear and consisten GHFLVLRQV DERXW FODVVL conversion of land are critical to good governance of large-scale agricultural projects However, decision-making authority appears fragmented across national and regional authorities, with inconsistent and contradictory rulings. Particularly as Peru undergoes the full devolution of authority from national to regional authorities within the decentralization process, Peru must ensure that decisions abou land use are clear, consistent, and fully in line with all relevant laws and policies.

FAILED GOVERNMENT OVERSIGHT

Illegal expansion and deforestation carried out by corporate groups has not gone undetected. Civil society groups, as well as government agencies and committed individuals within those agencies have acted on the illegalities discussed in this report.

In August 2014, the Ministry of Environment initiated precautionary measures (medidas cautelares WR VXVSHQG WKH operations in Tamshiyacu and Nueva Requena.[18] While investigations have been open at the Ministry of Environment, and some sanctions have been levied, no action has yet been taken to KDOW WKH FRPSDQLHV effectively remediate the devastation they have caused. In February 2015, the Judiciary also VXVSHQGHG DSSURYDO RI * planned projects.[19] However, these actions are PQO\ WHPSRUDU\ LQWHQGH and harmful activities pending further investigation and action.

Before further expansion is considered, it is imperative that there be a more comprehensive HYDOXDWLRQ RI 3HUX V FDS entry of large-scale agricultural projects. Given the egregious illegalities repeatedly documented in existing plantations and the grave threat to the Amazon forests posed by expanding agricultural plantations, no new projects should be approved until the Peruvian government demonstrates the capacity to monitor and effectively enforce national laws and policies.

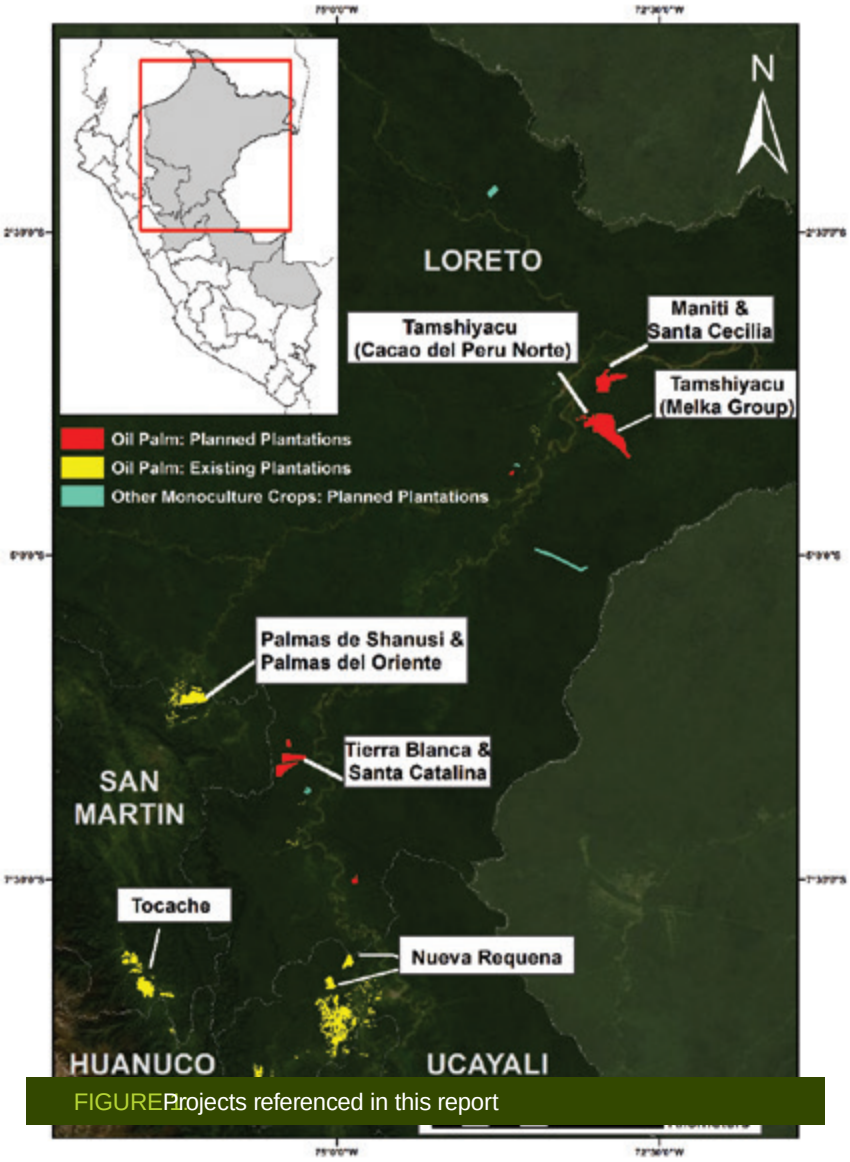


FIGURE 1: Projects referenced in this report

Source: GOREL, GOREU, Gutierrez & DeFries 2013, ACA. Background image: ESRI 2013.

1. GRUPO ROMERO: EXPANDING DEFORES

Photo Credit: Yachay Productions.

Grupo Palmas[20], a group of subsidiary companies fully owned by Grupo Romero, has become an established developer of palm oil in Peru, with three plantations in operation and several more planned or in development.[21,22] *UXSR 3DOPDV KDV UHTXHVWHG VLQ LOHJDO QHZ tracts of land, the vast majority of which are intact primary forest, for the purposes of expanding its palm oil operations. Between 2012 and 2013, four different companies controlled by Grupo Palmas submitted to the Peruvian government requests for a total of 34,295 hectares of forested land for four new palm oil projects: Manití, Santa Cecilia, Tierra Blanca and Santa Catalina. Analysis of the documents submitted by the companies to the Peruvian *RYHUQPHQW V 0LQLVWU\ RI $JULFXOWXUH &DQG Irrigation (MINAGRI) reveals that the implementation of these four new agro-industrial oil palm projects by Grupo Romero will result in the clearing of nearly 23,000 hectares of primary forest, in violation of the current Peruvian legal framework.[23] Minister RI $JULFXOWXUH V SXEOLF SRVLWLRQ WKDW SDOP oil production will not result in deforestation,[24] DQG 3HUX V LQWHUQDWLRQDO FRPPLWPHQW WR safeguard its forests.[25,26] These four projects alone will generate around 3.9 million tons of greenhouse gas emissions, equivalent to one fourth of the total emissions that the Peruvian Government has committed not to produce in the framework of the Forest Carbon Partnership Facility (FCPF).[27]

*UXSR 5RPHUR V FRPSDQLHV RSHUDWH LQ D ZLGH UDQJH RI VHFWRUV DQG DFWLYLWLHV including textile manufacturing, agroindustry, importing and sale of petroleum and petroleum products.[28] WHOHFRPPXQLFDWLRQV Its President, Dionisio Romero Paoletti, is considered the most powerful businessperson in Peru and the seventh most powerful person in the country.[29]

7KH OHJDOLW\ RI *UXSR 3DOPDV H[LVWLQJ operational plantations in Peru (Palmas del Shanusi, Palmas del Oriente and Palmas del Espino) has been called in to question UHSHDWHGOY E\ JRYHUQPHQW RIILFLDOV and indigenous organizations.[30] (See Section 1.4) $W WKH WLPH RI WKLV UHSRUW Palmas del Shanusi is facing at least seven legal cases related to illegal deforestation in which several DQG 3HUX V LQWHUQDWLRQDO FRPPLWPHQW WR RIILFLDOV KDYH EHHQ FKDUJHG &RQWUDU WR safeguard its forests.[31] In four of these cases, charges have been charged.[32] In four of these cases, charges KDYH DOUHDG\ EHHQ oOHG DQG QXPHURXV R PLOLWDU\ JRYHUQPHQW DQG LQ *UXSR 5RPHUR IRUD\HG LQWR W of Peru (Banco de Credito del Peru). Now, it is estimated that the Peruvian company Grupo Romero has holdings valued at a n around US$3.5 billion and, for 2013, the group reported income from sales and services for more than US$5.5 billion. N LQFOXGHV HDUQLQJV RU YDOXH RI *UXSR 5RPHUR &RQWUDW companies, were estimated on US$50 billion.

*UXSR 5RPHUR V FRPSDQLHV RSHUDWH LQ D ZLGH UDQJH RI VHFWRUV RI SHWUROHXP DQG SHWUROHXP SURGXFWV WHOHFRPPXQLFDWLRQV Colombia, Panama, Ecuador, Honduras, Guatemala, Argentina, Uruguay, Bolivia, Spain, Chile, Brazil and the British V products to 23 countries around the world.

According to the Environmental Impact Assessments submitted for the four new projects, Grupo Palmas supports the four [illegible] According to the Peruvian National Registry of Property (SUNARP), the president of Grupo Romero, Dionisio Romero Paoletti, is also the president of each of these four companies; several other members of Grupo Romero are DOVR PHPEHUV RI WKHVH F 7KHVH RIoFLDOO\ GRFXPHQ demonstrate that these four oil palm projects are controlled by Grupo Palmas, a subsidiary o Grupo Romero.

Through multiple access to information requests, EIA gained access to information on the four proposed palm oil plantations, including the Environmental Impact Assessments produced by the companies. This allowed EIA to map the planned projects, analyze satellite images, and estimate the projected deforestation, as well as identify a K

What is Grupo Romero?

What is now known as Grupo Romero began in 1888 as an international manufacturer of straw hats. Over the next 127 IDPLO\ SXUFKDVHG D 3HUXYLDQ WH[WLOH FRPSDQ\ DQG QXPHURXV R PLOLWDU\ JRYHUQPHQW DQG LQ *UXSR 5RPHUR IRUD\HG LQWR W

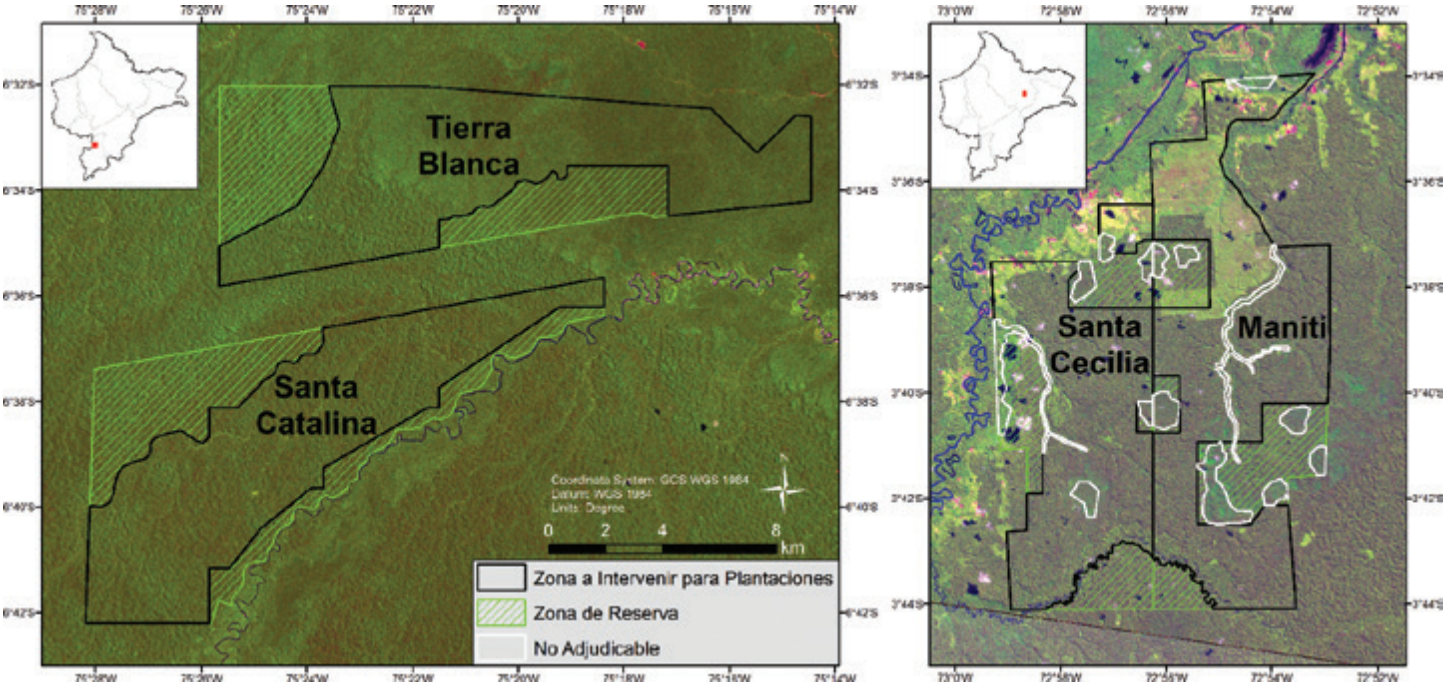


FIGURE 2 Location of the four Grupo Romero future projects in Loreto.

Source: The four EIAs, GOREL, MTC, INEI, Grupo Romero. The total area for the four projects covers 34.295 ha. Santa Catalina and Tierra Blanca – in the southern p ha, while Manití and Santa Cecilia – in the northeastern part of Loreto – add up to 14.293 ha.

series of discrepancies between the data submitted by the companies and data previously produced by the Peruvian government.[36]

The planned deforestation for these oil palm plantations violates the Peruvian Forest and Wildlife Law No. 27308,[37] which states that intact forest resources are part of the National Forest Heritage (Patrimonio Forestal Nacional) and "cannot be used for agriculture and cattle grazing or other activities that affect vegetation cover, sustainable use and the conservation of forest resources."[38] Satellite DQDO\VLV DQG WKH FRPSDULVRQ RI WKH FRPSDQLHV data with Peruvian government maps show that these proposed plantations will be developed over intact primary forests.[39]

The planned palm oil plantations also violate the Supreme Decree[40] that was created to promote palm oil plantations, but limited their development to lands that have previously been deforested and are appropriate for agriculture. 6HYHUDO VHQLRU RIoFLDOV DQG WKH Minister of Agriculture and Irrigation, including the former Minister Milton von Hesse La Serna, have made public commitments that oil palm development will not threaten primary forests.[41]

Between July and November 2013, the Environmental Investigation Agency shared WKHVH oQGLQJV ZLWK WKH RIoFHV LQ FKDUJH RI DSSUO protecting the forests, the Ministry of Agriculture and Irrigation and the Ministry of Environment respectively. Regrettably, the Peruvian government approved the plans for al projects by the end of 2013. But according to a press release issued by the Peruvian NGO Sociedad Peruana de Ecodesarrollo (SPDE) on February 5, 2015, the Peruvian Judiciary accepte the precautionary measure submitted by SPDE and suspended the legal effects of the Environmental Impact Assessment approvals o the four Grupo Romero Projects.[42]

CHART: Grupo Romero Project Summary

	MANITÍ & SANTA CECILIA	TIERRA BLANCA & SANTA CATALINA
DEFORESTATION OF 23,000 HA OF PRIMARY FORESTS	*UXSR 5RPHUR V (QYLURQPHQWDO documents show that these projects will deforest 7.579 ha of primary forests. (,$ DQDO\VLV RI RIoFLDO 3HUXYLDQ data show that these projects will deforests 9.148 ha of primary forests.	*UXSR 5RPHUR V (QYLURQPHQWDO documents state that these projects will deforest 9.167 ha of primary forest. (,$ DQDO\VLV RI RIoFLDO 3HUXYLDQ data show that these projects will deforests 13.997 ha of primary forests.
VIOLATION OF THE "RESERVE" REQUIREMENTS	*UXSR 5RPHUR V (QYLURQPHQWDO documents show that only 23% of the forested area will be set aside as a reserve. This is a clear violation of the Forest and Wildlife Law 27308 which requires a minimum of 30% be set aside as reserve land. Reduction from 30% of reserve land, would result in the illegal deforestation of 771 ha of primary forest in the Amazon.	1RDQH, LPSHQW LS\VHVGH VHVW HQW
QUESTIONABLE LAND USE CAPACITY STUDIES	*UXSR 5RPHUR V (QYLURQPHQWDO that all land for these projects is agricultural land. 7KH 0LQLVWU\ RI $JULFXOWXUH Permanent Production Forest (Bosque de Producción Permanente) known by its Spanish acronym as BPP, ZKLFK PHDQV WKHUH ZDV DQ standing forests. %33 LV GHoQHG DV QDWXUDO for the selective harvesting of wood and other forest and wildlife resources.) 2IoFH RI 1DWLRQDO $VVHVVPHQW RI 1DWXUDO classify the land north and south of the projects as forestry land.	*UXSR 5RPHUR V (QYLURQPHQWDO projects is agricultural land. 7KH FRQVHUYDWLRQ RI Natural Resources (Z`eX EXZ`feXc [\ <mX Recursos Naturales) known by its Spanish acronym, ONERN, land, it means, mainly for selective sustainable forestry activities and reforestation. 7KH RIoFLDO 5HJLRQDO *RYHUQP WKDW WKH HQWLUH 6DQWD &DWD portion of the Tierra Blanca project are located over land designated for forest production and protection.
CARBON EMISSIONS: ALMOST FOUR MILLION TONS OF CARBON	$SSOLQJ %DFFLQL HW DO deforested accumulates 3.2 million tons of biomass, equivalent to 1.6 million tons of carbon. (,$ V DQDO\VLV IRXQG DQ DY per hectare , equivalent to about 148 tons of carbon per hectare. An oil palm plantation captures only about 40 tons of carbon per hectare.	ZHH SQ\G QWK %DFFLQL HW DO deforested accumulates 4.6 million tons of biomass, equivalent to 2.3 million tons of carbon. (,$ DVJHQHUDWHV IRXQG WR QDY per hectare , equivalent to about 164 tons of carbon per hectare. An oil palm plantation captures only about 40 tons of carbon per hectare.
VIOLATION OF PERMANENT PRODUCTION FOREST CLASSIFICATION AND REGULATIONS	The land requested by Grupo Romero was part of a forest DUHD SUHYLRXVO\ FODVVLoHG E\ WKH 3HUXYLDQ JRYHUQPHQ as BPP. Through an erratic succession of events, the area was UHFODVVLoHG WR DJULFXOWXUDO ODQG DQG WUDQVIHUUHG regional government of Loreto so that it could be sold, deforested and replaced by palm oil. A year later, the land was returned to the national government. The reasoning EHKLQG WKLV VWHS EDFN DV ZHOO DV WKH oQDO GHFLVLRQ it or not as BPP are still unclear.	

1.1 HOW A SKEWED INTERPRETATION OF T
DEFINITION RESULTS IN DEFORESTATION

While intact forest resources are protected by national law,[43] the Peruvian government has Q R Q H W K H O H V S D S S U R Y H D Q D O O R W deforestation to occur by ignoring a crucial phrase in the law and by relying on a technical F O D V V L o F D W L R Q R I W K H presence of standing trees in evaluating requests for land use change. Peruvian J R Y H U Q P H Q W R I o F L D O V K D V H D V V H U W H G L Q P X O W L S O H P H H W L Q J V Z L W K (, $ W K D W E D V H G R Q D W H F K Q L F D O Best Land Use Capacity (BLUC). It is clear that W K H O H J D O G H o Q L W L R Q R I I R U H V W V L Q 3 H U X L Q F O X G H V trees, yet the government continues to approve land use change based on BLUC alone.

According to the Peruvian forest regulations,[44] BLUC is the methodology to classify land and determine what activities are allowed on it. The %/8& L V G H o Q H G D V W K H Q D W X U D O F D S D E L W \ R I land to be productive in a permanent fashion under certain uses and procedures. The BLUC of an area is determined by a "technical – interpretative system" W K D W F O D V V L o H V W K H Q D W X U D O D P R Q J o Y H [45] [46] intensive cultivation, permanent cultivation, pastures, forestry, and S U R W H F W L R Q 7 K H V H o Y H F D W H J R U L H V D U H G H o two main sets of indicators: soil characteristics (inclination, texture, pH, etc.) and climactic conditions (precipitation, temperature, etc.). The coverage of the land-for example, if it is covered by primary forest, swamps or S D V W X U H V ‹ L V Q R W F R Q V methodology. What would commonly be F R Q V L G H U H G D I R U H V W L V Q R W Q H F H V V D U L O \ G as such by the Peruvian government because it U H O L H V R Q %/8& V W X G L H V W R G H o O H I R U H V W V U H V X O W R I W K L V V N H Z H G G H o O L W L R Q P D V V L Y H stretches of the Amazon are vulnerable to deforestation.

$U W L F O H R I W K H) R U H V W L Q Q H W D Z Forest Law 29763 has "National Forest and Wildlife Patrimony" as the following: D O O R Z H G V L J Q L o F D Q W Forest and wildlife resources at their source and lands of the state whose best land use capacity is forestry with or without standing forests, constitute National Forest Patrimony. They cannot be used for X I Z I c k l i \ \ e [j i i k \ i X k Z f m A O # D k U L \ o j \ X W k X W c \ W K H % / 8 & X j j \ Z k k _ \ m \ ^ \ k X k f e Z f m F O D V V L o F D W L R Q N O R Z O D V T j \ X e [k _ \ Z f e j \ i m X k f e f j \ V \ j k V D Q G L V Q R W N H \ I R U resources, regardless of their location in the national territory, except for the cases referred to in the present law and its regulations.

However, the Peruvian government is acti W K R X J K W K H o U V W S D U W and wildlife resources at their source" ("los recursos forestales y de fauna silvestre mantenidos en su fuente") does not exist, is instead stating that the only way for land be forest is if its best land use capacity ha been determined to be forest. It is only thr this omission that determination of best la use is decided.

A similar rationale is being applied to the G H o Q L W L R Q R I k I R U H V W / D Z $ U W L F O H R I resources in the following way:

Forest resources are those natural fores forested plantations, and lands for which the best land use capacity is forest production and protection.

In this case, again the initial phrase "natur forests are forest resources" ("son recurso forestales los bosques naturales") is ignor and the only one considered is "lands who best land use is productive and forest protection" ("tierras cuya capacidad de uso mayor sea producción y protección forestal")

The new Forest Law 29763 has very similar G H o Q L W L R Q V W R [47] and forest I R U resources,[48] with the difference that it enumerates the different components of the G H o Q L W L R Q V L Q Z K D W V H H avoid potential misinterpretation.

7 K H F X U U H Q W L Q W H U S U H W D forests is incorrect, and the text of the new forestry law 29763 suggests so when it H J k X W k X W c \ W K H % / 8 & T j V \ j k V D Q G L V Q R W N H \ I R U Natural forests are forest resources, independently of their BLUC and when "at their source" are also forest patrimony.

A Grupo Romero oil palm plantation from the air.
PHOTO CREDIT: YACHAY PRODUCTIONS.

TWENTY MILLION HECTARES OF FORESTS AT RISK

The Peruvian forest law at the time of this report's publication […] conversion; in other words, it does not allow for deforestation of land that has been defined as forestry or protection for its best land use capacity (BLUC).[49] According to Peruvian law, agro-industrial palm oil projects are only promoted on land designated, by its BLUC, as agricultural land.[50]

However, the government has not conducted a comprehensive assessment of the BLUC of Amazonian forested land. Currently, out of Peru's [illegible] million hectares,[51] there are approximately 20 million hectares of forests in the country that have not been classified and lack their BLUC.[52] Forests within these 20 million hectares are vulnerable to BLUC assessments that, based on soil and climate characteristics, may define them as agricultural land. Furthermore, BLUC assessments can even be used to declare that land previously classified as forestry or protected land is in fact best suited to agricultural production.[53]

Often BLUC classification studies are paid for by private investors interested in developing the land for which the BLUC assessment is being carried out. Relevant governmental authorities lack the resources or the political will to verify the accuracy of the company-conducted studies. This often results in the validation of BLUC studies that assert primary forested land is in fact best suited to agricultural production. This is the case with the Grupo Romero projects discussed in this report.[54]

A map produced in [illegible] by the National Office for Natural Resource Evaluation (ONERN)[55] clearly shows that all of the land requested by Grupo Romero for the Santa Catalina and Tierra Blanca projects […] forestry.[56] Another map produced by the Loreto Regional Government in 2008 shows that all of the Santa Catalina project, and a significant portion of the Tierra Blanca project, are located over land designated for forest production and protection.[57]

However, the Grupo Romero Environmental Impact Assessments assert that all of the land within the Tierra Blanca and Santa Catalina project areas are in fact agricultural land.[58] Given that the Ministry of Agriculture and Irrigation had previously designated all of the land within the Manití and Santa Cecilia projects as Permanent Production Forests (Bosques de Producción Permanente, or BPP), it is seemingly impossible that none of the land in the project areas is designated as forestry under a BLUC analysis. A 1981 map produced by ONERN identifies the areas on the north and the south of the projects as forestry[59] BLUC classified.

While the Environmental Impact Assessments for Manití and Santa Cecilia do identify several small pieces of land inside the boundaries of the project area, mark them as land to be protected (Tierras de Protección), and do not count these areas as part of […] those areas would stand in stark contrast to the entire project areas which will be deforested. These "protected areas" would be insignificant in the […] and would hardly fulfill […] environmental role.

With the current BLUC practice, businesses can deforest thousands of hectares of primary forests to install agribusiness operations without this being officially considered "deforestation" but justified as "cambio de cobertura forestal" or forest cover removal. This also explains why the Grupo Romero assessments acknowledge that the majority of the requested land is primary forest, but claim that the BLUC is for agriculture.

The regulation to define BLUC […] (Decree 017-2009-AG) was issued in 2009. Prior to this supreme decree, […] by the combined application of the ONERN map and the article 49.2 of regulations for the Forest and Wildlife Law 27308. Article 49.2 included[60] criteria, one of which was forest cover. While forest cover has been recognized as a significant […] legislation to classify the land in the past, the current BLUC practice is ignoring this precedent.

In February 2014, following repeated complaints from civil society regarding the approval of large agribusiness projects over forested land, the Peruvian National Forest Service (SERFOR) invited representatives from the private and public sector who had been analyzing the oil palm industry to create a working group to better understand the challenges of the sector and proposing solutions. One of the conclusions of this working group has been that the criteria for land allocation must be revised in a manner that incorporates the forest cover as a vital factor before allocating the land for agribusiness projects.[61]

CHART 2: Plantation/Reserved Land for Grupo Romero Projects

	SANTA CATALINA	TIERRA BLANCA	MANITÍ	SANTA CECILIA	TOTAL
Palma	7.003	7.002	6.440	4.610	25.055
Reserva	3.001	2.996	1.631	1.612	9.240
TOTAL	10.004	9.998	8.071	6.222	34.295

Source: AutoCAD data from the projects Environmental Impact Assessments. (The amounts for the EIAs were estimated using the AutoCAD data included in the Envir[…] Assessments annexes. Due to the methodology to build these numbers it is possible […]

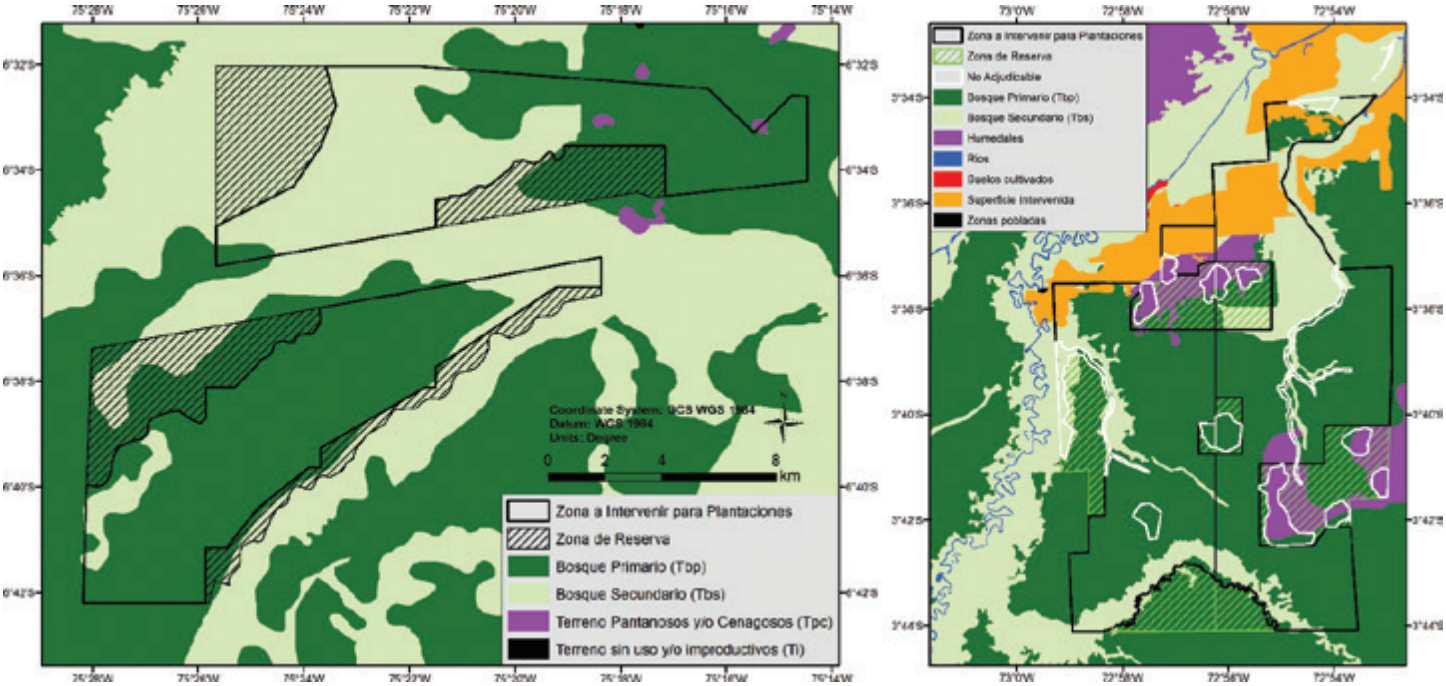


FIGURE 5 Forest coverage according to the Grupo Romero projects' Environmental Impact Assessments. The scales are the same for both ma

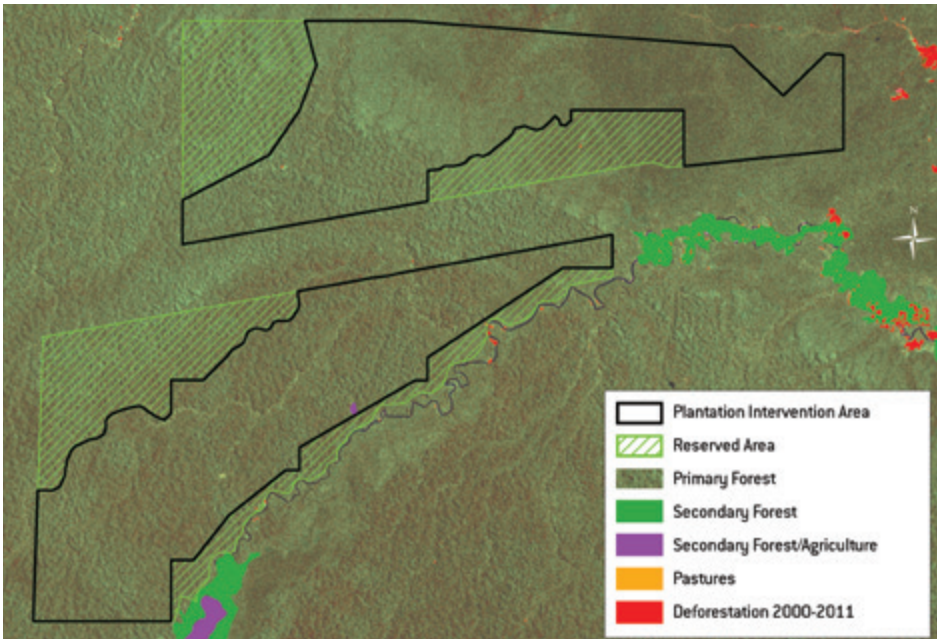
The irregular and at times contradictory processes involved in the decisions regarding the land for these palm oil concessions raises several questions about the Peruvian government´s ability to reliably follow its own laws and policies. Additionally, the number of mistakes in terms of maps, dates, names of companies, location of the requested land, both in the Environmental Impact Assessment documents submitted by Grupo Romero and in Resolutions produced by the DGAAA, should be reason enough to reopen processes and reverse the permission granted to deforest these lands.[62]

DEFORESTATION OF 23,000 HECTARES OF PRIMARY FORESTS

The vast majority of the 25,055 ha that Grupo Romero intends to convert for four oil palm plantations are Peruvian Amazon primary forests.[63] This is roughly equivalent to the area of Washington, D.C.

The Grupo Romero Environmental Impact Assessments indicate that 16,746 ha (or 66.8 percent of the total areas to be converted to palm oil) are primary forests. The Environmental Impact Assessments also indicate conversion of another 6,956 ha of secondary forest and 366 ha of wetlands (humedales). In other words, the Environmental Impact Assessment plans submitted by the Grupo Romero companies show that 96 percent (24,067.7 ha) of the area to be converted to palm oil plantations is currently covered by forests. According to the company's own data, these projects will destroy 24,000 ha of Amazon forests.

In two reports from the Peruvian government (The National Institute for Natural Resources, or INRENA and the National Environmental Council, CONAM)[64] produced a map of deforestation in the Peruvian Amazon up to the year 2000, based on Landsat satellite imagery and GIS analysis. According to this map shows that 23,231 ha of Grupo Romero's palm plantations were primary forests in 2000. In 2012, the Peruvian Ministry of Environment (MINAM) produced two new maps with updated data on deforestation that occurred between 2000–2011. This new map indicated that only 86 additional ha had been deforested within the area corresponding to the Grupo Romero requested palm oil concessions since 2000, when the previous INRENA map was developed.[65] Using both the MINAM map, along with the INRENA and CONAM data, EIA documented that 92.4 percent (23.14 ha) of the area to be converted to palm oil in the Romero projects is primary forest.



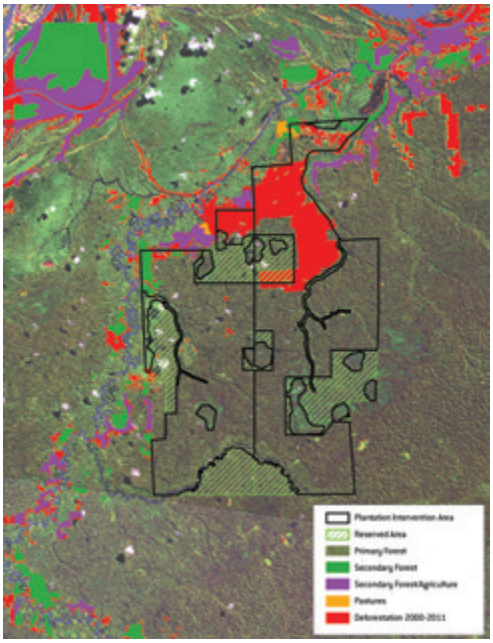


FIGURE 7 Forest cover for Grupo Romero projects

Forest cover for the Grupo Romero projects according to the "Mapa de Deforestación de la Amazonía Peruana – 2000" by INRENA and CDC, MINAM data, and "Mapa de Deforestación Departamento de Loreto al 2009" produced by the IIAP in 2012.

In July 2012, the Peruvian Amazon Research Institute (@ e j k ` k l k f [ \ @ e m \ j k ` Z K Z Z L O J [Q R X J R L Q $ Q R W Amazonía Peruana, IIAP) produced another map of deforestation in Loreto[66] which showed that 92 percent (23,056 ha) of the area to be converted to palm oil remained primary forests with no detected deforestation as of (, $ V D Q D O \ V L V R I / D O G V D W L P D J H U \ X S W R I R X Q G W K D W Q R Q H Z V L J O L o F D O W deforestation has occurred in the project area in the last three years.[67]

Carlos Ferraro, an advisor to Grupo Palmas, told the Peruvian investigative journalism website, IDL Reporteros that the "the Environmental Impact Assessments (submitted by Grupo Palmas) never mention 'primary' I R U H W W H Y[68] When the journalist showed Ferraro D Q G * U X S R 3 D O P D V ' L U H F W R U R I Communications, Victor Melgarejo, the V H F W L R Q V R I W K H * U X S R 3 D O P D V G R F X P H O W V L Q which the company acknowledges that the vast majority of the land is "primary forest," Victor Melgarejo said, "If it is a primary forest, we were being blind, you will see that they will not authorize us to go there."[69]

By January 2015, the four projects had been approved by the DGAAA and, in at least two of the cases, the Loreto Regional Government (GOREL), had sold the land to the companies and approved the land use change for agriculture.[70] In other words, Grupo Romero had been authorized by Peruvian government authorities to destroy at least 23,000 hectares of primary forest.

On February 5, 2015, according to SPDE, a precautionary measure approved by the Peruvian Judiciary suspended the legal effects of the Environmental Impact Assessment approvals of the four Grupo Romero Projects.[71] By the decision of the Second Constitutional Court of the Superior Court of Lima all the legal effects of the Resolutions that approved the Environmental Impact Assessments for the projects have been suspended and any R G L Q W L H V H G L Q W H U Y H Q W L R Q activities over the areas that could be considered non-reversible are forbidden.[72] However, precautionary measures are, per se, temporary measures to preserve the value of a U H V R X U F H L Q U L V N Z K L O H case is made. This means that while the Manit and Santa Cecilia areas are under judiciary protection at the moment, the situation can change at any time.[73]

1.2 VIOLATION OF RESERVE REQUIREMENT

According to current Peruvian legislation, when an entity gains legal access to an area with forest cover for the purposes of developing the land, it must preserve untouched a reserve area of at least 30 percent of the forested area, plus a corridor of at least 50 meters width next to the rivers and any other water sources in the area.[75] If part of the land in question possesses certain characteristics meriting additional protections, for example wetlands, the government is required to increase the minimum 30 percent reserve to ensure the specially designated land is preserved.

According to the documents submitted by Grupo Romero project developers to the national government, the company is not complying with this legal requirement.[76] The AutoCAD data submitted with the Manití and Santa Cecilia planned projects reveal that 23 percent of the forested area of Manití and Santa Cecilia will be set aside as a reserve.[77]

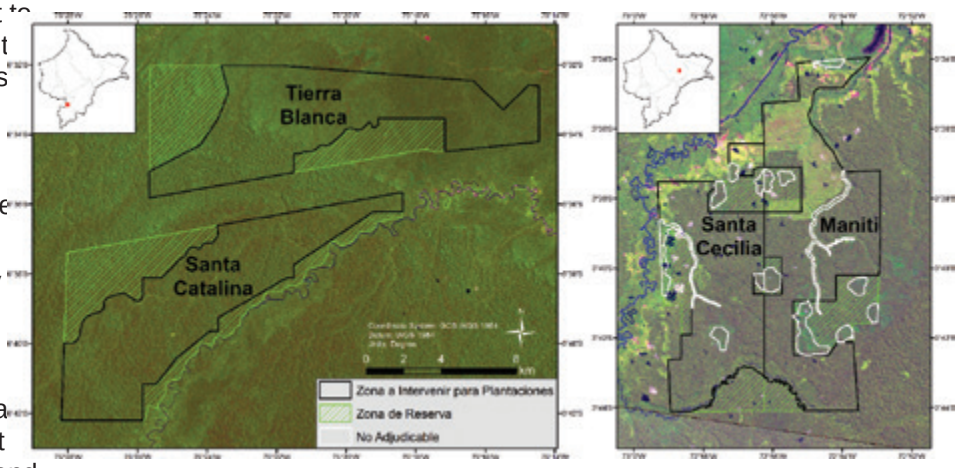


FIGURE 7 Plantation and reserve area for Grupo Romero projects

Clear violation of current law. This violation alone would mean the illegal deforestation of 771 ha of primary forest in the Amazon. According to the documents received by EIA, there are no documents referring to any assessments conducted by the Peruvian government to determine if the land merited special protection.

Undermining REDD Commitments

3.9 Million Tons of Carbon Dioxide

In addition to its national legislation, Peru has announced its intentions to the international community to reduce emissions from forest degradation. Since deforestation is considered the primary source of greenhouse gas emissions in the country,[78] the Peruvian government has committed to preserving 54 million hectares of primary forest in the context of the Forest Carbon Partnership Facility (FCPF).[79] Additionally, Peru has pledged to reduce to zero the rate of deforestation from land use, land use change, and forestry activities by 2021.[80] 3 QCEVIIL 8 2021X V DJUI implementation with Germany and Norway, Peru has committed to end conversion of "soils under forest and protection categ[illegible]

&XUUHQW FDVHV LQGLFDWH WKDW WKH 3HUXYLDQ JRYHUQPHQW LV XQDE[illegible] encouragement of palm oil cultivation on forested land stands in stark contrast to its articulated commitments to combat climat[illegible] its forests.

Applying the data published by Baccini et al. in 2012, EIA estimates that the projected deforestation of the four planned new G[illegible] plantations will result in a total loss of 7.85 million tons of biomass, which is equivalent to about 3.9 million tons of carbon emiss[illegible][82]

Our analysis found an average biomass of 313 tons per hectare,[83] equivalent to about 157 tons of carbon per hectare. An oil palm plantation, on the other hand, captures only about 40 tons of carbon per hectare, according to estimations based on a typical cycle of 25 years.[84]

7KLV PHDQV WKDW LI *UXSR 5RPHUR V IRXU SURMHFWV DUH IXOO\ DSSUR[illegible] scenario, would only recapture one fourth of the carbon emissions released by the deforestation.

Replacing a natural forest with a monoculture plantation results in a radical and irreplaceable loss of biodiversity at a moment [illegible] LWVHOI DV D FRXQWU\ SURXG RI [illegible] The scale of the planned projects will imply the development of new factories, processing plants, lodging for the workers, and other associated infrastructure, all of which bring additional social and [illegible] to the forest.[85]

1.3 AN INVALID LAND TRANSFER

The land requested for the Manití and Santa Cecilia projects was part of a forest area that had been previously classified by the Government as Permanent Production Forest (BPP) which is defined as forests only for activities compatible with standing forests, such as the selective harvesting of wood and other forest and wildlife resources.[86] The law states that "BPP…cannot be used for agricultural purposes or for other activities that affect plant coverage, sustainable use of the forest, or its conservation."[87]

As described below, the areas of forested land requested for the Manití and Santa Cecilia palm oil plantations have been part of an erratic succession of actions and reactions that have led to the land's status as BPP being protected by the State to remain as standing forests for the value of their environmental services for the benefit of all Peruvians, to the benefit of private property with accredited third party rights.

In 2001, the national government issued a ministerial resolution designating eight areas in the region of Loreto as BPP land.[88] This resolution was followed by a Supreme Decree that stated that private property with "accredited third party rights" would be excluded from the BPP designation.[89] The exclusion of these areas as well as any resizing ("dimensionamiento") of the BPP land must be approved by a Ministerial Resolution from MINAGRI.

In 2011, the companies Islandia Energy SA and Palmas del Oriente SA, subsidiaries of the companies behind the Manití and Santa Cecilia projects, submitted requests to the Regional Government of Loreto (GORELOR) for the allocation of land for their Manití and Santa Cecilia plantations. At that time, the land in question was still property of the national government and was classified as BPP.[90] The President of the Loreto Regional Government (GOREL) requested the transfer of the properties from MINAGRI to his region so GOREL could sell them to the companies.[91]

Without MINAGRI's approval of the viability of the request from GOREL, and therefore without having legal authority over the land, the Regional Government of Loreto went to the Public Registry (Superintendencia Nacional de Registros Públicos) to register the land in its name.[92] In September 2014, through respective ministerial resolutions, MINAGRI transferred the property to the Loreto Regional Government.[93]

QUESTIONABLE LAND USE CHANGE

On December 24, 2014, eight days before the transfer, the Regional Government of Loreto issued two directorial executive resolutions[94] in order to approve the land use change in favor of Grupo Romero. According to the Transfer Record (Acta de Transferencia) from the previous administration to the new one,[95] the transference was missing several documents. In two separate off-the-record conversations with ERA, two different high-level Peruvian government officials, who were in charge of the BPP at the time, stated that the previous one had taken most of the archives and hard drives, leaving the current Regional Government scrambling to rebuild their archives.[96]

In summary, there are three main issues under discussion for the Manití and Santa Cecilia cases, in addition to the Environmental Impact Assessment approval: 1) the property of the land; 2) the resizing of the BPP; and 3) if the land can (and should) be deforested for palm oil projects. The land has already been transferred from MINAGRI to GOREL and the latter has even sold it to Grupo Romero.[97] As for the second point, as far as EIA understands, the resizing has not been approved yet, but it might happen at any point.[98] The most crucial assessment is the third: can and should this land be deforested?

The Ministry of Agriculture and Irrigation has the mission to approve or not approve land use change. In the case of both BPP and private property of MINAGRI, the government should not allow land use change that results in deforestation. The private versus BPP status of the land is in essence irrelevant. The government has the authority and power to prevent deforestation in both cases and should do so, particularly given the fact that the land has already been deforested for palm oil.

Three months after the GOREL initiated this allocation process, the Peruvian forest authority at the time (the General Forest and Wildlife Office) verified that the land was located within an area designated as BPP[99] and stated that "due to its characteristics it remains important to maintain said areas as BPP, especially when the forest inventory conducted in July and August 2011 in part of the area indicates that the land is covered by primary forest."[100] In other words, the land requested by the companies was compatible with a palm oil plantation.

The opinion was communicated to the company.[101] In response, a representative of Islandia Energy asserted that the resolution that created the BPP of Loreto wrongly included the requested area, arguing that the land was not forested and therefore not eligible to be designated as BPP land.[102] At the same time, the company also submitted a request to resize (reduce) the BPP land to allow the development of palm oil projects.[103] Following a series of analyses and reports carried out by both DGFFS and MINAGRI, the DGFFS eventually accepted that the requested land could qualify as an exception from the BPP since it was private property of MINAGRI before the BPP was created.[104]

NEXT STEPS

The irregular and at times contradictory processes surrounding the land use decisions for these palm oil concessions raise several questions about the Peruvian government's ability to reliably follow its own laws and policies.

The Peruvian government had already decided that the best use for the area is as standing forest. If the land is public, or private property of a national institution, does not change the fact that this forest is valuable and should U H P D L Q L Q W D F W D F F R U G L Q J W K H J R Y H U O P H Q W V R Z O direction. The option to resize the BPP was created to make sure that no private actor with previous rights would be negatively affected by the BPP creation.

Opening a 15,000 hectare clearing amid standing forest to replace it with a monoculture S O D Q W D W L R Q Z L O O K D Y environmental impacts on the surrounding area, and will affect water resources, wildlife, biodiversity, and degrade the soils and forests.

3 H U X V & R Q V W L W X W L R Q D O 7 U L E X Q D O W K H K L J K H V W authority on legal interpretation in the country, has already dictated precedents on the importance of preserving natural resources. "The natural resources, in totum, are part of the 1 D W L R Q V patrimony which implies that their exploitation can never be separated from the national interest and the common good of being a universal patrimony (I e ` m \ i j X c ` [X [) recognized for ` X c 3 H U X Y L D Q V R I D O O J H Q H using them must reach the Nation as a whole, which is the reason why their exploitation for purposes exclusively individualistic and private is banned."[110]

As of 2015, there is a new director of DGAA and a new administration in the Loreto Regional Government. These changes represent opportunity for a review of the processes followed in the Grupo Romero palm cases and, if irregularities are found, the possibility for an annulment of the process. In response to an access to information request submitted by EIA to the GORELoreto asking about the land use change approvals from 2013 to date (February 2015), the GOREL responded: "At the moment, there is no authorization for land use change or forest removal for the installation of agribusiness or agro energy crops."[111] While this statement could be an indication of an ongoing, contradictory, and confusing process, it could also indicate that the GOREL is reviewing the prior process for the Manití and Santa Cecilia land use change approval. Regardless, the current statement by * 2 5 (/ F R Q o U P L Q J W K D W W K authorizations issued for land use change between 2013 and February 2015, means that any deforestation happening in the Manití and Santa Cecilia area is illegal.

While the Grupo Romero palm projects represent just a portion of palm oil projects in Peru, and projected palm oil investments on the horizon, they must be scrutinized by the Peruvian government and by the international community. If the irregular processes accepted, to date, in these projects set a precedent for land acquisition and palm expansion in Peru, W K H F R X Q W U \ V I R U H V W V D Grupo Romero palm investments showcase illegalities, institutional weakness, and the inability of the Peruvian government to protect the resources. These cases send a strong message to the international community that Peru is unwilling, if not unable, to meet international commitments and pledges to reducing deforestation and reducing emissions from forest degradation.

1.4GRUPO ROMERO EXISTING PALM OIL PLA

LOCAL CONFLICT

$FFRUGLQJ WR *UXSR 3DOPDV DQQXDO UHSRUW IRU WKH PRVW UHFHQW planted with palm oil by the end of 2012.[115] In 2007, the group started planting cacao as a pilot project, and by the end of 2012 had a total of planted with cacao.[116]

Grupo Romero (through its Grupo Palmas companies) obtained possession of the land and conducted deforestation to install its pla LQIUDVWUXFWXUH ERWK RI ZKLFK KDYH EHHQ ZLGHO\ FULWLFL]HG E\ QHLJK ORFDO DQG QDWLRQDO DXWKRULWLHV WKH MXGLFLDU\ WKH SURVHFXWRU KDYH FRQWLQXDOO\ IROORZHG DQG SXEOLF[117] LQ GRXUK RV WKH HVWLQ DEWRQ DFWLYLWLHV FKDUJHV KDYH DOUHDG\ EHHQ oOHG DQG DUH DZDL[118]WLQJ D GH

CHART: Existing Grupo Romero projects

PROJECT	PALM HECTARES	CACAO HECTARES	LOCATION/ PROVINCE
Palmas del Shanusi – Agropecuaria del Shanusi SA	7,043	495	On border between Lamas province (in San Martin region) and Alto Amazonas province (in Loreto region)
Palmas del Oriente – Agrícola del Caynarachi SA	2,333	‹	Lamas province, in San Martin region
Palmas del Espino	13,126	225	Tocache district, in San Martin province, in San Martin region

Source: Grupo Palmas annual report 2012

PALMAS DEL ORIENTE – AGRÍCOLA DEL CAYNARACHI

In 2006, representatives of Agricola del &D\QDUDFKL RQH RI *UXSR 3DOPDV FRPSDQLH informed people in the Barranquita district of San Martin that the company had been given 3,000 hectares for its "Palmas del Oriente" project. It was not until 2007 that the San Martin forest authority formally granted Agricola del Caynarachi a land use change for 3,000 hectares to be used for the Palmas del Oriente palm oil project.[119]

Before the land use change was formally granted, the local residents, who had inhabited this territory for more than 20 years, publicly expressed their outrage over Agricola del &D\QDUDFKL V FRPSDQ\[120] According to the national maps, the area requested by the company was categorized as "permanent production forest" (BPP) and, according to the UHJLRQ V (FRQRPL[121] (FRQRPL\ +RQ QO J 3DQ designated "forest resource production forest".[122] Both of these designations mean that these areas are only available for activities compatible with a standing forest.

Representatives of local farmers who had been LPSDEWHG E\ *UXSR 5RPHUR V SUHVHQFH LQ WKH nearby district of Caynarachi sent a letter to Peruvian Congressman Aurelio Pastor in May 2006 to bring his attention "to the mistreatment and abuse to which the farmers are subjected by Grupo Romero in the district of Caynarachi."[124] This letter accused Grupo Romero of deforesting a number of districts in the area and of taking over "the agricultural lands from possessors who had been there for 20 years," asserting that "they had also taken X U SHG IDUPHUV DJUL FXOWXUDO OD QG WKDW WKH\ were properly registered and authorized."[125] It stated that the "passive and complacent attitude of the authorities" was allowing the company to keep "invading and displacing humble farmers from their properties," making the farmers "helpless" and unable to do anything to recover what belonged to them by law.[126] The letter also accused the company of forcing farmers to sell their lands for little value through notary letters, or to leave without receiving anything for their lands," and VDLG WKDW WKH FRPSDQ\ V invalid.[127] "[Grupo Romero states that] they are the owners and have property titles to these areas, when in reality they have only been in these places for one year, while we have been here for twenty years,[128]" added the letter.

The congressman forwarded the case to the Comptroller General,[129] who requested information from the national forest authority.[130] 7KH QDWLRQDO IRUHV report concluded that Grupo Romero was acquiring lands without securing authorized rights to the lands, the soil use capacity FRPSDQ\ V DJUL FXOWXUDO DFWLYLWLHV ZHUH EL[131] XQDXWKRULZHG land use FODVVLoFDWLRQV ZHUH EL[132] D use change authorization "completely RYHUORRNHGy WKH (FRQRP Plan of San Martin,[133] which established that this forest must stay standing. In addition the VWXG\ FRQoUPHG WKH H[LV activities, as well as an unauthorized access road.[134]

The Environmental Impact Assessment for the Palmas del Oriente project was approved by 0,1$*5, V *HQHUDO 'LUHFWRUDWH RI Environmental Affairs (DGAA) [135] [136] more than a year after the land use change was approved. The Environmental Impact Assessment said that WKH DUHD GLUHFWO\ LQIOXHQFHG E\ WKH SURMHFW covered 3,000 hectares, 95.1 percent of which was primary forest and 4.9 percent was secondary forest.[137]

approved the land use change for the 3,000 hectares, it did not respond to many concerns about the project, and the approval of the land use change went against the San Martin Regional Government's [138] [139] [140] [141] [142] During this time, the Conciliation Board for Combating Poverty in Barranquita (MCLP) tried to hold meetings between all the public and private stakeholders to prevent negative social and environmental impacts. In spite of these efforts, a group of local residents took over the municipality building in protest, and the [141] [142]

PALMAS DEL SHANUSI — AGROPECUARIA DEL SHANUSI

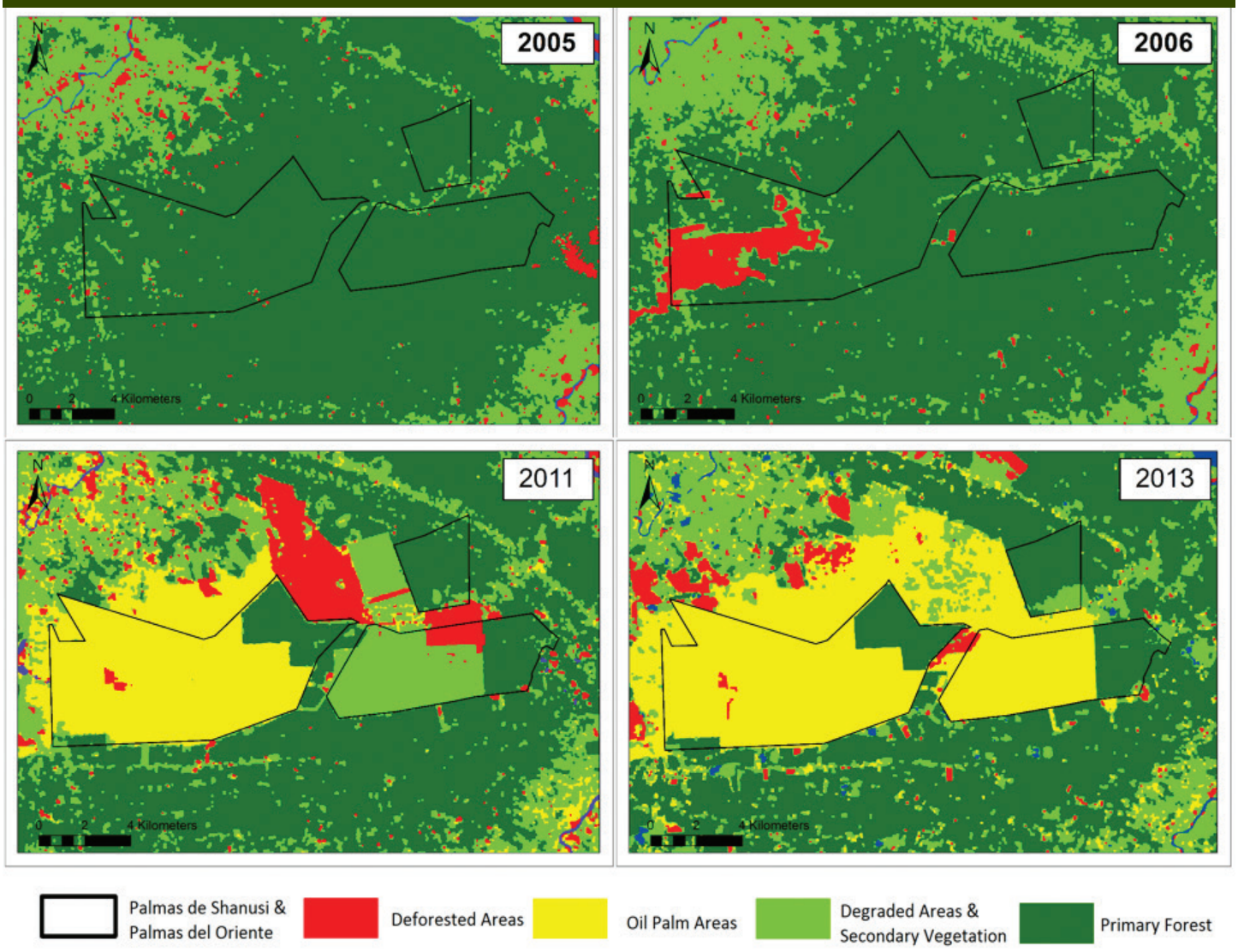
When responding to the letter from the Cayharachi farmers, the San Martin Regional Government also analyzed and conducted a [143] [144] [145]

0 H O G YLVLW RI D SDOP RLO DQ RWKHU RI *UXSR 5RPHUR Companies, Agropecuaria del Shanusi. This project, called Palmas del Shanusi, was located on the border between the San Martin and Loreto regions.[143]

The report from this investigation stated the existing environmental regulations had been violated in several ways:[143]

- The technical dossier submitted by Agropecuaria del Shanusi for the change in use of lands did not contain a soil FODVVLoFDWLRQ VWXG\ DQG WKH ecological characteristics of the area had not yet been adequately shown,[144]
- The Environmental Impact Assessment that the company had submitted lacked WHFKQLFDO VFLHQWLoF
- The quantity of cleared forest area led the regional government to suspect that the

FIGURE 1 Landsat-based time series deforestation analysis in and around Palmas de Shanusi and Palmas del Oriente



Source: GOREL, USGS, INPE

FRPSDQ\ V $QQX[146] could be HUSWLQJ 3ODQ FRQFHDOLQJ kXQMXVWLILDEOH WLPEHU extraction;[147]

- The company had not preserved the minimum 30 percent forest coverage required in the change in land use pursuant to Law[148] 27308, and
- The company had violated its obligation to preserve the 50-meter strip of forest coverage from the edge of the bodies of water inside or near its project land, as prescribed by law.[149]

Sitting on the border between two regions in the Alto Amazonas province, this project has DIIHFWHG ERWK WKH <XULPDJXDV GLVWULFW LQ /RUHWR and the Lamas district in San Martin within the Alto Amazonas province of Peru. The overlapping jurisdiction has made regulation DQG RYHUVLJKW RI WKH SURMHFW GLIoFXOW. the national forest authority in Lima to urge these two jurisdictions to cooperate in investigating the project in 2008.[150]

In 2009, workers from Agropecuaria del Shanusi and local people from the village of Pampa Hermosa lodged a complaint against Agropecuaria del Shanusi, requesting an investigation into illegal timber extraction and labor-related issues.[151] When the national forest authority[152] ordered that an investigation be PDGH LQWR WKLV SURMHFW, WKH <XULPDJXDV authority[153] performed the requested investigation and recommended that Agropecuaria del Shanusi be sanctioned for violating the Forest and Wildlife Law.[154] However, the company subsequently appealed the decision and the sanction process was suspended.[155]

On August 5, 2009, confrontations over land occurred between the people from the Sector 1XHYD ,WDOLD‹D YLOODJH LQ <XULPDJXDV DIIHFWHG E\ RQH RI WKH *UXSR 5RPHUR SODQWDWLRQV‹DQG Palmas del Shanusi workers. The company stated that it was in legal possession of the disputed areas, but it did not allow the ERXQGDULHV RI LWV ODQG WR EH YHULoHG. 7KH ORFDO people refuted that the company had devastated the crops and houses of some villagers and had mistreated and detained others.[156]

In September 2012, in the village of Nueva Independencia some people sold their properties to the company, and those who did not sell their lands alleged that Agropecuaria del Shanusi was entering their properties and restricting access to their own plots. These allegations were brought to the Public 3URVHFXWRU V RIoFH RI $OWR $PD]RQDV, ZKLFK carried out a preliminary inspection.[157]

In November 2012, the Defense and Development Front of Alto Amazonas (FREDESAA) requested that the Environmental 3URVHFXWRU[158] RI $OWR $PD]RQDV RIoFH investigate the area for environmental violations, and alleged that Agropecuaria del Shanusi had deforested more than 200 hectares of permanent production forests (BPP).[159] FREDESAA has carried out public demonstrations demanding that the director RI WKH 5HJLRQDO $JULFXOWXUDO 2IoFH EH oUHG because the director allegedly awarded proof of ownership to people who did not belong to the village so that those people could later sell illegally acquired plots to Agropecuaria del Shanusi.[160]

After a preliminary investigation, the Alto $PD]RQDV (QYLURQPHQWDO 3URVHFXWRU V RIoFH SURFHHGHG ZLWK DQ RIoFLDO LQYHVWLJDWLRQ LQWR the representatives of Agropecuaria del Shanusi for the deforestation[161] of 500 hectares of tropical rainforest in the villages of Nuevo Japon and Independencia located in the GLVWULFW RI <XULPDJXDV. 7KHVH KHFWDUHV DUH SDUW RI WKH FRPSDQ\ V SODQ WR H[WHQG WKH SURMHFW agricultural borders to make way for more oil palm cultivation.[162]

ONGOING SOCIAL CONFLI

In May 2013, new demonstrations were held i <XULPDJXDV DJDLQVW GHIRUHVWDWLRQ and other related problems. In response, national government authorities travelled to th area, where they held a meeting with representatives of FREDESAA and indigenou OHDGHUV WR GLVFXVV[163] WKH The President of the Peruvian Congress, the ministers of Environmental Management and $JULFXOWXUH RIoFLDOV I Council of Ministers, and the regional and the local authorities also participated in this meeting. As a result of the meeting, the President of the Congress pledged to transfer complaints against Grupo Romero for deforesting primary forests for the Palmas de 6KDQXVL SURMHFW LQ <XU Congressional Committee on Andean, Amazo and Afro-Peruvian Peoples, Environment and Ecology. The President of the Congress also pledged to coordinate with the National Attorn *HQHUDO[164] V 2IoFH to increase the number of SURVHFXWRUV IRU WKH (Q RIoFH[165] for Alto Amazonas.[166]

7KH FRQpLFW EHWZHHQ WK Shanusi Valley and Grupo Romero is ongoing November 2, 2014, FREDESAA declared an LQGHoQLWH[167] VWULNH. One of the main goals of this strike was to investigate and sanction "the Palmas del Shanusi company" f "deforestation and contamination of the ravine 8VKSD\DFX[168] DQG <DQD\DFX

ENVIRONMENTAL IMPACTS OF AGRO-INDU PROJECTS IN THE AMAZON:

$ 7 (& + 1 , & $ / $ 1 S

Peru contains the second largest forest in Latin America, with an enormous potential for capturing carbon, mitigating climate change, sustaining ecotourism, achieving sounds conservation, and an enormous potential for development of new health, medicine, and industrial products.[306] Despite this, extensive areas of natural Amazonian forest are being removed for the establishment of agro-industrial projects.

CLIMATE

Microclimate

The process of clearing forests for agro-industrial projects will affect the local microclimate, which is regulated by the presence of forest cover.[307] The forest has a very unique microclimate compared to other types of vegetation.[308] Furthermore, multiple microclimates can exist within a single forest; the air space enclosed between trunks of trees in the forest has a climate of its own, and differs IUURP WKDW RI RSHQ DLU DQG WKH IRUHVW pRRU

To try to understand the environmental impact of forest clearing on the microclimate of a forest,[309] ZH FDQ oUVW WKLQN RI WKH LPSDFW RI D clearing on the forest microclimate. Clearings are formed by the natural or intentional felling of a tree or part of a tree, and set off a chain of biological reactions related to silvigenisis, or all of the ecological and biological processes that create a mature forest.[310] A clearing is considered to be small when it is approximately 40 m2 big, while a large clearing is between 150 and 400 m2.

It is important to note that the creation of clearings affects the microclimates of the forest by affecting solar radiation in the forest. Solar radiation regulates the temperature of the soil and air as well as the humidity of the air. When a clearing is created, these conditions are affected for more than 10 meters from the edges of the clearing.[311]

If a clearing creates such changes in the microclimate of the forest, it is easy to imagine the scope of impact of an area cleared for an agro-industrial project, given the dimensions of the affected area. Moreover, forest area cleared and replaced by an industrial plant will become permanent clearing. If this area is replaced by a palm oil plantation, it will only contain two strata of vegetation (kudzu and oil palms) instead of the many strata of a tropical rainforest.

WATER

Quantity and Quality of Above-Ground Water

An agroindustrial project can cause changes in the quality of surface water if construction activities are carried out without observing measures of precaution regarding earth moving DFWLYLWLHV DQG ZDVWH.[312] The quantity of above-ground water can be impacted by the inadequate use of tube wells for WKH SURMHFW V ZDWHU VXSSOY.[313]

According to complaints by local residents, two projects of Grupo Romero have unprecedented levels of mismanagement of water resources. Q UHVLGHQWV RI WKH DUHD RI LQpXHQFH RI the Palmas del Oriente project accused Palmas GHO 2ULHQWH RI GLYHUWLQJ WKH pRZ RI VWUHDP drying up several watersheds and appropriating the vast "Cocha Muerta" lake.[314] In November of 2014. FREDESAA alleged that Palmas del Shanusi, had contaminated the Ushpayacu and DQD\DFX VWUHDPV DQG DVNHG WKH JRYHUQPHQ investigate and sanction the company.[315]

Quality of Groundwater

Agro-industrial projects can also affect the quality of groundwater. This can occur from poor construction of tube wells, accidental spillage of oil and lubricants, or excessive usage of agrochemicals that reach the water table.[316]

Agro-industrial projects use fertilizers such as Triple Super Phosphate (TSP) and Potassium Chloride (KCl); herbicides such as Gesapex, Glyphosate and Gramocil (a compound formed from paraquat and diuron); fungicides such as Benopoint 50 PM (Benomyl) and Dithane (Mancozeb); and pesticides such as Gusadrin 2.5 percent P:S (Diazinon) and Sanpifos (Chlorpyrifos).[317] While these agrochemicals are permitted under Peruvian law, special precautions must be taken in the application of these chemicals given the intensive nature of agro-industrial operations. The dosage and personnel safety precaution measures for applying these chemicals is particularly important.

The following list shows the potential toxic effects of these agrochemicals and their effe on human health, as shown in several studi

- Fertilizers have the potential to contamina water sources; their excessive use can ca eutrophication of surface water and nitrog contamination in water tables.[318]
- Gesapax contains the active ingredient DOG HIpXHQW PDOD JHPH DPHWULQH ZKLFK LV RQ list of prohibited and severely restricted chemicals.[319] A study in 2015 concluded that amentrine has a negative effect on testicle and can compromise the survival and fert of animals.[320]
- *O\SKRVDWH DQ HIoFLH herbicide, has been the subject of various studies that generally conclude that the substance is "devastating to amphibian embryos", can cause endocrine disruption[321] within the cells it enters,[322] and interrupts of the process of enzymes for synthesizin steroid hormones when inserted at the ac sites of aromatase within mammal cells.[323] Additionally, the inactive ingredients which KHOS VWDELOLW\ DQG D active ingredients change the permeability RI KXPDQ FHOOV DQG LQ toxicity, which causes cell death and deat tissue.[324]
- Paraquat has been shown to cause hepatoxicity in experiments with mice.[325]
- Diuron is a permissible agrochemical in th European Union,[326] but can only be used as an herbicide in quantities below 0.5 kg pe hectare.[327] In addition, individuals applying Diuron must use protective equipment, an users must ensure that aquatic organisms non-target plants are protected.[328] Diuron has also been found to cause to a high incide of bladder cancer in mice exposed to high doses (2.500 ppm) over a two year study.[329]

- %HQRP\O KDV EHHQ LGHQWLILHG [illegible] for endocrine disruption that causes breast cancer.[330]
- Mancozeb was found in one 2014 study to potentially affect thyroid balance and reproduction at low doses.[331] Another 2014 study found that Mancozeb can damage the integrity of DNA in exposed organisms.[332]
- Diazinon was found to induce lipid peroxidation in the testicles of rats, which can cause cell damage leading to mutated or carcinogenic cells.[333]

SOIL

Soil Quality

Soil quality can be affected by the accumulation of wastes from worker encampments, machinery, and the digging of ditches. Additionally, it is likely that workers who have little education in environmental matters may not take precautions in management of solid waste, the accumulated deposit of which can change soil conditions.[334] Soil quality can also be changed by spills or accidental discharge of lubricants, gas and oils, or by inadequate equipment and vehicle maintenance systems.[335]

Erosion

In areas designated for agro-industrial projects, tree cover will be eliminated leading to increased risk of erosion, particularly given the heavy rainfall in this region.[336] Forest clearing also can eliminate leaf litter and mulch GHSRVLWHG RQ WKH IRUHVW IORRU WKDW KDV EHHQ FOHDUHG WKDW KHOSV WR retain humidity and protect soil from erosion.[337] (URVLRQ LV GHoQHG DV WKH GHJUDGDWLRQ RU UHPRYDO RI VRLO PDWHULDO deposition of soil particles, organic material, and soluble nutrients. Erosion manifests with varying levels of intensity, and can often become irreversible, thereby disrupting the equilibrium of key watershed areas.[338]

Erosion is an important factor because it eliminates the organic top layer of soil, it reduces levels of organic material in the soil, and destroys the soil structure. In doing so, erosion generally creates an environmental less favorable for the growth of vegetation. Additionally, eroded sediments can obstruct or oOO LQ ZDWHU SDWKZD\V DQG VXFK VHGLPHQWV GDPDJH oVK KDELWDWV DQG GHJUDGH ZDWHU TXDOLW\ in water bodies. Eroded soil particles can also become suspended in the air and, transported as dust, can affect human health on a large scale.[339]

Change in Soil Structure (Compaction)

Construction activities for agro-industrial projects require the use of heavy machinery, which will compact the soil throughout the zone of the project.[340] Compacted soil cannot absorb rain water; rain water will instead flow across the surface of the land, carrying with it soil particles and causing erosion.[341] Additionally, compaction of soil does not allow vegetation to regenerate.[342]

PLANTS

Diversity and Abundance of Species

The areas where oil palm agro-industrial projects are being established in Peru are areas with natural forests with high biodiversity.[343] This loss of vegetated areas will reduce the habitats and density of plant species,[344] and will cause loss of timber and non-timber species.[345] If the zone of the project includes vulnerable or endangered species, danger to plant species is even more critical. This could well be the case, since the Comptroller General determined in 2012 that the national forest authority had not updated the forest and soil map, thereby "potentially putting forests at risk from projects that extract forest resources, because these projects could be extracting forest species that should be preserved for future rehabilitation or areas that should be destined for protection."[346]

ANIMALS

Diversity and Abundance of Species

Agro-industrial projects require the removal of vegetation, which fragments habitats and reduces food sources for animal species in the area, thereby generating increased competition among species and possible migration of some species.[347] Furthermore, workers may hunt wild animals in the area within and around the project,[348] those species particularly vulnerable to capture for sale as pets are parrots, monkeys, snakes, while species such as majas (a type of rodent), peccaries, and lizards are vulnerable to capture for the purpose of selling to tourist restaurants in the region.[349] These factors create a high risk of loss of diversity and abundance of animal species.[350] If the zone of the project includes vulnerable or endangered species, danger to animal species is even more critical.

ECOSYSTEM

Fragmentation of Habitats

Fragmentation occurs when a large, continu habitat is divided into two or more fragments.[351] This phenomenon can occur when an area forest is cleared for conversion to another la use, and also occurs when an infrastructure project divides the area.[352] Habitat fragmentation has two main effects, called the "barrier effe and the "fringe effect".[353]

The barrier effect is created when mobility of organisms or their reproductive practices are impeded, leading to a restriction on the RUJDQLVPV GLVSHUVDO.[354] Many species of insects, birds, and mammals are able to cross the barriers fragmenting their habitats, and thus the dispersal of plants wh seeds are dispersed by animals are affected well.[355] $GGLWLRQDOOO\ DQLP sources restricted if the barriers separate th species.[356]

The fringe effect occurs when an ecosystem is fragmented and the biotic and abiotic conditions are altered of each fragment and the surrounding ecosystem.[357] As a consequence, the distribution and abundance of species changes, which alters the vegetation structu and the changed vegetation available result a change in food sources for animal species.[358] In a landscape such that surrounding an oil palm plantation, fragmentation occurs when land is deforested to create space for palm cultivation. Then the new species (the palm tree) is introduced into this open space betw the fragmented ecosystem. These changes primarily affect the species whose ecosyste has been fragmented, while the new specie thrive in conditions that are favorable to thei survival and reproduction.[359]

Carbon Emission

Where natural forests have been destroyed cultivate biofuel crops, it is estimated that th medium term emissions resulting from this deforestation are in fact higher than those produced if fossil fuels were to continued to used. The time it takes to restore the carbon that was emitted during the establishment of a palm oil plantation is a critical factor in determining how much carbon is emitted. In some ecosystems, it has been calculated th it takes 420 years for the biofuel plantations to compensate for the carbon emissions tha were released when the plantations were established.[360]

2. THE MELKA GROUP: AMASSING LAND IN THE AMAZON

Corporate interests with a background in the Malaysian palm oil industry are expanding into 3HUX DQG FRPPLWWLQJ deforestation in the Amazon. Prior to opening 25 agricultural companies in the Peruvian Amazon, Dennis Melka established numerous businesses, including investment holdings and land acquisitions for oil palm plantations in Sarawak, Malaysia, that have been linked to large-scale land acquisitions of forested land, expansive deforestation, a complicated ownership structure, and the use of offshore tax havens as the location the ultimate parent company of the corporate group[169,170] (See Section "Greasing the Palms").

As the main actor in a network of 25 companies that have been established in Peru in recent \HDUV 'HQQLV 0HOND LV SXUVXLQJ VLJQLoFDQW expansion of agricultural commodity operations in the Peruvian Amazon.[171] Of these Peruvian companies, only one registers Dennis Melka as an owner.[172] For the remaining 24, according to GRFXPHQWV oOHG ZLWK WKH Peruvian property registry, Melka holds a special designation that grants him authority to act alone to make legal and commercial decisions for the company.[173] All other registered individuals with legal authority are below this status, and therefore unable to exercise the same control over the companies as Melka.[174] 'XH WR 0HOND V DXWKRULWDULDQ VWDWXV in Peruvian companies, EIA refers to them as the Melka Group throughout this report.

7ZR RI 0HOND V DJULEXVLQHVV SURMHFWV KDYH JHQHUDWHG VLJQLoFDQW DOG LOOHJDO GHIRUH[175] and the Melka Group has acquired land for the purpose of expanding palm oil and other agricultural deforestation conducted by the Melka Group is currently estimated at nearly 7,000 hectares and is still increasing.[176] Despite claims to investors,[177] the Melka Group has repeatedly failed to abide by Peruvian environmental management laws and policies, thereby avoiding the regulatory scrutiny and environmental oversight that should have accompanied a new plan to deforest the Amazon for agricultural land.[178] The regional and national governments have levied sanctions against companies of the Melka Group, although there is no publicly available information that these fees have been paid or corrective action taken.

In addition to the more than 50 properties owned by the Melka Group where deforestation has been observed to be occurring in Tamshiyacu and Nueva Requena, the Melka Group has acquired another 45,000 ha of properties, and appears poised to develop across large swaths of the Peruvian Amazon.[179] The Group has also requested the government allocate public land for at least thirteen other plantation projects through 12 different companies, all registered as palm oil producers.[180] These public land requests, many of them in the districts of Tamshiyacu, would add another 96,192 ha of forests to the Melka Group's land portfolio.

Peruvian Amazon, Melka also recently oversaw the initial public offering of United Cacao Limited (SEC: UCFL), a company[181] based in the Cayman Islands, on the London Stock Exchange.[182] United Cacao Ltd. fully owns Cacao del Perú Norte SAC, its subsidiary in Perú.[183]

In parallel, at least one of the Melka Group companies in Peru has been active in negotiating the Roundtable on Sustainable Palm Oil (RSPO) national interpretation for Peru. The 5632 LV D YROXQWDU\ FHUW palm oil industry based on company self-reporting, and has been widely criticized for being overly lenient on companies found to violate forest laws, rights to land and human rights.[184] At the moment, the Peruvian palm oil sector is working on a national interpretation of the RSPO standards that would facilitate the FHUWLoFDWLRQ DQG SRWH markets) for their production in Peru. The director of Plantaciones de Ucayali (a Melka Group company) has been the vice-president for the Peru RSPO working group on environmental issues which, given the circumstances described in this report, is a poor choice for the industry.

The cases to be developed in this section indicate the national government currently lacks the effective power to enforce laws and regulations even when illegalities are clearly documented. It is clear that the Peruvian government does not have the capacity to evaluate, manage and monitor any additional large-scale agriculture projects and should refrain from approving new projects until it develops the internal capacity to monitor and effectively enforce national laws and policies.

FIGURE 7 Current deforestation and planned expansion of the Melka Group in Peru near Tamshiyacu

	COMPANY REGISTRY (PARTIDA)	COMPANY NAME	LOCATION	PURPOSE	CREATION DATE SUNARP
1	11104525	ANDEAN RENTALS S.A.C.	PUCALLPA	Cacao	6-Dec-13
2	11059685	CACAO DE REQUENA ESTE S.A.C.	0 $ < 1 $ 6	Cacao	6-Dec-13
3	11059680	CACAO DE REQUENA OESTE S.A.C.	0 $ < 1 $ 6	Cacao	6-Dec-13
4	11040645	PLANTACIONES DE IQUITOS S.A.C.	0 $ < 1 $ 6	Palma	17-Nov-10
5	11040646	PLANTACIONES DE LIMA S.A.C.	0 $ < 1 $ 6	Palma	17-Nov-10
6	11040957	PLANTACIONES DE LORETO ESTE S.A.C.	0 $ < 1 $ 6	Palma	21-Dec-10
7	11059683	PLANTACIONES DE LORETO NORTE S.A.C. / PLANTACIONES DE NAPO NORTE SAC / COOPERATIVA DE CACAO PERUANO SAC	0 $ < 1 $ 6	Cacao	6-Dec-13
8	11040647	PLANTACIONES DE LORETO S.A.C.	0 $ < 1 $ 6	Palma	17-Nov-10
9	11040958	PLANTACIONES DE LORETO SUR S.A.C. / CACAO DEL PERU NORTE SAC	0 $ < 1 $ 6	Palma	21-Dec-10
10	11052964	PLANTACIONES DE MANATI S.A.C. / INDUSTRIAS DE PALMA ACEITERA SAC	PUCALLPA	Palma	17-Nov-10
11	11047252	PLANTACIONES DE MARIN S.A.C.	0 $ < 1 $ 6	Palma	8-Mar-12
12	11098949	PLANTACIONES DE MASISEA S.A.C / PLANTACIONES DE MESISEA SAC	PUCALLPA	Palma	10-May-13
13	11059682	PLANTACIONES DE NAPO NORTE S.A.C.	0 $ < 1 $ 6	Cacao	6-Dec-13
14	11059684	PLANTACIONES DE NAPO S.A.C.	0 $ < 1 $ 6	Cacao	6-Dec-13
15	11059681	PLANTACIONES DE NAPO SUR S.A.C.	0 $ < 1 $ 6	Cacao	6-Dec-13
16	11040644	PLANTACIONES DE NAUTA S.A.C. / EAST PACIFIC CAPITAL PERU SAC	0 $ < 1 $ 6	Palma	17-Nov-10
17	11052966	PLANTACIONES DE PUCALLPA S.A.C.	PUCALLPA	Palma	17-Nov-10
18	11047255	PLANTACIONES DE SAN FRANCISCO S.A.C.	0 $ < 1 $ 6	Palma	8-Mar-12
19	11052965	3 / $ 1 7 $ & , 2 1 (6 ' (7 $ 0 6 + , < $ & 8 P	PUCALLPA	Palma	17-Nov-10
20	11052963	3 / $ 1 7 $ & , 2 1 (6 ' (8 & $ < $ / , 6 $	PUCALLPA	Palma	17-Nov-10
21	11098944	3 / $ 1 7 $ & , 2 1 (6 ' (8 & $ < $ / , 6 8 5 P	PUCALLPA	Palma	10-May-13
22	11047253	PLANTACIONES DEL PACIFICO S.A.C. / PLANTACIONES DE PACIFICO / GRUPO PALMAS DEL PERU SAC	0 $ < 1 $ 6	Palma	7-Mar-12
23	11040959	PLANTACIONES DEL PERU ESTE S.A.C.	0 $ < 1 $ 6	Palma	21-Dec-10
24	11040080	PLANTACIONES NACIONALES DEL PERU S.A.C.	0 $ < 1 $ 6	Palma	9-Sep-10
25	11114965	SERVICIOS RIPIO S.A.C. / COOPERATIVA LORETANA DE PALMA SAC	PUCALLPA	Palma	8-Mar-12

CHART 1 Melka Group companies in Peru. Elaboration: EIA

Source: SUNARP, GOREL, EIA, SPDE. IDL-Reporteros

VALUE AT CREATION (IN SOLES)	OWNERS	APODERADO GRUPO A	REQUESTED AREA (HECTARES)[195]	REGISTERED PROPERTIES[196]
500	Freddy Oscar Escobar Rozas / Jorge Luis Torres Garay	Dennis Melka		
500	Freddy Oscar Escobar Rozas / Jorge Luis Torres Garay	Dennis Melka		
500	Freddy Oscar Escobar Rozas / Jorge Luis Torres Garay	Dennis Melka		
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	2,686 (3)	
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	3,000.00 (3)	45
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	10,000 (1)	
500	Freddy Oscar Escobar Rozas / Jorge Luis Torres Garay	Dennis Melka		
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	5,815.00 (3)	53
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	19,389 (1,2)	82
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	6,676 (2)	
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	5,771 (1)	
500	Freddy Oscar Escobar Rozas / Ruben Antonio Espinoza	Dennis Melka		
500	Freddy Oscar Escobar Rozas / Jorge Luis Torres Garay	Dennis Melka		
500	Freddy Oscar Escobar Rozas / Jorge Luis Torres Garay	Dennis Melka		
500	Freddy Oscar Escobar Rozas / Jorge Luis Torres Garay	Dennis Melka		
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	9,246.00 (3)	
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka		218
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	10,000 (1)	
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	8,850 (2)	55
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	4,759.00 (3)	5
500	Freddy Oscar Escobar Rozas / Ruben Antonio Espinoza	Dennis Melka		
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka		
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka	10,000 (1)	
1000	Alberto Diez Canseco Oviedo / Luis Guillermo de la Torre Bueno Wehrend / Dennis Melka			
1000	Freddy Oscar Escobar Rozas / Jeanette Sofía Aliaga Fabián	Dennis Melka		
		TOTAL	96,192	458

2.1 LOOMING DEFORESTATION: 458 PROPERTIES AND COUNTING

According to the Property Registry of Peru (SUNARP), the Melka Group companies have acquired vast new areas of land in the last three years. By March 2, 2015, the Melka Group owned at least 458 properties, two of which are urban properties (propiedad inmueble) and 456 of which are rural land (predios rústicos) in the Peruvian Amazon: 232 in the Loreto region and 224 in the Ucayali region.[188] In 2013, EIA gained access to information that allowed for the mapping of close to 60 of the properties owned by Melka, one in Ucayali (in the district of Nueva Requena) and the rest in Loreto: 45 near the town of Tamshiyacu, and the remainder in an area called Panguana, north of Tamshiyacu. EIA has documented deforestation in the Tamshiyacu and the Nueva Requena properties.[189] EIA has also determined that this forested land acquired by the Melka Group in Tamshiyacu and Nueva Requena has been illegally deforested, meaning deforested without the required governmental authorization (See Section 3.3).[190]

EIA has yet to determine the full size of the properties acquired by Melka Group, because the sizes of the properties can vary greatly. For example, while the parcels in Tamshiyacu owned by Cacao del Perú Norte measure 50 hectares each (around the size of 100 soccer fields), the property owned by Plantaciones de Ucayali (Grupo Romero) is 1,000 hectares.[191] If these new lands are developed in the same fashion as existing properties, considerable deforestation is on the horizon for the Melka Group.

In addition to the 458 privately held lands that the Melka Group has bought from their previous private owners, it is also requesting the Loreto Regional Government allocate public land for at least 70,686 hectares.[192] Given the limited information publicly available, EIA has only [illegible] land requests, equivalent to 45,000 hectares in [illegible]

According to the Loreto local newspaper La Region, the Loreto Regional Government has already granted 45,000 hectares of the public land requested by the Melka Group,[194] along with four plots requested by Romero Group (See Section 1: [illegible]) and an additional plot for another investor interested in planting white [illegible] (piñón blanco).[195, 196]

According to La Región, these ten plots add up to 90,686 ha of forested land. This land was sold by the regional government administration that [illegible] million. The local newspaper indicates that US$ [illegible] million "have already been paid, although there has been no public accounting of to whom the payments were made."[197]

CHART 5 Five New Melka Group projects

DATE	DEFORESTED AREA HAS	DEFORESTED AREA % (TOTAL)	PRIMARY FOREST HAS	PRIMARY FOREST % (TOTAL)	SECONDARY VEG. + DEGRADED AREAS HAS	SECONDARY VEG. + DEGRADED AREAS % (TOTAL)	TOTAL
10-Jul-95	5.52	0.01%	45,006.68	99.73%	118.30	0.26%	45,130.50
1-May-05	1.08	0.00%	44,476.83	98.55%	652.59	1.45%	45,130.50
18-Sep-12	-	0.00%	44,824.83	99.32%	305.67	0.68%	45,130.50

&KDUW)RUHVW FRYHU VLWXDWLRQ IRU WKH DUHD RI 0HONH *URXS V SODQQHG SODQWDWLRQV W
/RUHWR (VWH 6$& KD 3ODQWDFLRQHV GH 6DQ)UDQFLVFR 6$& KD 3ODQWDFLRQHV GH

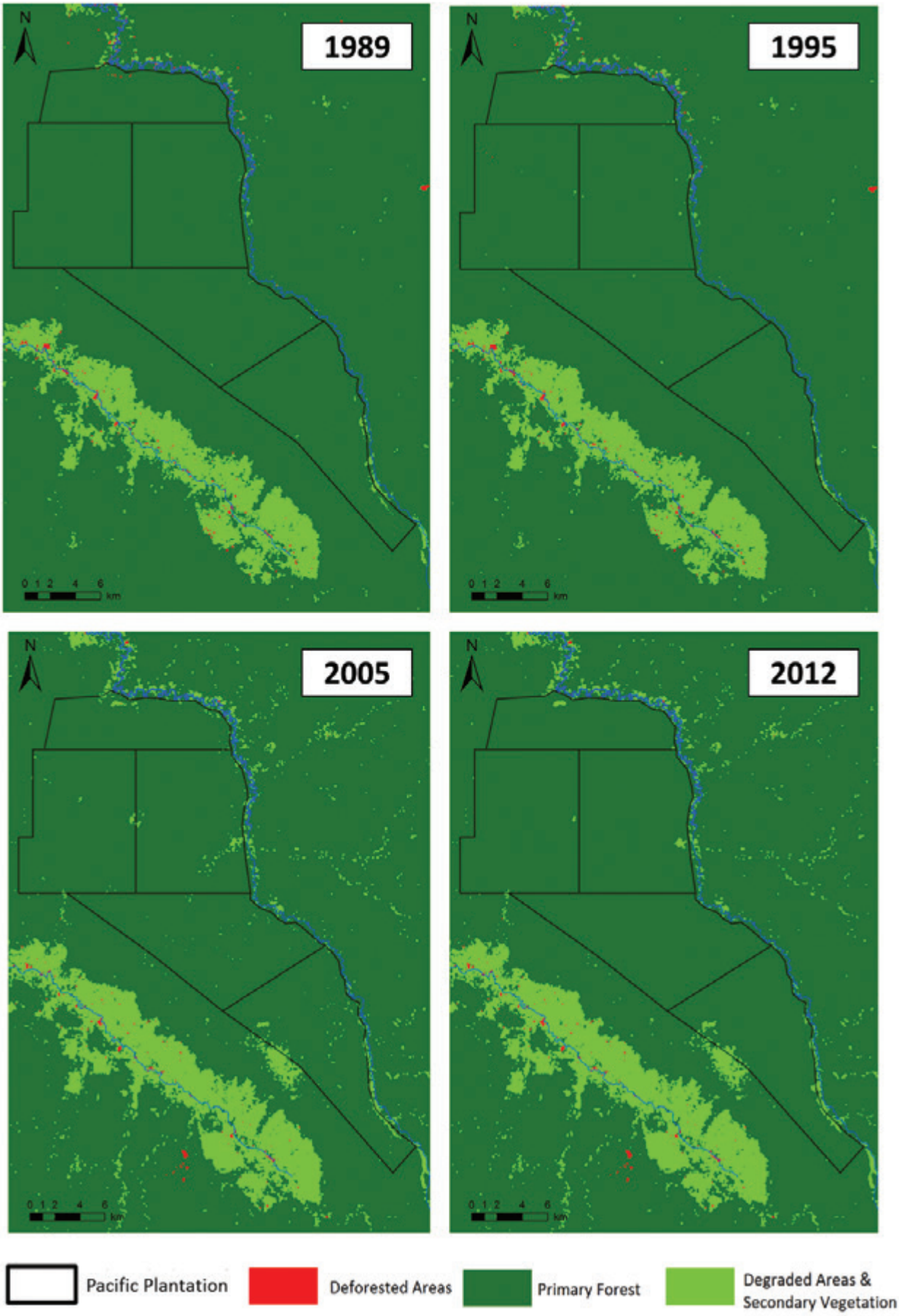


FIGURE 7: Landsat time-series deforestation analysis for Melka's Planned Plantations.

2.2 MELKA GROUP'S ONGOING DEFOREST TAMSHIYACU AND NUEVA REQUENA

Cacao del Peru Norte Plantation near Tamshiyacu

TAMSHIYACU: 2,093 HECTARES DESTROYED AND COUNTING[198]

,Q PLG (,$ UHFHLYHG … local community members about ongoing deforestation in the Tamshiyacu area by what local people claimed was a "Malaysian oil palm project."[199] In collaboration with the Center for International Environmental Law (CIEL) and based on the information shared by the local contacts, EIA was able to identify the exact location of the project, and eventually accessed the original title to the land on which the project was being developed. After cross-referencing the land titles in SUNARP, EIA YHULoHG WKH QDPH RI WKH FRPSDQ\ RSHUDWLQJ LQ the area: Cacao del Peru Norte SAC.[200] Through 2013-2015, EIA monitored Landsat images of these properties, and found deforestation growing at a rate of approximately 100 hectares a month.[201]

A CONTESTED HISTORY

$FFRUGLQJ WR WKH 8QLWHG &DFDR /LPLWHG 6(=& Admission Document to the London Stock ([FKDQJH V $OWHUQDWLYH ,QYHVWPHQW 0DUNHW (AIM),[202] the company claims it acquired the land in Tamshiyacu in February 2013 and began agricultural activities "in or around May 2013."[203] In the same document, the company states that the land was "previously owned by individual title holders who had undertaken agricultural activities since 1997," implying that the land had already been deforested by such activities.[204]

The land was once held under individual titles, but no relevant deforestation has previously WDNHQ SODFH DV LV V… analysis of historical maps. Approximately 20 years ago, the Peruvian National Government transferred small plots of forest to a group of local individuals for a project to raise buffalos.[205] However, this project was never implemented, and the area remained mostly as a natural forest until 2013, when the parcels were transferred to the Melka Group.[206] Satellite imagery analysis shows the deforestation on WKH 0HOND *URXS V ODQG LQ 7DPVKL\DFX … June 2013, a little after the land parcels were transferred to the company. The deforestation continued into 2014. (Figure 8).

Greg Asner, an ecologist at the Carnegie Institute for Science at Stanford University who has conducted research in this region, concluded that the Tamshiyacu area remained largely forested until Cacao del Perú del Norte arrived. Writing about this area, Asner asserted in an email to the environmental science and conservation news organization, Mongabay.com, that "Forest cover of greater than 90 percent is not agriculture of any kind."[207]

LQ $VQHU oQDOL]HG D SURMHFW FDOOHG WKH High-Resolution Carbon Geography of Perú, the result of a collaboration between the Carnegie Airborne Observatory[208] at Stanford University, and the Ministry of Environment of Peru. The project sampled 6.7 million hectares of ecosystems distributed in Peru at a resolution of 1.1 meter.[209] Instead of looking at tree cover using satellite imagery, Asner used data gathered from an airplane that employed a combination of a laser-based technology called LiDAR to measure the landscape in three dimensions and an instrument called an imaging spectrometer to determine the FKHPLFDO PDNHXS RI SODQ… ZURWH 0RQJDED\ V 0RXQD…[210] Using part of this data, Asner and his team HYDOXDWHG WKH 0HOND *U… Tamshiyacu before and after the deforestation, oQGLQJ WKDW WKH FDUERQ… area are among the highest in Peru.[211] The … ORJLFDO FRQFOXVLRQ IURP… that large-statured, intact forest was removed by this deforestation event," concluded Asner.[212]

It is clear the land the Melka Group acquired was in its majority forested, and that it was only after that acquisition that deforestation began LQ HDUQHVW WR FOHDU OD… agribusiness projects. This group failed to follow the legal procedures required for development over forested land (see Chart 9: Melka Group). While the government has issue… QHV DQG VDQFWLRQV WKH… available information showing the company SDLG WKHVH oQHV.

TAMSHIYACU			
DATE	DEFORESTED AREA (HECTARES)	SECONDARY VEG. + AGRICULTURE (HECTARES)	TOTAL DEFORESTATION (HECTARES)
10-Jul-89	-	2.07	2.07
10-Jul-95	0.08	6.17	6.25
1-May-05	-	35.71	35.71
18-Sep-12	-	36.36	36.36
18-Dec-13	2,011.91	3.15	2,015.06
26-Nov-14	1,288.08	842.22	2,130.30

CHART Estimated deforestation for the Melka Group's private land project in Tamshiyacu. Cacao del Perú Norte SAC is the main compar

7RWDO 'HIRUHVWDWLRQ UHODWHG WR 0HOND *URXS V SURMHFW DOC

FIGURE Estimated deforestation for the Melka Group's private land project in Tamshiyacu. Cacao del Perú Norte SAC is the main compa

NUEVA REQUENA: 4,870 HECTARES DESTROYED AND COUNTING

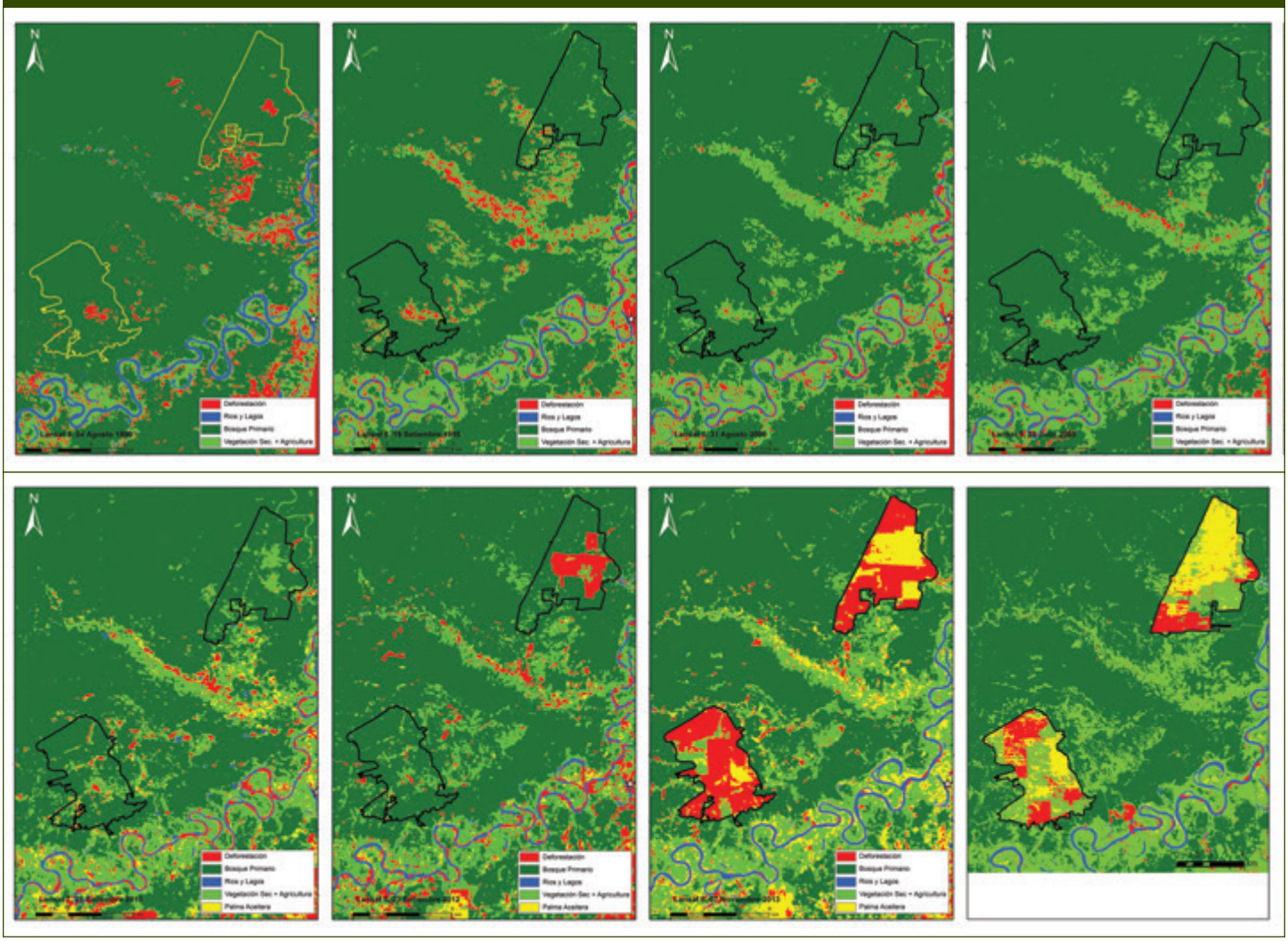
The Melka Group has also been active in Ucayali Region (in the Nueva Requena district, Coronel Portillo province) through a palm DQRWKHU FRPSDQ\ DIoOLDWHG ZLWK WKH JURXS RYHU ZKLFK 0HOND DOVR SAC.[214] According to the United Cacao Ltd. Admission Document to the AIM, “Mr. Melka has already planted more than 6,400 hectare in the Pucallpa region of Peru.[215] RZHYHU VDWHOOLWH DQDO\VLV RYHU 3ODQWDFLRQHV GH SODQWLQJ SDOP RLO LQ 3XFDOOSD DQG FOHDUOH[216] This means that Melka is either overstating the dimension of his plantations in Ucayali, or has additional businesses already operating in the area.[217]

The analysis of satellite images from 1990 to 2014 shows that most of the area where Plantaciones de Ucayali SAC is located was 2012 (see Figure 8).[218] From then, deforestation happened almost simultaneously between the Plantaciones de Ucayali SAC plot and and belonging to a company called Biodiesel Ucayali SRL.[219] We have not found any company documents explicitly linking Biodiesel Ucayali SRL wit RI WKH 0HOND *URXS V FRPSDQLHV EXW 0HOND *URXS V FODLPV WR KD that registered under Plantaciones de Ucayali SAC.

In July 2014, the Regional Government of Ucayali imposed administrative sanctions against Plantaciones de Ucayali for violations o Wildlife legislation for deforesting 4,000 hectares of forest without the required land use change authorization by the Ucayali forest a JRYHUQPHQW LPSRVHG D oQH RI 8,7 DSSUR[LPDWHO\ 86 [220] There is no doubt that DYDLODEOH LQIRUPDWLRQ VKRZLQJ 3ODQWDFLRQHV GH 8FD\DOL SDLG WKHV

Plantaciones de Ucayali Palm Plantation in Nueva Requena.

FIGURE 1 Landsat time-series deforestation analysis for the Nueva Requena area. Includes the Plantaciones de Ucayali and the Biodiesel de



NUEVA REQUENA								
DATE	DEFORESTED AREA	%	PRIMARY FOREST	%	SECONDARY VEG. + DEGRADED AREAS	%	OIL PALM CROPS	%	TOTAL
2010	47.00	0.81%	4,971.74	85.40%	803.00	13.79%	-		5,821.74
2014	1,836.45	31.54%	101.34	1.74%	2,490.21	42.77%	1,393.74	23.94%	5,821.74

CHART 1 Estimated deforestation for the Melka Group's private land project in Nueva Requena. Plantaciones de Ucayali is the main compa

7RWDO 'HIRUHVWDWLRQ UHODWHG WR 0HOND *URXS V SURMHFWV GHI
deforestation and secondary vegetation until 2010)

LAUNDERING ILLEGAL TIMBER

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Illegal logging is increasingly recognized by the international policy community as a major threat to the environment and sustainable development. Illegal logging accelerates climate change through direct forest loss, and indirectly opens up forested areas to further degradation and conversion that would not otherwise occur.[269, 270] Illegal logging generates approximately US$10 – 15 billion annually in criminal proceeds.[271] However, new legislation by timber consuming countries, such as the U.S. and the EU, prohibiting import of illegally sourced timber is generating unprecedented transparency and accountability in what was previously a "no questions asked" market.[272] Any timber harvested, transported, processed, bought or sold in violation of national laws is no longer welcome in the international market place.

While there are no such comparable laws currently in place prohibiting international trade in illegally sourced palm oil, any timber that enters the market from illegal clearance of forests for agricultural commodities is subject to these demand-side measures. $FFRUGLQJ WR (,$ V HVWLPDWHV, PDQ\ WUHHV cleared by the Melka Group projects in Nueva Requena and Tamshiyacu add up to almost 7000 hectares: 4,870.40 in Nueva Requena project, developed by Plantaciones de Ucayali SAC, and 2,093.94 in Tamshiyacu, developed by Cacao del Perú Norte SAC.[273]

According to the Peruvian Minister of Agriculture and Irrigation, neither of the companies had legal authorization to deforest the areas described above;[274] therefore the companies could not have any authorization to legally trade the timber. This means the Melka Group illegally removed from Tamshiyacu enough timber to fill more than 30 Olympic sized pools.[275] From Nueva Requena, the timber illegally removed would have filled around 95 Olympic sized pools. It would have taken more than 20,000 truckloads[276] to remove the timber from the project areas.

In 2012, EIA published an investigative report, "The Laundering Machine,"[277] that systematically documented fraud and corruption in the Peruvian timber market. The report showed how illegal timber is laundered using fraudulent documents and is being traded – nationally or internationally – with documents as if harvested from an authorized area (*tala habilitada*) in the country. Since the companies could not have the legal documents to trade the timber removed for their operations, Plantaciones de Ucayali SAC and Cacao del Perú Norte SAC should be required to produce the documents used to sell the timber and explain how they were obtained.

(,$ V VDWHOOLWH DQDOYVLV ZKLFK ZDV XVHG WR determine the deforestation associated with these two Melka Group operations includes images from as early as 1989.[278] In the cases where there was deforestation before the Melka Group started its operations, the numbers have been adjusted to reflect only the deforestation related to the Melka Projects. The satellite imagery analysis shows that the majority of the forests were primary natural forest, EHIRUH WKH SURMHFWV L

A different scientific approach used by Greg Asner to analyze the carbon stock values for the Peruvian forests concluded that the carbon stock values shown in the project areas, "are found only in intact tropical forest in the region, and are among the highest values mapped within Peru during the joint Carnegie-Peruvian Ministry of Environment carbon mapping project".[280] He went on to say, "The logical conclusion from the scientific data is that large-statured, intact forest was removed by this deforestation event."[281]

While it is almost impossible at this point to know for sure the number of trees or the species that existed before the deforestation and that were destroyed by the Melka Group operations, it is possible to estimate the volume of timber in a natural Amazon forest.

Applying coefficients and ratios produced by the Peruvian government, we estimate, as shown in the chart below, that around 80,000 cubic meters of roundwood were

CHART 8 Melka Group Illegal Timber Volumes

	HECTARES DEFORESTED (HA)	COMMERCIAL TIMBER PER HECTARE (M3/HA)	CUBIC METERS OF COMMERCIAL TIMBER AS STANDING TREES (M3)	WASTE RATIO FROM STANDING TREE TO ROUNDWOOD	CUBIC METERS OF ROUNDWOOD (M3)	THE VOLUME WOULD FILL THIS AMOUNT OF OLYMPIC POOLS	THE ROUNDWOOD WOULD BE TRANSPORTED IN THIS AMOUNT OF TRUCKS
Tamshiyacu	2,093.94	53.50	112,025.79	0.29	79,538.31	31.82	5,302.55
Nueva Requena	4,870.40	68.60	334,109.44	0.29	237,217.70	94.89	15,814.51
TOTAL	6,964.34		446,135.23		316,756.01	126.70	21,117.07

Elaboration: EIA

Extracted from Tamshiyacu and Nueva Requena

project in Tamshiyacu and around 240,000 cubic meters of roundwood were extracted from Nueva Requena.

A valorization study conducted in 2014 by the Peruvian NGO Sociedad Peruana de Ecodesarrollo (SPDE) estimates that the value of goods and the ecosystem services destroyed by the Melka Group project in Tamshiyacu was more than 60 million US dollars.[291] For the Nueva Requena area related to the Melka Group Plantaciones de Ucayali project, SPDE estimates the value of the destruction at about 128 million US dollars.[292] This valorization study details the loss of several resources and services that used to be provided by the standing forests, including timber, carbon stocks, non-timber forest products, fauna, water, firewood, soil and restoration.[293] A more recent document released by SPDE in March 2015 estimates that 98,210 cubic meters of commercial timber were illegally extracted by the Melka Group from the Tamshiyacu area.[294] An overflight of the Grupo Melka Tamshiyacu project conducted by SPDE on March 13, 2015, identifies at least one illegal sawmill in the area.[295]

Environmental Crimes

Environment announced in December 2014 that his office is demanding reparation of 2.5 million Soles (about 3.5 million US dollars) in the criminal cases for deforestation related to palm oil plantations.[298]

According to him, the most important cases – out of the almost 12,000 cases for environmental crimes managed by his office – are those addressing the deforestation of the Amazon for palm oil plantations. "In terms of the environment, there is nothing worse than the Amazonian deforestation for land use change, which is happening in Loreto and Ucayali. In both regions, the Velasquez Portocarrero, respectively) are involved and under investigation for illegal logging," the Minister of Environment declared.[299]

Other countries in the world and in the region have been also working on developing an official line of investigation and jurisprudence clarifying that illegal deforestation and its impacts are serious crimes for which prison sentences and fines are becoming the norm. For example, just across the Peruvian border in the Brazilian Amazon, "the single biggest deforester," according to the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA), was detained in February 2015.[300, 301] IBAMA has stated that this person, Esquiel Antonio Castanha, is responsible for 20 percent of the deforestation in the last few years and will be judged by the Federal Justice of Brazil, facing charges of illegal deforestation and money laundering for which he could receive more than 46 years in prison.[302] He and his criminal organization would invade forested land, deforest it, and then sell it to private actors for different projects that required clear cut land. The fines for the crimes committed by him and his closest family members add up to around 15 million dollars, without including violations committed by the rest of the members of his criminal organization.[303]

Companies sourcing timber from Peru should conduct heightened due diligence to ensure they are not sourcing timber from illegal agricultural commodity operations including the companies named in this report. Enforcement officials with laws prohibiting the import of illegally sourced timber should investigate whether any such timber is entering their markets from agriculture commodity plantations in Peru and take action to hold the importers accountable.

2.3 ILLEGALITIES IN TAMSHIYACU AND NUEVA

,Q WKH 8QLWHG &DFDR /WG $VVRFLDWLRQ RE\DQG WR the AIM, dated November 26, 2014, the company states that "all necessary environmental consents and approvals have been received from the relevant Peruvian authorities," referring to their operations in Tamshiyacu.[221] Since September 2013, there has been strong public controversy about the OHJDOLW\ RI ERWK RI WKHVH FRPSDQLHV RSHUDWLRQV Cacao del Perú Norte and Plantaciones de 8FD\DOL ‹ ZLWK VHYHUDO QDWLRQDO DQG UHJLRQDO authorities from the executive, the judiciary, and the congress involved, and extensive media coverage.[222] In September 2014, the Peruvian Ministry of the Environment initiated legal precautionary measures (medidas cautelares) to stop the operations of the companies from conducting further deforestation without the legally required permits.[223]

On October 24, 2014 (nearly a month before United Cacao Ltd. submitted its Admission document to the AIM) the Peruvian Ministry of Agriculture and Irrigation (MINAGRI), Juan Manuel Benites, documented the companies' violations in front of the Peruvian Congress.[224] Minister Benites explained to a congressional commission that the deforestation conducted by the Melka Group companies in Tamshiyacu and Nueva Requena, by Cacao del Perú Norte SAC and Plantaciones de Ucayali SAC, respectively, did not follow the legal requirements for undertaking this massive deforestation. During this presentation, Minister Benites recommended additional sanctions for the companies.[225]

0LQLVWHU %HQLWHV SUHVHQWHG WKH ZRUN RI WKH &RQJUHVV $XGLWLQJ DQG &RQWUROOLQJ &RPPLVVLRQ to their special session to investigate "the alleged irregular logging and massive deforestation in the area of Tamshiyacu – Loreto DQG 8FD\DOL LQ RUGHU WR FRQWURO &RQWUDORUÍD GH &XHQWDV &RQWUDORUÍD GH &XHQWDV company for the plantation of cacao and other products without producing environmental impact studies."[226] In this session, the minister provided a detailed explanation of all the steps that the companies were required to follow at the national and the regional levels in order to obtain authorization to deforest the forest that had been cleared by the companies. 7KH PLQLVWHU V SUHVHQWDWLRQ FRQWDLQHG VHYHUDO FRQFHUQV &RQFHUQLQJ &RQWUDORUÍD GH &XHQWDV &RQWUDORUÍD GH &XHQWDV companies did not comply with the procedures to "remove the forest cover" on legally forested private forested land in the Amazon.[227]

TAMSHIYACU — STEP BY STEP THE FOREST IS DESTROYED

In Tamshiyacu, Cacao del Peru Norte SAC began clearing forested land in June 2013 without submitting any of the required documents or obtaining any of the approvals necessary to carry out this deforestation.[228] In company documents prepared by United Cacao Limited 6(=& WKH SXEOLF KROGLQJ FRPSDQ\ OLVWHG DV DQ owner of Cacao del Peru Norte SAC), the company states that the land was previously logged of valuable tropical timber and did not require further authorization from the government to be cleared.[229] However, satellite imagery shows that the area was largely undisturbed tropical rainforest for at minimum a quarter century prior to clear-cutting by Cacao del Peru Norte, SAC in 2013.[230]

A joint team from EIA and CIEL went into the oHOG LQ $XJXVW WR YHULI\ LQ VLWX WKH deforestation that they had observed through satellite imagery analysis. During our investigation, there were no fences or barriers and the team freely walked into the deforested area. A few weeks later, the local media published a story about ongoing deforestation.[231] The following day, September 3, WKH oRFDO PLVVLRQ WR WKH oHOG LQ DQ RIoFLDO PLVVLRQ WR WKH oHOG LQ &DFDR &RQJUHVV &XGLWLQJ &RQWUROOLQJ &RPPLVVLRQ GH &XHQWDV &RQWUDORUÍD GH &XHQWDV found that a gate had been erected and he was stopped from entering by an employee of the company who said he was following orders from Ruben Espinoza at Loreto WKH &RPSDQ\ &RQWUDORUÍD GH &XHQWDV &RQWUDORUÍD GH &XHQWDV time, Espinoza was the general manager of the company.[232] The prosecutor, as well as the police WKDW DFFRPSDQLHG KLP SURGXFHG DQ RIoFLDO record stating that this obstruction occurred. 7KH RIoFLDO YHULoFDWLRQ QRWH LQ IDFW EHFDPH D SXEOLF UHFRUG &RQWUDORUÍD GH &XHQWDV &RQWUDORUÍD GH &XHQWDV The national investigative news outlet, Reporteros, published articles on the deforestation conducted in Tamshiyacu and included references to the projects the Melka Group was conducting in other regions of the country.[233] It was only after the media scandal DQG DIWHU WKH SURVHFXW that Cacao del Peru Norte SAC submitted to the authorities the Terms of Reference (TOR) for a PAMA, doing so on September 9, 2013. (See Box: Background on Regulations and Procedures for Agriculture Activities). However, the PAMA was intended to address environmental management of deforestation that occurred prior WR 1RYHPEHU DQG satellite imagery found, the clear-cutting began DURXQG -XQH)LJXUH data claims that the deforestation started in May 2013.[234] This information suggests that the company was under a legal mandate to prepare and submit an EPLW D VSHFLoF HQYLUR WRRO ‹ GLIIHUHQW WKDQ WK authorization to undertake deforestation for agricultural purposes occurring after November 15, 2012.[235] In the document submitted to the $,0 8QLWHG &DFDR /LPLWH mischaracterizes the PAMA, claiming that "the JURXS TXDOLoHG IRU DQ H[approval process known as PAMA which allows agricultural activities to continue whilst the PAMA is underway."[236] By not submitting the appropriate environmental management tool, Cacao del Peru Norte SAC avoided the regulatory scrutiny and environmental oversight that should have accompanied a new plan to deforest the Amazon for agricultural land.

In terms of the applicable regulations under Peruvian law, Cacao del Peru Norte SAC failed to complete the necessary steps to legally convert forested land to agricultural plantations.

For any deforestation after November of 2012, the company is required to:[237]

1. 5HTXHVW EDVVLoEDW RQ DQ RIoFLDO management instrument. Request the DGAA to identify the appropriate environmental management instrument (such as an Environmental Impact Assessment) to

apply to the proposed deforestation or land use conversion. Once the DGAAA responds identifying the appropriate environmental instrument to be used, the company must develop and submit the TOR, laying out how it will apply (use) the environmental management instrument. The TOR must then be evaluated and approved by the DGAAA.

2. Develop and submit to DGAAA the relevant environmental management instrument, in this case, an Environmental Impact Assessment that fully meets the terms of reference.
3. Request land use change. Once the Environmental Impact Assessment is approved by the DGAAA at the national level, the company has to request permission for land use change from the relevant Regional Government.
4. Remove forest cover. Once the land use change is approved, the company can legally deforest in accordance with the approved Environmental Impact Assessment.

In his presentation to the Peruvian Congress, Minister Benites noted that regarding the deforestation after November 2012, the FRPSDQ\ GLG QRW HYHQ LQ WKH oUVW VWHS kWKH FRPSDQ\ GLG QRW FR ZLWK UHTXHVWLQJ WKH management tool for new activities. It is worth noting that the new intensive agricultural activity did not require a PAMA but an Environmental Impact Assessment."[241]

$FFRUGLQJ WR 0,1$*5, V GRFXPHQWV DQG 0LQLV %HQLWHV SUHVHQWDWLRQ WR &RQJUHVV QHLW Cacao del Peru Norte SAC or Plantaciones de Ucayali SAC, followed the legal procedures and requirements to conduct a legal removal of forest cover,[242] which means that both companies conducted a combined illegal GHIRUHVWDWLRQ WKH[243] VL]H RI VRFFHU oHOO

NUEVA REQUENA

7KH 0HOND *URXS V RSH Requena, through Plantaciones de Ucaya 6$& V GLG QRW IROORZ either. Plantaciones de Ucayali started by submitting the terms of reference (TOR) fo environmental management instrument to DGAAA. However, the company never sul the actual environmental management instrument to the authorities (DGAAA). Als the time of approving the TOR for the environmental management tool, the DGA made it explicit to the company that after JHWWLQJ WKH oQDO DSS company had to request the land use cha from the regional government, before beir able to start operations. Neither of these e happened.[253]

The TOR was approved in October 4, 201[254] after the media scandal about the defores E\ WKH VDPH JURXS LQ DFFRUGLQJ WR (,$ V VDV most of the deforestation in the area was conducted during 2013, meaning that mos the deforestation occurred before the TOR DSSURYHG 0LQLVWHU % company never requested the land use ch IXOoOO WKH UHTXLUHP at the Regional Government level. The c KH FRPSDQ\ GLG QRW FR has unrightfully used the TORs for the FODVVLoFDWLRQ IRU WK environmental management instrument fo initiating its activities, removing the forest coverage.[255]

Background on Regulations and Procedures for Agriculture Activities

In November 2012, the Peruvian Ministry of Agriculture and Irrigation approved a decree containing regulations for the environmental management of new agricultural activities.[250] For projects developed prior to these regulations (prior to November 2012), the project developers are required to submit a report on how previous activities comply with the new environmental standards or how these activities will be remediated to come into compliance with the new environmental standards. This report is called a Program for Remediation and Environmental Management (PAMA).[251]

When a company acquires land that has undergone, for example, previous deforestation for agricultural activities, the company has to submit terms of reference (TOR) to the authorities to describe how it will implement a PAMA. Once the TORs are approved, the compan needs to submit the fully completed PAMA, in accordance with the plan set out in its TOR. However, the PAMA only applies for activities conducted before November 15, 2012. For anything after that date, the company needs to produce a totally separate document.

The authority in charge of approving the 725V DQG WKH FRPSOHWI from MINAGRI called General Directorate of Environmental and Agricultural Affairs (Dirección General de Asuntos Ambientales Agrarios, known as DGAAA).[252]

CHART 7 MELKA Group		
REQUIRED STEPS ACCORDING TO THE MINISTER OF AGRICULTURE[244]	CURRENT SITUATION: CACAO DEL PERU PERU SAC IN TAMSHIYACU[245]	CURRENT SITUATION: PLANTACIONES DE UCAYALI SAC IN NUEVA REQUENA[245]
For deforestation prior to Nov. 15, 2012: PAMA[247] 3$0$ LV WKH DFURQ\P LQ 6SDQLVK IRU WKH 3HUXYLDQ Programa de Adecuación y Manejo Ambiental		
STEP 1 Company submits Terms of Reference for PAMA to the Department of Environmental Affairs (Dirección General de Asuntos Ambientales) known by its Spanish acronym, DGAAA.	Submitted in September 9, 2013. The company only refers to deforestation produced before November 2012 and does not mention ongoing deforestation.	Not Applicable
STEP 2 DGAAA approves Terms of Reference for PAMA.	October 4, 2013: DGAAA approves the Terms of Reference for PAMA.	Not Applicable
STEP 3 Company develops PAMA and submits it to DGAAA.	Not submitted.	Not Applicable
=fi [\]fi\jkXk`fe Xj[248]k\i Efm% (,#)'()		
STEP 1 Company requests that DGAAA classify the environmental management tool that applies to the project.	Not submitted. According to the Ministry of Agriculture and Irrigation, the appropriate environmental management tool for this type of project would have been an Environmental Impact Assessment (Evaluación de Impacto Ambiental) known by its Spanish acronym, EIA.	Company submitted to DGAAA the TOR for the environmental management tool. October 4, 2013: DGAAA approves TOR and expl that the company must obtain land use change approval by the Regional Forest Authority before starting operations.
STEP 2 Company develops and submits the environmental management tool requested by DGAAA	Not submitted. The company never informed DGAAA that it would start intensive and large-scale activities.	Not submitted. The company started operations without following the legal procedure: submitting the environmental management tool to the national government (DGAAA) and receiving the formal approval for it, and requesting from the Regional Forest Authority the land use change and receiving the formal approval for it.
STEP 3 DGAAA approves the appropriate environmental management tool	Not possible, since environmental management tool was not submitted.	Not possible, since environmental management tool was not submitted.
STEP 4 Company requests approval of land use change from the Regional Forest Authority	Company did not submit land use change request. Not possible, since environmental management tool was not submitted.	Company did not submit land use change request Not possible, since environmental management tool was not submitted.
STEP 5 Land use change approval by Regional Forest Authority.	Not possible, since company did not submit land use change request.	Not possible, since company did not submit land use change request.
STEP 6 Operations may begin	The company was never authorized to proceed, since it did not follow legal requirements.	The company was never authorized to proceed, since it did not follow legal requirements.
Conclusions	Forest removal (deforestation) conducted by the company without land use change authorization. Forest removal (deforestation) conducted by the company is illegal. Even if they had secured all the necessary documents, and had followed the correct procedures, the company still violated the legal norm requiring preservation of at least 30 percent of the forest coverage . Total illegal deforestation estimated by November 2014: 2,093.94	Forest removal (deforestation) conducted by the company without land use change authorization. Forest removal (deforestation) conducted by the company is illegal. Even if they had secured all the necessary documents, and had followed the correct procedures, the company still violated legal norm requiring preservation of at least 30 percent of the forest coverage. Total illegal deforestation estimated by November 2014: 4,870.40

2.4 INSTITUTIONAL LIMITATIONS: THE GOVERN INABILITY TO STOP DEFORESTATION FOR MO PLANTATIONS

Illegal expansion and deforestation carried about the Melka Group has not gone undetected. Civil society groups as well as government agencies and committed individuals within those agencies have acted on the illegalities discussed in this report. Despite their efforts, the cases are stalled and the companies continue to act with near total impunity.

In September 2013, a prosecutor in Loreto opened an investigation against Cacao del Peru Norte SAC for illegal deforestation in the Tamshiyacu area. From that moment on, several investigations and administrative processes have been opened against Cacao del Peru Norte SAC and Plantaciones de Ucayali SAC. According to the local NGO, Sociedad Peruana de Ecodesarrollo (known as SPDE), there are 14 open legal investigations related to the activities of these companies, including charges against the companies for illegal deforestation, abuses against local community members, and D J D L Q V W S X E O L F R I o F H U V I R U I D F L O L W D W L O J W illegal activities.[262] The same document by SPDE includes pictures, testimonies, and public statements made by different national and regional Indigenous and local community organizations against the deforestation and the human rights abuses committed by these two companies.[263]

In August 2014, after a national TV channel released two pieces accusing Cacao del Peru Norte SAC and Plantaciones de Ucayali SAC of illegal deforestation and human rights violations against landowners who refused to sell their lands to the company or leave the area,[264] the Ministry of Environment initiated precautionary measures (medidas cautelares) to stop the operations of the companies.[265]

As discussed, the Peruvian Congress has given these cases special attention, creating a working group to study the irregularities.[266] The Ministry of Agriculture and Irrigation (which houses the National Forest Service SERFOR and the DGAAA), has sent repeated requests for further information to the regional governments of Loreto and Ucayali regarding the authorizations obtained by the companies. Despite the time that has lapsed (MINAGRI began sending requests in December 2013) the Ministry has yet to receive a response.[267] MINAGRI D O V R U H T X H V W H G W K D W W H F H D Q G W K H U H J L R Q D O investigations of these cases. While investigations have been open at the national and regional levels, and some sanctions have been levied and appealed, nobody has been D E O H \ H W W R V W R S W K H F R ensure that they effectively remediate the devastation that they have caused.

On December 9, 2014, the new director of the DGAAA issued two Directorial Resolutions (Resoluciones de Dirección General) ordering the immediate suspension of both of the Melka Group projects. Even after this most recent attempt to stop these illegal actions, members of the local communities claim that nothing has changed. “What happens is that the resolution came out days ago [in fact almost two months before] but in Tamshiyacu everything stays the same, nobody has gone there to implement what the Ministry of Agriculture is ordering. All of us here have seen that they are still working, nobody has stopped anything,” stated the local O H D G H U * U H P L V K $ K X < X P E February 2015.[268]

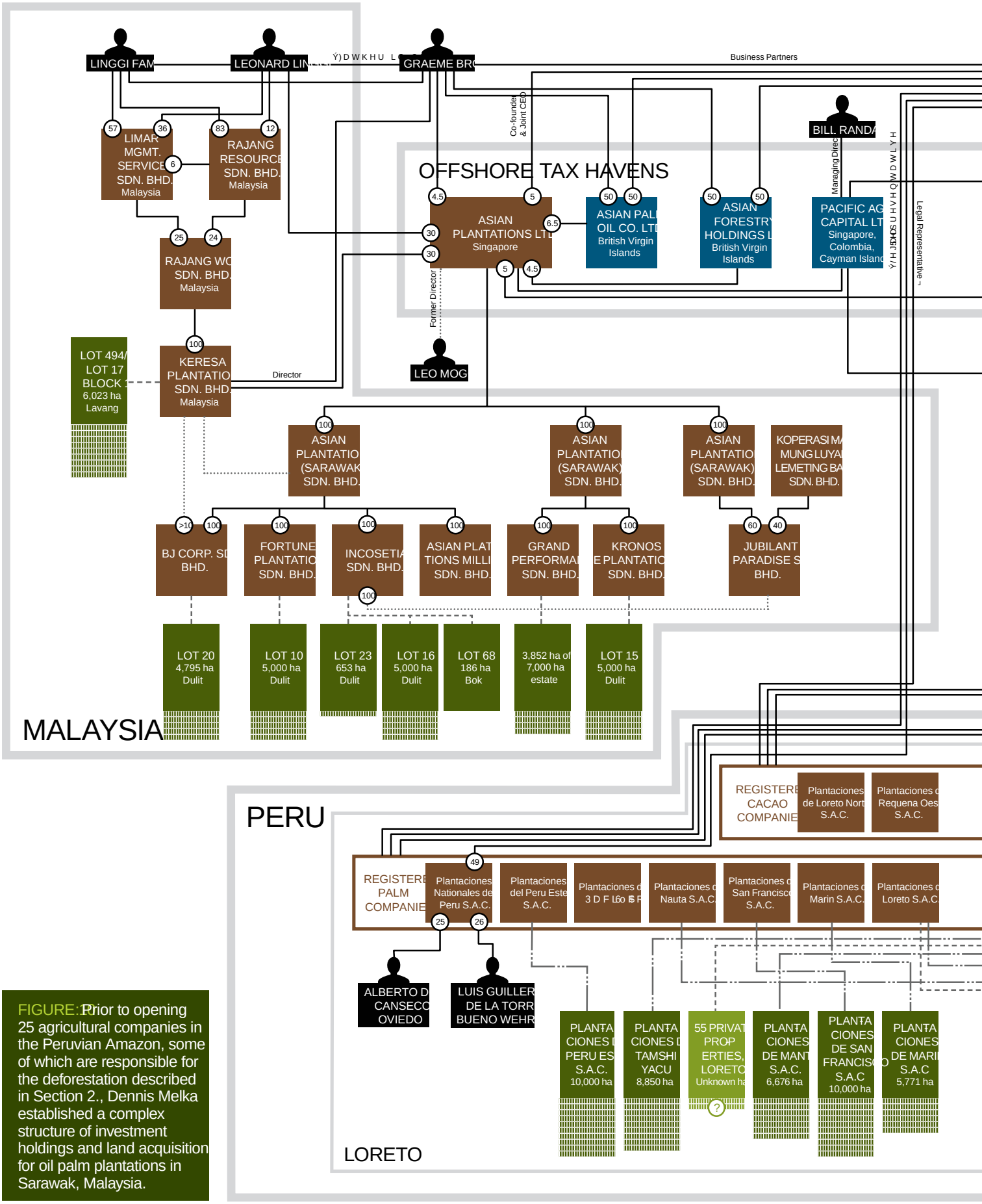
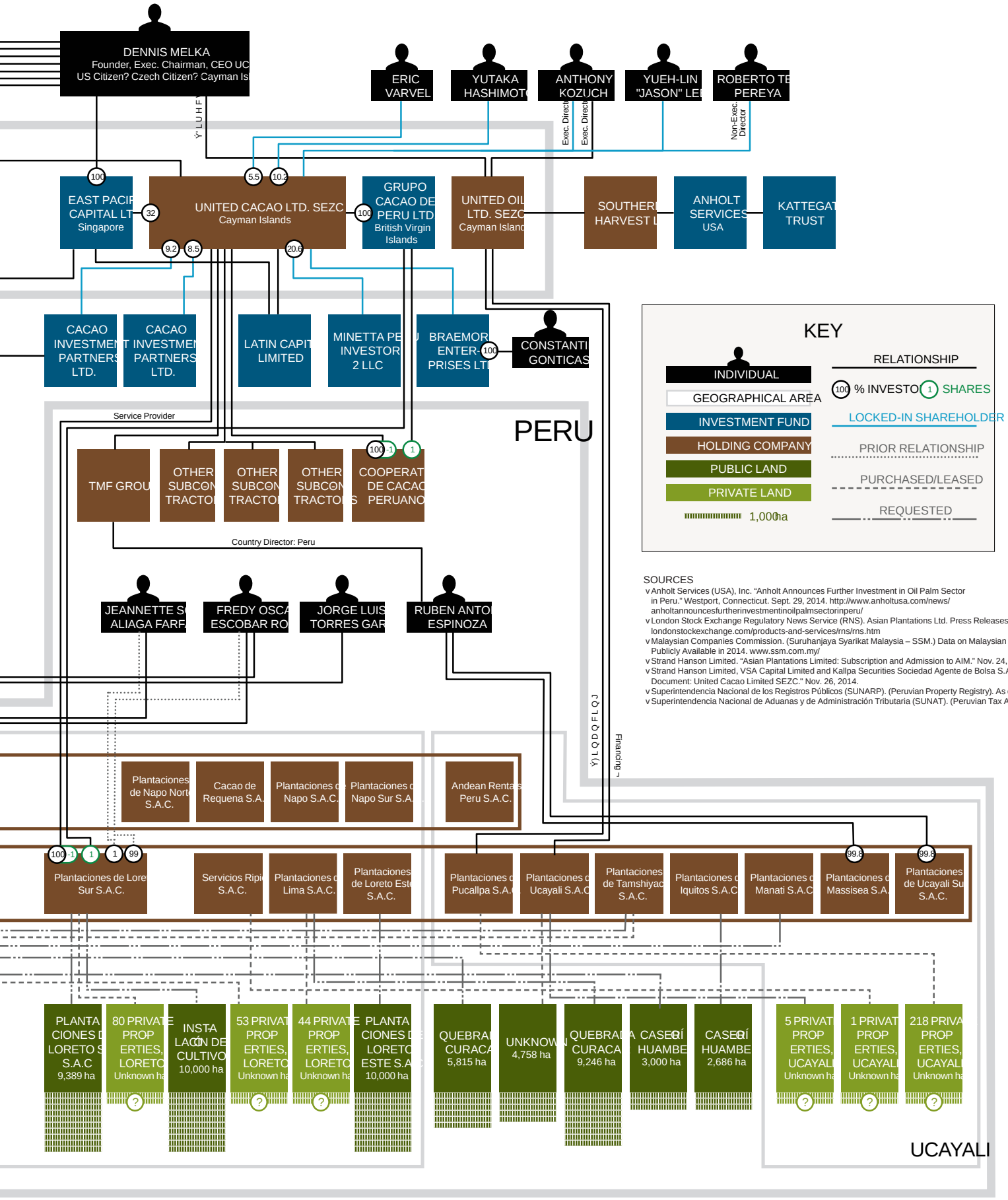


FIGURE: Prior to opening 25 agricultural companies in the Peruvian Amazon, some of which are responsible for the deforestation described in Section 2., Dennis Melka established a complex structure of investment holdings and land acquisition for oil palm plantations in Sarawak, Malaysia.



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3. GREASING PALMS: DENNIS MELKA, ASIA PLANTATIONS LTD., AND FOREST DESTRU SARAWAK, MALAYSIA

Tropical Forest in Sarawak, Malaysia

THREATS TO FORESTS ACROSS THE PACIFIC

Prior to opening 25 agricultural companies in the Peruvian Amazon, Dennis Melka established numerous businesses, including investment holdings and land acquisitions for oil palm plantations (See Figure 11). Shared with Indonesia and Brunei, the island of Borneo is home to one of the oldest, most biodiverse rainforests in the world. It is also one of the most devastated by logging, deforestation, and oil palm development.[361] (See Figure 12 & 13).

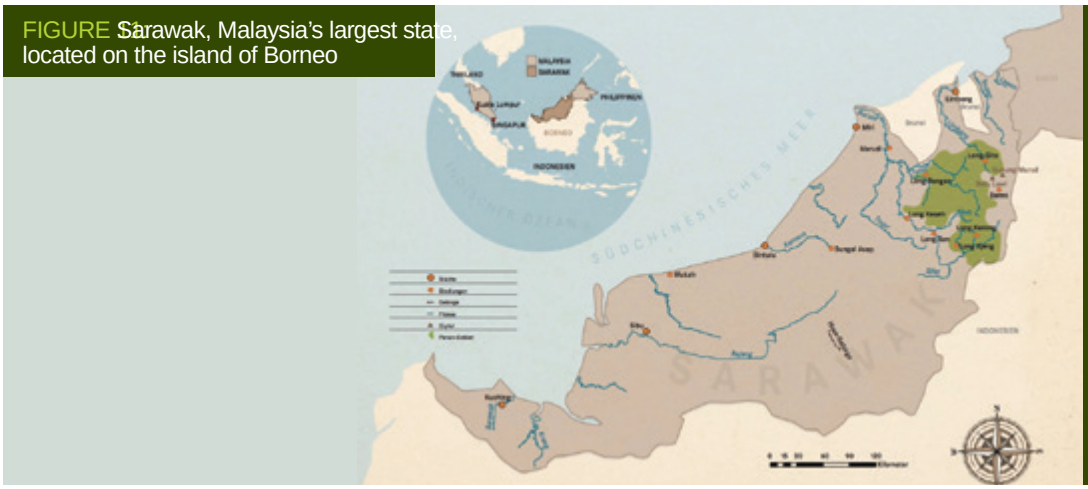
Asian Plantations Limited was the main company through which Melka built his plantation portfolio in Sarawak. Just after the company was registered in Singapore, in October 2009, Asian Plantations Ltd. [362] held an initial public offering (IPO) on the Alternative Investments Market (AIM) of the London Stock Exchange on November 30, 2009.[363] From that time until its sale in late 2014, Asian Plantations Ltd. increased its revenues from zero to just short of US $24,000,000 annually.[364]

3XEOLF VWDWHPHQWV DERXW $VLDQ 3ODQWDWLRQV /WG V involvement in Peru are limited. A publication covering agriculture business news, Agrimoney.com, stated in a July 2010 article that Asian Plantations owned a subsidiary in Peru.[365] The same article references statements made by Dennis Melka, who described South America as favorable for palm plantations, in contrast with African countries that have poor infrastructure, [illegible] resources.[366] Additional indications about the [illegible] 2011, via news articles that included interviews with investor Bill Randall of Asian Agri Capital Ltd.[367] about plans and interest to invest money made in Asian Plantations Ltd. in new agricultural plantations in Peru, Ecuador, and Colombia.[368] In late 2014, Melka appeared on investing news segments to promote the launch of United Cacao Limited[369] on AIM. In those appearances, Melka stated that the management of the newly-formed United Cacao Ltd. included the same management group as Asian Plantations Ltd., including himself and "a few others."[370]

As this new corporate group emerged into prominence in agricultural commodity development in Peru, EIA looked into Asian Plantations Ltd.'s [illegible] that would [illegible] forward. [illegible] involvement in large-scale land acquisitions of forested land, expansive deforestation, a complicated ownership structure, and the use of offshore tax havens as the location for the ultimate parent company of the group. Asian Plantations Ltd. was set up to acquire land and TXLFNO\ SURoW IURP LW D [illegible] calculated [illegible] that the infrastructure, [illegible] regulatory and legal framework, and land ownership system in Malaysia would facilitate WKLV SURoW PRWLYH.[371]

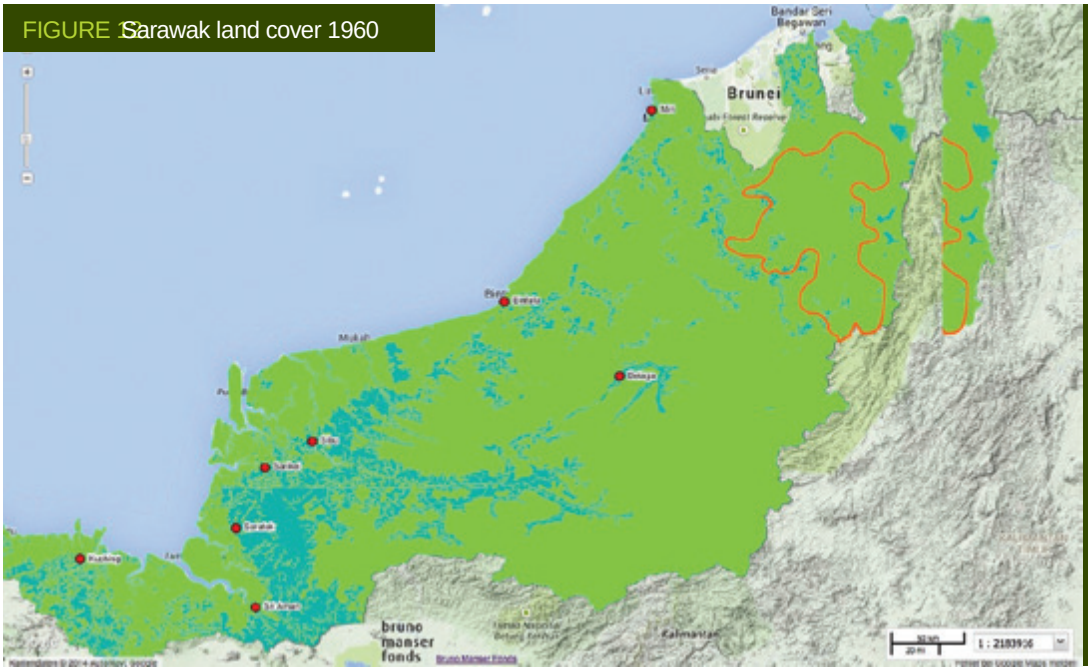
The company was sold in 2014 to one of the biggest palm oil conglomerates in the world, Felda Global Ventures.[372] Sarawak has now lost WKH IRUHVWV WKDW RQFH [illegible] SODQWDWLRQ ODQGV ZKLO[illegible] 3ODQWDWLRQV /WG V VDOH shareholders of the Singapore-based company in a jurisdiction with no taxes on foreign-sourced income for individuals who do not reside in Singapore.[373] 7KH KLVWRU\ RI activities in Malaysia, via Singapore, illustrates ZKDW HIIHFWV WKH 0HONDW [illegible] the Peruvian Amazon, via the Cayman Islands, may have on forests, lands, and local communities in Peru, if current investments in [illegible] 3ODQWDWLRQV /WG V [illegible] 0ODODVLD (,$ V UHVHDUFK UHYHDOHG WKH JURXS V [illegible]

FIGURE 1: Sarawak, Malaysia's largest state, located on the island of Borneo



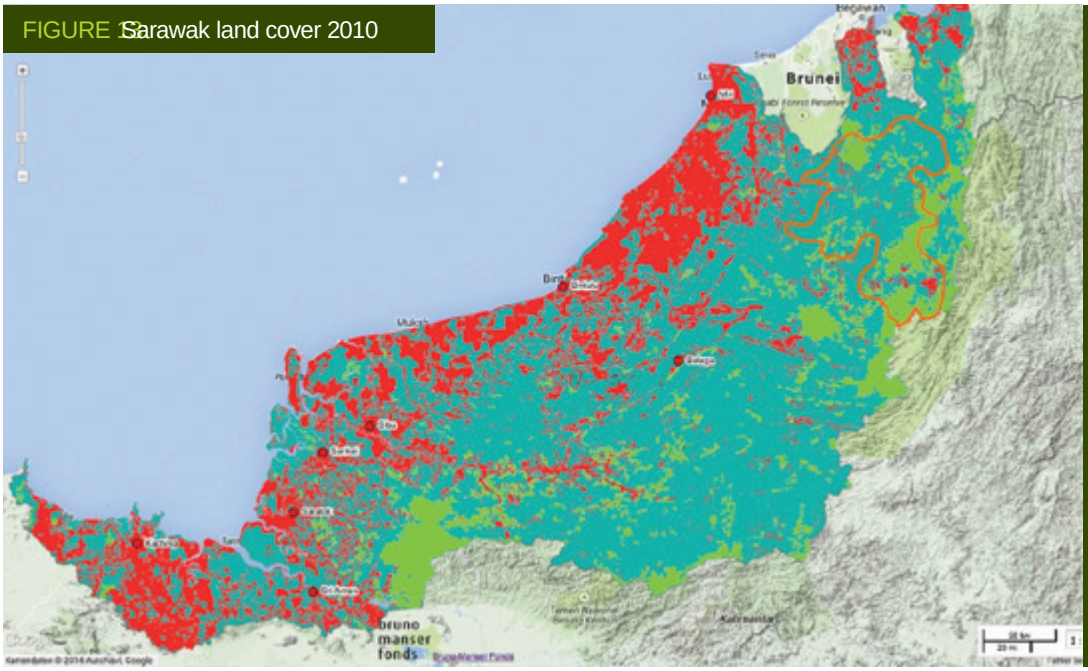
Source: Straumann, Lukas. Money Logging. Bergli Books. Basel, Switzerland 2014.

FIGURE 2: Sarawak land cover 1960



Light green areas represent primary rainforest. Dark green areas represent secondary forest. Map courtesy of Bruno Manser Fund.

FIGURE 3: Sarawak land cover 2010



Light green areas represent primary rainforest. Dark green areas represent secondary forest. Red areas represent palm oil plantations. Map courtesy of Bruno Manser Fund.

3.1 A NEW EMPIRE OF DEFORESTATION

Source: Straumann, Lukas. Kasey Loggins. Bergli Books. Basel, Switzerland. 2014.

Asian Plantations Ltd. appeared to be a picture of success in press releases publicizing its expansion LQ 6DUDZDN %\ ODWH being publicly listed on AIM, the company had increased its share price three times over (from £0.75 GBP per share to £2.20 GBP per share), acquired over 24,000 hectares of land for plantation development in Sarawak, and built up its annual revenue to tens of millions of dollars.[374]

+RZHYHU WKURXJK DQDO\VLV RI WKH FRPSDQ\ V oQDQFLDO [375] DQG by cross-referencing these statements with leaked information available about land acquisition in Sarawak,[376] EAK found that the company achieved its success by acquiring ex RXW RI LWV oYH SODQWDWLRQV [377] hectares – from parties involved directly in acquiring plantation land at prices substantially lower than market rate from the Sarawak state government.

In acquisition statements for each subsidiary, Asian Plantations Ltd. repeatedly cited local connections and non-competitive processes as the genesis for its land acquisitions.[378] (See Section 3.2.)

$VLDQ 3ODQWDWLRQV /WG V VXEVLGLDULHV DQG SURoW oQDQFH FXUWKHU ODQG DFTXLVLWLRQV in Sarawak, as described below.

Through a complicated network of holding companies, investment funds, and subsidiaries based in Malaysia and Singapore, a closely related group of companies and individuals played a shell game which effectively hid their links to deforestation in their plantations on the ground.

Meanwhile, the publicly traded holding company, Asian Plantations Ltd. sought to distance itself from the forest destruction[385] which, in the past several years, has begun to draw the attention of the international community.[386]

Further, Asian Plantations Ltd. received its initial LQMHFWLRQ RI FDSLWDO IURP SDUHQW FRPSDQLHV 3ODQWDWLRQV 6GQ %KG DQG 5DMDQJ IRRG 6GQ %KG KDG SURoWHG IRU GHFDGHV IURP ERUXXSW ODQG GHDOV forest clearance in Sarawak, in exchange for political favors.[387, 388] These political favors have helped to keep the ruling party (Parti Pesaka Bumiputra Bersatu or PBB Party) in power in the state for decades.[389] The same companies also held shares of Asian Plantations.

/WG RQ $,0 DOORZLQJ WKHP WR SDUWLFLSDWH LQ ODWH 2013, Global Witness released video evidence documenting a continuing network of corruption and illegal land deals, emanating from the highest levels of power in the state.[390] Family members and lawyers of the Chief Minister and other Sarawakian SROLWLFLDQV GHVFULEHG WR *OREDO :LWQHVV investigators how they thwarted the land ownership laws and avoided property taxes via a complicated network of kickbacks, offshore accounts, and shell companies.[391]

The public land giveaway in Sarawak is ongoing, and expanding beyond its borders, at the expense of forests. The proceeds from the selling and leasing of state land acquired at below-market value prices was channeled directly into deforestation for palm oil in Sarawak.[392] By leveraging bank loans in Malaysia, and international capital on the Alternative Investment Market (AIM) of the London Stock Exchange, based on the FRPSDQ\ V oUVW SODQWDWLRQ ODQG DFTXLVLWLRQ primary asset), Asian Plantations Ltd. went on to

1. 3ODQWDWLRQV DQG SURoW oQDQFH FXUWKHU ODQG DFTXLVLWLRQV DQG GHIRUHVW

/WG RQ $,0 DOORZLQJ WKHP WR SDUWLFLSDWH LQ ODWH 2013, Global Witness released video evidence documenting a continuing network of corruption and illegal land deals, emanating from the highest levels of power in the state.[390] Family members and lawyers of the Chief Minister and other Sarawakian SROLWLFLDQV GHVFULEHG WR *OREDO :LWQHVV investigators how they thwarted the land ownership laws and avoided property taxes via a complicated network of kickbacks, offshore accounts, and shell companies.[391]

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Non-governmental advocacy groups have documented widespread corruption among other political leaders. The Bruno Manser Fund, HVWDEOLVKHG WR VXSSRUW SURWHFWLRQ RI 6DUDZDN V rainforests and the rights of the peoples who live there, has spent the last three decades

With the increase in public share from 2009 to $VLDQ 3ODQWDWLRQV /WG UHDSHG SURoWV [393] other than Keresa Plantations and Rajang Wood, those who EHQHoWWHG LQFOXGHG WR *OREDO :LWQHVV

- Three directors of the company: Dennis Melka, Graeme Brown, and Leonard Linggi;
- 5HODWHG LQYHVWPHQW YH Capital Ltd. (fully owned by Dennis Melka) DQG 3DFLoF $JUL &DSLWDO Agri Capital Ltd.), both registered in Singapore at the same address as Asian Plantations Ltd.,[394] and, Asian Palm Oil Company Ltd.; and
- Asian Forestry Holdings Ltd., both registered in the British Virgin Islands and fully owned in equal parts by Dennis Melka and Graeme Brown.

HQQLV 0HOND (DVW 3DFLoF Agri Capital Ltd. are now investing in agribusiness development on forested lands in the Peruvian Amazon via United Cacao Limited, registered in the Cayman Islands, and 25 companies established in Peru (See Section Melka Group), claiming their business is sustainable and transparent[395] and citing its inclusion as "a member of the World Cocoa Foundation…which works to promote a sustainable cacao industry through economic and social development and environmental stewardship in growing communities."[396]

*OREDO oQDQFH UDLVHG LQ markets, coupled with increasingly complicated corporate structures, is building a new empire of GHIRUHVWDWLRQ 7KLV oQDQ it is exceedingly hard to track, which raises doubts about the implementation and enforcement possibilities for recent zero-deforestation palm oil pledges by powerful, multinational corporations. The model here provides a case for close examination, and should serve as a cautionary tale for forests globally, as capital raised from logging DQG ODQG DFTXLVLWLRQV VH investments, with disregard for forest ecosystems or local land rights.

3.2 ASIAN PLANTATIONS LTD.

OVERVIEW

Registered on October 20, 2009, Asian Plantations Ltd. prepared quickly for a pu
 O D X Q F K R Q W K H / R Q G R
on November 30, 2009.[397] In the short weeks between these dates, the company woul carry out a series of transactions to acqu two Sarawakian companies, Arus Planta and its subsidiary, BJ Corporation, in exchange for issued shares in the Singa company on November 2 and 9, 2009.[398] D
 O H D G X S W R $ V L D Q 3 O D
 L Q 6 L Q J D S R U H $ V L D Q 3
directors, Leonard Linggi, Graeme Brown Dennis Melka, had already become directors of Arus Plantation and BJ Corporation by mid-2008.[399, 400] BJ Corporation held land lease rights to 4,795 hectares of land slated for plantation development in Sarawak.[401] A complicated network of companies, all connected through Asian Plantations Ltd., was taking shape.

$ F F R U G L Q J W R G R F X P H O W V o O H G Z L W K W K H / R Q G R
Stock Exchange, Dennis Melka "[took] U H V S R Q V L E L O L W \ I R U W K H * U R X S V o Q D Q F L D O operations."[402] As a Co-founder and joint chief H [H F X W L Y H R I o F H U R I $ V L D Q 3 O D Q W D W L R Q V / W G

Sarawak, Malaysia. PHOTO CREDIT ANDREW HETHERINGTON

Dennis Melka managed the acquisition of land for palm oil plantations in Sarawak.[403] Along with Co-founder and Co-executive director Graeme Brown, Chairman Leonard Linggi, and Director Amar Leo Moggie, Melka oversaw an L Q F U H D V H L Q W K H F R P S D Q \ ' V F D S H [to almost $24 million USD between 2009 and 2013 (See Figure 14), according to the F R P S D Q \ V \ H D U H Q G V W D W H P H Q W V.[404] All of the Directors of the company hold or have held substantial holdings in other

Malaysian and international companies, so their corporate network in the country is vast 6 H H & K D U W L Q $ Q Q H [analysis of publicly available corporate G R F X P H Q W V R Q o O H Z L W K Company's Commission (SSM), many of these companies share corporate ties with Asian Plantations Ltd. via their directors, shareholders, parent companies, and subsidiaries.

FIGURE: 14 Asian Plantations revenues 2009– 2013.

LAND ACQUISITIONS

,Q $VLDQ 3ODQWDWLRQV /WG VXEVFULSWLRQ WRx $0 published just before the company began to publicly raise funds on the UK exchange, the group described its plan to acquire new land in addition to the BJ Corporation land holding: "There are currently several titled and underdeveloped plantation parcels located in close proximity to the Sarawak Project Area, which are either currently for sale or which the Directors expect to become available for sale in WKH QHDU IXWXUH{ 7KH 'LUHFWRUV EHOLHYH WKDW WKH EDVHG RQ WKH * 6DUDZDN DQG WKH 'LUHFWRUV EHOLHYH WKDW WKH acquisition and development, the Company is well placed to take advantage of such further land acquisition opportunities."[425]

From 2009 to 2013, Asian Plantations Ltd. acquired approximately 20,000 hectares of land in Sarawak by acquiring existing Malaysian companies that held land leases, and by directly buying plantation land ("See Chart 10). Through this period, the company noted that it acquired these companies in "non-competitive processes based on long standing local relationships".[426] $VDQDO\VW includes information about all of Asian 3ODQWDWLRQV /WG VNQRZ 6DUDZDN PRVW QRWDEO\ holdings in the state, as of late 2014 (See Chart 10).

CHART 10: Asian Plantations Ltd.'s Subsidiary holdings in Sarawak, as at sale to Felda Global Ventures in

HOLDING COMPANY	DIRECT SUBSIDIARIES[417]	SUBSIDIARIES[418]	SARAWAK LAND HOLDINGS[419]	PRICE (MYR) AT ACQUISITION FROM LAND AND SURVEYS DEPT. (DATE)[420]	REVALUATION OF LAND OR NEW SA PRICE (MYR)
ASIAN PLANTATIONS LTD. (APL)	ASIAN PLANTATIONS SDN. BHD.	3UHYLRXVO\ RZQHG $3/ they were acquired by Asian Plantations in Singapore	V VXEVLGLDULHV EHIRUH Ltd.		
	ASIAN PLANTATIONS (SARAWAK) SDN. BHD.	BJ Corporation Sdn. Bhd.	4,795 hectares Lot 20, Dulit Land District	3,553,095 (May 7, 2007)	18,216,905 (Independent Firm, Feb. 6, 2007)[421]
		Fortune Plantation Sdn. Bhd.	5,000 hectares Lot 10, Dulit Land District	3,705,000 (Oct. 3, 2006)	5,174,572 (Paid for land use rights in 2007[422] in a "non-competitive process driven by WKH ERDUG V O relationships"[423])
		Incosetia Sdn. Bhd.	5,000 hectares Lot 16, Dulit Land District	3,705,000 (Feb. 20, 2003)	15,000,000 ,QGHSHQGHQW Feb. 2003[424])
			653 hectares Lot 23, Dulit Land District[425]	(2012)	‹
			186 hectares Lot 68, Bok Land District[426]	(2012)	-
		Asian Plantations Milling Sdn. Bhd.	Not a plantation.	‹	‹
	ASIAN PLANTATIONS (SARAWAK) II SDN. BHD.	Kronos Plantation Sdn. Bhd.	5,000 hectares Lot 15 Dulit Land District	3,705,000 (May 20, 2003)	63,105,545 (paid for land use rights in 2012[427] in a "negotiated, non-competitive situation"[428])
		Grand Performance Sdn. Bhd.	3,852 hectares[429]		
	ASIAN PLANTATIONS (SARAWAK) III SDN. BHD.	Jubilant Paradise Sdn. Bhd.	No land held.	‹	‹

LOOKING FOR LAND RECORDS

To understand how much land Asian Plantations Ltd. acquired via subsidiaries in Sarawak, EIA compared corporate records from the Malaysian Companies Commission (SSM) to public documents and announcements published in relation to Asian Plantations Ltd.'s listing and trading on the Alternative Investment Market (AIM) of the London Stock ([FKDQJH /6($VLDQ 3ODQWDWLRQV /WG V website contained published annual reports LQFOXGLQJ oQDQFLDO VWDWHPHQWV HISDQVLRQ planning, and locations of the plantations. Although in some cases, Asian Plantations Ltd. reported slightly varying numbers of hectares for its plantations in different company documents, it is clear that the lands referred to are the same[407] (See Chart 14 in Annex).

The lack of publicly available data from the Sarawak Land and Surveys Department has in large part prevented the public from understanding precisely where and how much forest has been lost via politically-motivated allocations of land across Sarawak.[408] It was rare GLVFORVXUH RI RIoFLDO ODQG WUDQVDFWLRQV well-placed government insider leaked a dataset of land transactions carried out by the Land and Survey Department to activists at Sarawak Report, an online news blog, and the Bruno Manser Fund, a Swiss non-governmental organization (NGO) that campaigns for preservation of tropical rainforest and respect for the rights of those who traditionally inhabit them.[409] With the data subsequently published online in 2011, the public has gained a rare view into information about price, location, and owners of lands distributed by the ruling party in the state to individuals and companies, for free or well below market value.[410]

The leaked data covered the period between the 1980s and 2010, and represents information about individual land transactions q PDQ\ RI ZKLFK ZHUH PDUNHG DV kFRQoGHQWLDOy or "CONF" in the raw data as provided by the government insider.[411] Sarawak report LGHQWLoHG D WRWDO RI PLOOLRQ KHFWDUHV DFURVV the state that were distributed during this WLPH DQG LQLWLDOO\ WRoHG DSSUR[LPDWHO\ companies which acquired land as owned Chief Minister Taib and his family members.[412] According to legal experts in Sarawak, Taib himself signed off on all logging concessions, allocations and plantation licenses starting in 1985.[413] According to the government source, no public consultations took place around these land leases given, which span up to 99 years.[414]

In Section 3.5, EIA will outline how areas which F RUUHVSRQG WR IRXU RI $VLDQ 3ODQWDWLRQ /WG oYH SODQWDWLRQ ODQG KROGLQJV DUH WKH VDPH those which appear as land transactions with companies owned by political allies and family members of the former Sarawak Chief Minister, 7DLE 0DKRXG 7KUHH RI $VLDQ 3ODQWDWLRQV /WG V Malaysian subsidiaries appear by name in the GDWDVHW RI RIoFLDO ODQG WUDQVDFWLRQV IURP Sarawak Land and Survey Department, while a IRXUWK ZDV LGHQWLoHG EDVHG RQ WKH ODQG SDU subsidiaries, both before and after Asian ORFDWLRQ DQG VL]H LGHQWLoHG LQ WKH 3ODQWDWLRQV /WG V DFTX took place (See Section 3.5).

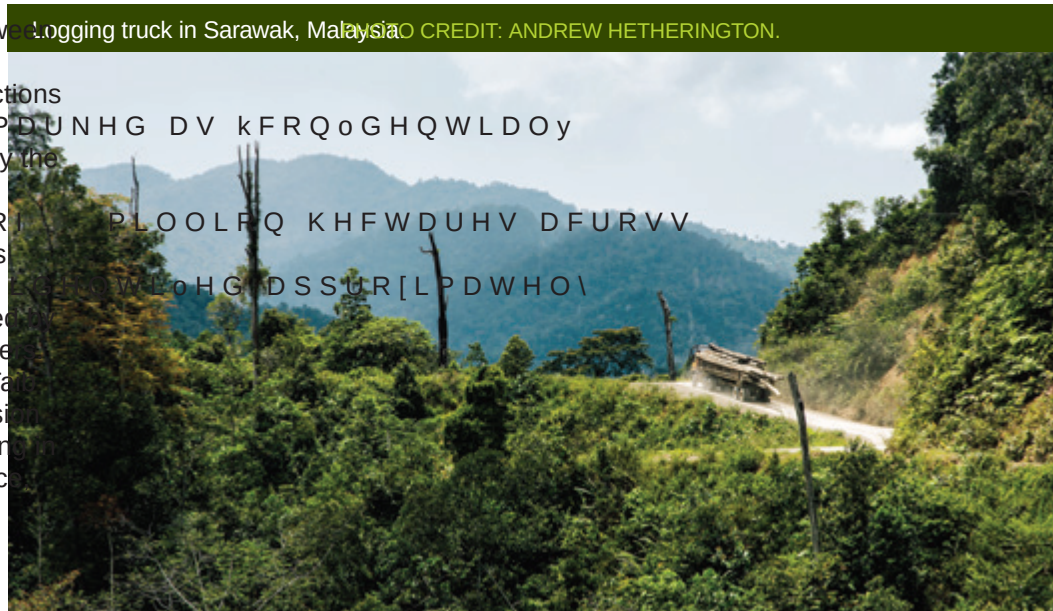
It is important to note that the companies that held land-lease rights for the four plantations contained in this dataset, which were subsequently acquired by Asian Plantations Ltd., were not purchased by the Singapore-based company directly, but rather through its two Malaysian subsidiaries, Asian Plantations (Sarawak) Sdn. Bhd. (APS1) and Asian Plantations (Sarawak) II Sdn. Bhd. (APS2) (See Section 3.5).

Keresa Plantations Sdn. Bhd., Asian Plantations WG V PDMRU VKDUHKROGHU RI $VLDQ 3ODQWDWLRQ 7KH PDQDJHPHQW RI WZR RI Directors, Graeme Brown and Leonard Linggi, also appeared in the leaked land transaction data, which indicated it acquired its plantation land for a sum less than 1 percent of the market value of the land. Keresa Plantations clear-cut the forest which stood on this land, SURoWHG IURP WKH VDOH RI WUHHV WR SURYLGH H VWDEOLVKHG 6DUDZDN palm plantation (See Section 3.3).

Asian Plantations Ltd. published referential maps of its plantation areas, and their names, in May 2013.[430] EIA analyzed satellite images to compare the locations and areas as reported by the company with selected, cloud-free LANDSAT imagery from between 2003 and 2014, when the land was allocated and developed. The maps showed that natural forest had been clear-cut in areas corresponding to planned plantation areas, to make way for palm oil plantings. These maps demonstrate how and when clearing took place, which demonstrates deforestation DWWULEXWDEOH WR $VLDQ 3ODQWDWLRQV /WG V DFTX

FINDING THE FINANCE

7R H[DPLQH WKH KLVWRULF and relationships between Asian Plantations /WG V VXEVLGLDULHV DQG 6DUDZDN (,$ UHTXHVWHG with the Malaysian Companies Commission (SSM) for its Malaysian name: Suruhanjaya 6\DULNDW 0DOD\VLD IRU F linked to Asian Plantations Ltd., according to SXEOLFOq UHFRUGV WKH WLRQ 7KH SURVLGH D QDPH DQG SURR QW companies, public and private, are required to oH ZLWK WKH JRYHUQPHQ articles of incorporation, changes in directorship and ownership of shares, annual oQDQFLDO UHSRUWLQJ FK and resolutions by company boards of directors, including increases in share capital. Although the SSM data did not include LQIRUPDWLRQ DERXW DOO


Logging truck in Sarawak, Malaysia PHOTO CREDIT: ANDREW HETHERINGTON.

operations, a historical analysis, completed by referencing surrounding years and related FRPSDQLHV oOLQJV LQ clear trends.

Through a shareholder analysis of the companies as provided in SSM documents, EIA documented historical links between Asian 3ODQWDWLRQV /WG V PDMRU VKDUHKROGHU . Plantations Sdn. Bhd., which owned approximately 30 percent of the company EHIRUH LWV VDOH LQ ultimate parent company, Rajang Wood Sdn. Bhd.[131] This analysis showed the extent to which Asian Plantations Ltd. was a UHLQYHVWPHQW YHKLFOH LQ shareholders, themselves, which made money from corrupt land deals for logging concessions that took place in the 1970s and 1980s.[132]

Logging companies operating forest concessions, given by politicians to curry favor with local ethnic leaders,[133] subsequently IXQQHOHG WKHLU SURoWV IURP selling tropical timber[134] into oil palm plantations.[135] These investments, via the same corporate networks, further decimated 6DUDZDN V DOUHDG\ OR clear-cutting for oil palm.[136] Start-up capital for palm plantations in the form of direct cash injections, loans, and share capital,[137] used to purchase new land and clear forests, as the logging companies discussed here channeled investment into new sectors.[138]

Arus Plantation Sdn. Bhd. and its subsidiary BJ &RUSRUDWLRQ 6GQ %KG companies acquired by Asian Plantations Ltd. $VLDQ 3ODQWDWLRQV /WG initial investor in the company, Keresa Plantations, traded shares it held in BJ Corporation and Arus Plantation for shares in Asian Plantations Ltd., itself, to become a major shareholder of the Singapore-based company.[139] In return Asian Plantations Ltd. acquired full ownership over BJ Corporation and Arus Plantation (which later changed its name to Asian Plantations (Sarawak) Sdn. Bhd.).[140] When Asian Plantations Ltd. was listed on AIM, BJ Corporation and Arus were the only subsidiaries the company held as assets, and the 4,795 ha held by BJ Corporation was the only plantation land to which the company had rights.[141] This land was acquired by BJ Corporation for lower than market value.[142] The initial shares in BJ Corporation and Arus Plantation were paid for by applying the true value of BJ Corporations land holdings, as revalued by professional valuers, to issued paid up shares allotted to Keresa Plantations. This convoluted share-swap resulted in Asian 3ODQWDWLRQV /WG V LQLWLDO DFTXLVLWLRQ RI VLJQLoFDQW YDOXDEOH DVVHWV WKH EDVLV RI Z came from a revaluation of land that was allocated for below market value.

7KH HTXLW\ RU YDOXH DOOHG WR Keresa Plantations, provided via cash injections, loans, and share swap deals[143] from logging companies, as well as the land it purchased rights to, formed the base collateral DJDLQVW WKH ORDQV &RQVWDQW 3ODQWDWLRQV /WG WRRN RXW ORDQV WR oODQW RLO palm oil plantation expenses, and the building of its own mill via subsidiary Asian Plantations Milling Sdn. Bhd. (See Section 3.5 and Annexes). Some of the loans that Asian Plantations Ltd. and its subsidiaries were able to obtain with the land as collateral show how, by acquiring land for cheap and quickly revaluing the land IRU LWV WUXH YDOXH $VLDQ 3ODQWDWLRQV /WG subsidiaries were able to secure bank oQDQFLQJ DW PXFK KLJKHU RHYHOV WKDQ WKH LQ investment in acquiring the land.[144]

$VLDQ 3ODQWDWLRQV /WG **WKH** RX JHQHUDWHG fundraising on AIM allowed for these investments by logging companies to them grow further – about 300 percent by the time the company sold to Felda Global Ventures in late 2014.[145] Now, a similar group of investors is clearing rainforest in Peru for plantations. (See Melka Group)

Because these plantations have different owners and names, and are owned by companies WUDGH LVVXHV DHURUHG DKEDUHDKGR OHDUHDKGR trace. Nonetheless, EIA has proven the links between Sarawak, one of the biggest instances of rainforest destruction in modern history,[146] and new deforestation for oil palm and other agricultural commodities in the Amazon Basin. (See Section 3: Melka Group)

LEONARD LINGGI: PBB PARTY LOYALIST AND TIMBER BARON

6LQFH 0DOD\VLD V LQGHSHQGHQFH IURP %ULWDLQ the 1960s, Sarawak, as well as its land and forests, have operated as a "Malaysian political oHHGRPy IRU D IHZ SHRSOH WR SURWHU EURNHUV WKH V OR\DOW\ WR 6DUDZDN V UXOLQJ Party (Parti Pesaka Bumiputra Bersatu) was rewarded with enormous timber and land concessions throughout the state.[148]

Leonard Linggi, son of a traditional leader of the Iban ethnic group, received such handouts, and established himself strategically in a political power structure led by Taib Mahmud (Chief Minister from 1981-2014).[149] According to economist David W. Brown,[150] Linggi helped unify portions of the Iban ethnic group in support of Taib, allegedly engaging in widespread vote-buying to ensure election victory for Taib, thereby helping Taib to maintain political and economic control over the state for 43 years.[151]

In his research into Malaysian elite appropriation RI WLPEHU UHQWV %URZQ L WRRN RXW ORDQV WR oODQW timber concessions, handed out by subsequent Chief Ministers of Sarawak, in which Linggi was Director and shareholder: Rajang Wood (309,575 ha), Keresa Timber (49,996 ha), and Raplex (72, ha).[152] (,$ V DQDO\VLV RI GRFXP the Malaysia Companies Commission (SSM) FRQoUPV WKDW WKH /LQJJL Rajang Wood Sdn. Bhd., and its subsidiary, Kere Plantations Sdn. Bhd. date back to the 1970s an 1980s, when these companies were established Leonard Linggi was one of two initial directors and shareholders for both companies.[153] Leonard Linggi still owns substantial portions of Rajang Wood and holds a leadership role as a Director with both direct and indirect interest in the company,[154] as well as a Directorship in Keresa Plantations (2012).[155] Keresa Plantations was fully owned by Rajang Wood Sdn. Bhd. as of June 201[156]

Leonard Linggi also held major political power in his own right, reportedly operating as second in command to the Christian wing of the PBB party, and making decisions about which candidates could represent the party in State and Federal W elections.[157] Linggi was also the General Secretary of the 3%% GHVFULEHG DV meaning the PBB comes to him for funds at campaign time.[158] Despite using the Iban population to support party politics, Brown notes that "other than election time bribes, timber rent is not redistributed to the larger Iban community," and that Linggi is considered " 'the ULFKHVW ,EDQ y throughout[159] PH L his career, Linggi also held positions as a "Deput Public Prosecutor, Member of Parliament, and State of Sarawak Cabinet Minister for almost two GHFDGHVy DFFRUGLQJ WR $ corporate literature.[160]

Aside from Leonard Linggi, Rajang Wood Sdn. %KG V VHFRQG GLUHFWRU 3%% S RQ of the company, upon its incorporation, is

Logging truck in Sarawak, Malaysia PHOTO CREDIT: ANDREW HETHERINGTON

L G H Q W L o H G L Q F R P S D Q [461] Abu Bakar Bin Datu Bandar Abang Haji Mustafah," the Speaker of the Sarawak State Assembly from 1976 to 1983. [462] As Brown describes, the State Assembly is responsible I R U H O H F W L Q J 6 D U D Z D N U Ruling Coalition at the National level Z K L F K I U R P W R Z D Ruling Coalition at the National level and predecessor, Abdul Rahman. [463]

/ H R Q D U G / L Q J J L V V R Q was also a director of Rajang Wood Sdn. Bhd. [464] and Keresa Plantations Sdn. Bhd. [465] July 2013. Alexander Linggi continued to hold approximately a 15 percent share in Rajang Resources Sdn. Bhd., a part owner of Rajang : R R G X Q W L O W K H O D W H available from 2013. [466] He currently holds a V H D W L Q 0 D O D \ V L D V Q representing the PBB party from Sarawak, S R V W W R Z K L F K H Z D V Alexander Linggi was also appointed as the Deputy Minister of Rural and Regional Development by the current Prime Minister of Malaysia, Najib Razak, after his successful reelection to parliament in 2013.

1 H Z V U H S R U W V D E R X W in 2013 show that the Sarawak region F R Q W D L Q L Q J $ V L D Q 3 O D Q W D W L R Q V S O D Q W D U H D V I R U 6 D U D Z D N V

3 B party connections are the lo$ E Q crucial for carrying these areas in the elections. [467] The PBB Party, in which Leonard and Alexander Linggi have held positions, forms part of the Barisan Nasional, the current ruling coalition at the National level in Malaysia.

Through its fully owned subsidiary, Keresa Plantations Sdn. Bhd., Rajang Wood Sdn. Bhd. held an approximately 30 percent stake in Asian Plantations Ltd. – worth a market value R I 0 < 5 R U [468] 8 6 ' December 31, 2013. [469] At the time of Asian 3 Q D Q W D W L R Q V / W G V V initial shareholders, including Rajang Wood Sdn. Bhd., made a 300 percent return on investment after only 5 years of public trading. [470] In this way, the public listing of Asian Plantations Ltd. on AIM, its increasing Y D O X H D Q G L W V o Q D O funds for timber companies linked to forest corruption in Sarawak. [471]

Having vacated the role of Chief Minister in early 2014 and becoming the Governor of Sarawak one day later, [472] Taib is currently under investigation by the Malaysian Anti-Corruption Commission for graft related to timber concessions during his time as Chief

Minister. [473] Wikileaks cables show that the US government considers Taib to be "highly corrupt." [474] The Bruno Manser Fund estimates family wealth at US $21 billion. [475] This net worth would make Taib the richest person in Malaysia by approximately US$3.5 billion. [476]

7 U D F L Q J W K L V F D V F D G L Q J subsidiaries and investments in new companies with different names shows the importance of State maintenance of corporate records, transparent and fair land transactions, and accompanying concession o land ownership maps. When companies with ties to corruption can reinvest in new D Q D O H Q L Q J O D Q G O H D V companies, subsequent deforestation or G H J U D G D W L R Q R I I R U H V W V consuming to trace. Making links between the powerful players in the land sector, and the V D O H F L Q J H E W K L Q G W R H identifying which corporate and individual actors must be held accountable for destroying forests, in Sarawak and around the world.

. H U H V D V D W L R Q Y R W H W K H

“SARAWAK POLITICS IS TIMBER POLITICS.” - TAIB MAHMUD[476]

Sarawak and Sabah, in North Borneo, became part of the nation of Malaysia in 1963. Only one Sarawakian has continuously from 1963 until present day: Taib Mahmud.

Taib Mahmud s Parti Pesaka Bumiputera Bersatu party (PBB Party) has ruled Sarawak for more than years. Taib himself was Chief Minister, the highest elected position in the state, for of those years until 2014.[477] The PBB Party is one member of the coalition that holds a majority in Parliament called the Barisan Nasional (National Front). The National Front has won majorities in consecutive general elections since independence in 1957.[478]

According to the Global Corruption Barometer published by Transparency International, 69 percent of respondents in Malaysia viewed political parties as corrupt or extremely corrupt.[479] Malaysian law does not limit donations from corporations and individuals to candidates and political parties, and political parties are not required to report on funding spent during elections.[480]

Listed as a “flawed democracy” in the Democracy Index produced by the *Economist's Intelligence* Unit, Malaysia ranks 64th out of 165 countries analyzed, with a higher ranking indicating better democratic indicators. (Peru ties with Romania for 60th.)[481]

Corrupt sources of funding for Sarawakian politicians first garnered global attention in the late 1980s, when local indigenous peoples blockaded roads in an effort to prevent logging companies from continuing an extractive rampage in the old-growth rainforest where they lived.[482] Logging companies, accompanied by police protection, refused to enter into dialogue with the native Penan people, who they said did not have rights to the land they had inhabited for centuries.[483] Peacefully blocking logging roads was the only form of resistance left to the Penan, but they were eventually violently dispersed, with some indigenous leaders receiving jail time for protesting.[484]

As Minister of Communications and Works from 1963 to 1966,[485] Taib established his political career by overseeing the construction of roads into the rural areas of Sarawak, which gave him first hand knowledge of the State s vast treasure of tropical rainforest.[486] Over the years, Taib consolidated and controlled various Sarawakian government entities to ensure his control of the state resources.[487] Taib ... Chief Minister in 1981, following on the heels of his uncle, Abdul Rahman, who ruled from 1970-1981.[488] By 1985, legal experts in Sarawak say, Taib was signing all logging concession and plantation licenses himself.[489]

In primary research completed in the 1990s, scholar David W. Brown dove into the deep networks that allowed state timber resources in Sarawak, Sabah, and Indonesia.[490] Brown asserted that only 20 percent of timber rent, or economic company profit, in Sarawak was captured by the state.[491] Instead, Brown estimated that between 1970 and 1990, $25 billion USD of state resources had been appropriated in Sarawak and Sabah by politically-connected individuals.[492] Therefore, the state lost out on revenues that could have been captured by the government, and thus contributed to economic development.[493]

Brown s research illuminated through which Taib had his power up to that time.[494] Brown found that heads of state, their families, and their proxies controlled the four largest timber conglomerates in Sarawak,[495] because government agencies in charge of granting timber concessions and logging licenses did not autonomy from their rulers.[496] Thus, state resources were disproportionately distributed to political and family top politicians.[497] The granting of logging licenses was the primary way for the state to capture economic benefits from the harvest of timber on public land. However, instead of maximizing the profits from these sales, Brown documented that concessions were granted to companies at extremely low prices, with substantial bribes and kickbacks paid directly to Taib.[498]

Brown interviewed politicians and businessmen in Sarawak, and found that party leaders would require campaign contributions from their favored logging companies around election time.[499] If the companies refused to cooperate, their concession could be cancelled, and they would lose their sources of income.[500] Strategically building economic ties across different ethnic constituencies in the state, Taib made sure to grease the palms of a majority of ethnic constituencies in order to win popular elections, including Leonard Linggi, a descendant of traditional Iban leaders.[501] With Taib and his allies in control of invaluable timber and land concessions, the opposition parties have never managed to gain a strong foothold. The PBB Party still leads Sarawak today.[502]

In 2010, a government insider weary of such corruption turned over a list of concessions in the state, allocated by the Land and Survey Department in Sarawak to palm and timber companies, including the locations, prices, and company control of concessions. This information information showed 1.5 million hectares of land had essentially been given away between the 1980s and 2010 by Taib, much of it to his family, friends, business associates, and political allies. Most of this land was given under 60 or 99 year leases and was soon res[503]

For example, Incosetia Sdn. Bhd., a company Melaka state, received a 5,000 hectare land lease February for MYR Sarawak government, according to the leaked land transaction data. This same land was revalued at MYR by valuation experts the same month, without any operations or land use change having been reported.[504] This company was later acquired by Asian Plantations Ltd. 41,301,958[505] through a non-competitive process driven by [Asia relationships.[506]

According to the data released by Sarawak Report, four of Asian Pla holdings in Sarawak, all within the Dulit land district, were a part of this major giveaway of undervalued land from the Sarawak Land and Surveys Department:[507]

- BJ Corporation Sdn. Bhd. (Lot 20), 4,795 hectar
- Incosetia Sdn. Bhd. (Lot 16), 5,000 hectares
- Fortune Plantation Sdn. Bhd. (Lot 10), 5,000 hectares
- Harta Mastira Sdn. Bhd. (Lot 15), 5,000 – referred to in company documents as “Dulit,” owned via Asian Plantations Ltd. subsidiary Kronos Plantation Sdn. Bhd.[508]

3.3 KERESA PLANTATIONS: GRAEME BROWN, THE /,1**,)$0,/< $1' &/($5&877,1*

Keresa Plantations Sdn. Bhd. is an oil palm production company based in Sarawak, Malaysia, established in 1981, which operates approximately 6,000 hectares of oil palm plantations in the state.[509] Keresa Plantations UHSRUWHG 0DODGVLD approximately USD $6.21 million in after-tax SURoWV IRU WKH oQDQFLDO \HDU HQGLQJ 'HFHPEHU 31, 2012.[510] Rajang Wood Sdn. Bhd., Keresa 3ODQWDWLRQV SDUHQW FRPSDQ\ DQG RZQHU UHSRUWHG 0<5 86' PLOOLRQ LQ DIWHU WD[SURoWV IRU WKH VDPH period.[511, 512]

3XEOLF UHFRUGV RQ oOH [illegible] Commission (SSM) show that Keresa Plantations Sdn. Bhd. continued to be a fully owned subsidiary of Rajang Wood Sdn. Bhd. as of December 31, 2013,[513] which in turn is approximately 50 percent-owned by Leonard Linggi or his immediate family members. Among /HRQDUG /LQJJL V LPPHGLDWH IDPLO\ PHPEHUV DUH his daughter, Melia Linggi, and her husband, Graeme Brown.[514] [illegible] 0<5 RU *UDHPH %URZQ RULJLQDOO\ IURP 1HZ =HDODQG FR IRXQGHU DQG MRLQW [illegible] Asian Plantations Ltd., and shares ownership in numerous companies based in Malaysia, Singapore, and the British Virgin Islands with both Dennis Melka and the Linggi family. (See large infographic and Chart 15.) In its Subscription to AIM, Asian Plantations Ltd. [illegible] %URZQ V VLJQLoFDQW [illegible] Plantations,[515] of which Brown became a director in 1997.[516] The same year, Brown also became a director of Rajang Wood. Sdn. Bhd., according to SSM documents.[517]

Keresa Plantations (and therefore Rajang Wood), along with other direct and indirect holdings of the Linggi family, continued to control approximately 60 percent of Asian Plantations [illegible][518] by which [illegible] about 300 percent of their IPO listing price.[519] $Q DQDO\VLV RI ZKR EHQHo [illegible] below-market-price land acquisitions and forest clearance carried out by Asian Plantations Ltd. would be incomplete without an understanding of [illegible] Keresa Plantations, which held a [illegible] FUHDWHG DQG SURoWHG IUR[illegible] few years before.

FIGURE 14: Keresa Plantation

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

LAND ACQUISITION

According to the leaked Land and Surveys Department Data as published by Sarawak Report, Keresa Plantations Sdn. Bhd. received a 6
the Lavang Land District on December 28, 1995.[520] As described in the data, reproduced below, this concession was given to plant rattan (abbreviate
land area, Lot 1, Block 17 in Lavang Land District is the same as listed in Keresa Plantations DSPZ audit from 2013.[521] D 3 O
o Q D Q F L D O U H S R [522] This 99 year lease applied retroactively to the period between 1981, when Keresa Plantations was founde
Linggi and another business partner,[523] [524] , Q S X E O L V K H G 5 6 3 2 D X G L W V R I . H U H V D 3 O D Q W D W L R Q V
Block 17, Lavang Land District, for 6,023 hectares.[525] The transaction appeared as follows in the leaked Land and Surveys data, published in 2011 by S

Applicant / Owner (Name Origin)	Liaison 2 I o F H U Tel. / Fax	Land Alienated / Applied For Alienated	1 P			Premium (MYR)	Approval Headquarters (Number Date)	Document Title (Type)	Dates	Notes
Keresa Plantations Sdn. Bhd Level 5, Tun Jugah Tower, No.18, Jalan Tunku Abdul Rahman, P.O.Box 734, 93714 Kuching. (4 –13/16)	George Kuvuvilla (Pengurus Estate) Tel: 082 412187	Lot 1 Blk. 17 Lavang L.D.	rat	6,023	True left bank of Btg. Kemena, Bintulu	44,640	101/4-13/390 bertarikh 6.11.1989 & 105/4-13/390 bertarikh 3.4.1990	II	28.12.1995	(99 tahun mulai dari 2.1.1981 hingga 1.1.2080)

For each of these tables, the heading titles for columns 4 through 6 were not included in the data as published by Sarawak Report in 2011
meaning of the 4th column is understood to mean the type of concession (rattan, palm, logging) that was issued and the 5th column is un
the area in hectares of the issued land lease."

The price for this transaction is extremely low, even lower than the transactions by which Asian Plantations land was allocated by the J R Y H U Q P H Q W 0 < 5 0 < 5 8 6 ' O D Q G Z D V Y D O X H G D W 0 < 5 o U P R I S U R I H V V L R Q D O Y D O X H market value comparison method.[526] The price paid, therefore, amounts to less than one percent R I W K H O D Q G V W U X H P D U N H W V D O X H

It is unclear why and how a lease over this land was given out retroactively by the Sarawak Land and Surveys Department, for such a low price. However, satellite data cross-referencing GPS coordinates provided by the company shows that the deforestation that followed was carried out by Keresa Plantations, as laid out below.

DEFORESTATION FUNDED BY LOGGING AND BANK LOANS

According to an RSPO audit, almost 60 percent of the land was planted between 1998 and 2002.[527] [528] [529] [530] [531] [532] [533] [534] [535] [536] By cross-referencing Malaysian Survey Department coordinates provided by the company with satellite imagery from the United States Geological Survey, EIA determined that massive clear-cutting of forest cover on Keresa 3 O D Q W D W L R Q V O D Q G R E E X U U H G G X U L Q J W K H same period.

S U H V D 3 O D Q W D W L R Q V 6 G Q H G % K G W K W 6 R P S D Q \ documents show that at least some of the timber cleared from the land was sold, and proceeds were reinvested in the plantation development expenditures. I R U H V W E O H D U cutting, as evidenced by satellite imagery. timber revenues began to decrease in 1998, plantation development expenditures, likely for land clearing, sharply increased. Keresa 3 O D Q W D W L R Q V D O V R R E O R D Q V F U H G L W Z R U W K approximately USD $8,125,000 at the time.[537]

with Malayan Banking Berhad, which was V H E X U H G D J D L Q V W W K H F R O H D V H K R O G Y D O X H G D W 0 < 5 fresh fruit bunches (FFB) produced by oil palms were available for harvest starting in 2001, at which time they began to contribute to the revenue stream.

An analysis of another source of satellite L P D J H U \ 6 H H $ Q Q H [H V D O detail, that periods of greater forest clearance, starting in 1997, correspond with major spikes i the line item "Plantation Development Expenditure," as noted in the annual reports 6 G Q H G % K G W K W 6 R P S D Q \ ) L J X U

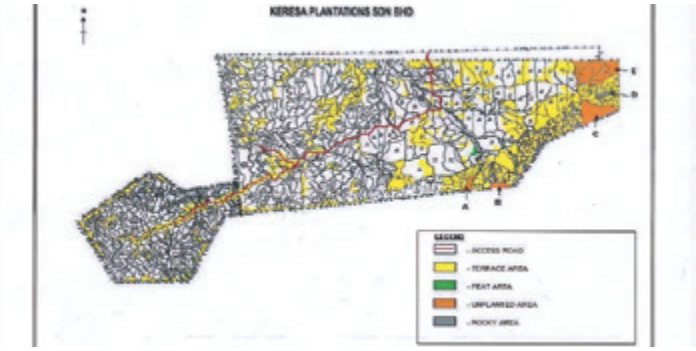
The forest cleared for oil palm plantings by Keresa Plantations was not untouched. However, the ample logging roads visible throughout the concession in satellite imagery, D Q G W K H F R P S D Q \ V R Z Q V there for several years shows that, before clearance by the company, this forest was rich enough to support marketable tropical timber species. When an assessment of nearby smallholder lands was carried out in 2011, "seve H Q G D Q J H U H G V S H F L H V > Z H

FIGURE 1: Keresa Plantations Sdn. Bhd.: Timber Revenues, Plantation Development Expenditure, and Revenues from Sale of Fresh Fruit Bu

FIGURE 1: Keresa Plantations Sdn. Bhd.: Timber Revenues, Plantation Development Expenditure, and Revenues from Sale of Fresh Fruit Bun

Source: Keresa Plantations Annual Financial Reports (1994-2003). SSM.

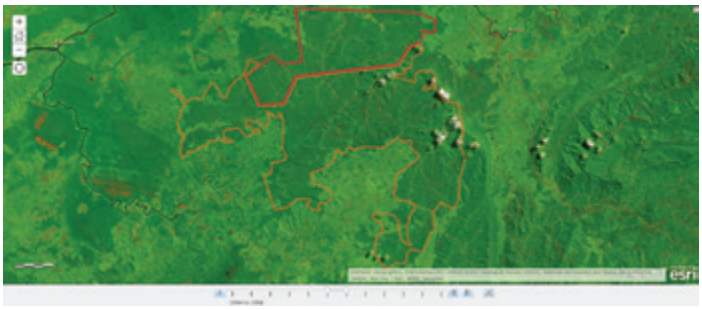
FIGURE 1 Keresa Plantations deforestation



- Map 1: Image Published of Keresa Plantations Sdn. Bhd. plantation DUHD DFFRUGLQJ WR WKH FRPSDQ\ V V Sustainable Palm Oil.

- Map: 1986-1990: 7KLV LPDJH VKRZV D QDWXUD roads throughout and beyond the eventual plantation areas, outline in red and orange shapes. The orange-shaped outline in this and subsequent images was drawn by EIA, corresponds directly with the shape and location of the plantation as described in documents submitted by Keresa Plantations Sdn. Bhd. to the Roundtable on Sustainable Palm Oil. The ownership and name of the red-outlined plantation below Keresa Plantations Sdn. Bhd. is unknown at this ti

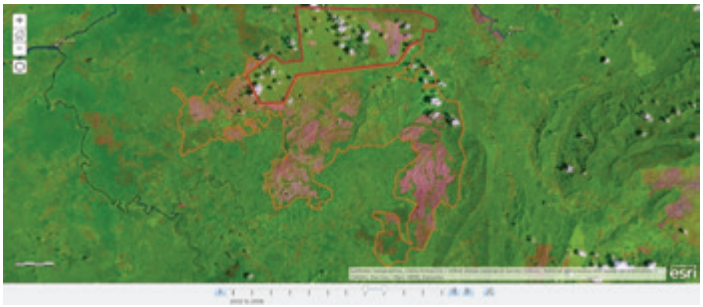
- Map: 1990-1994: 7KLV LPDJH VKRZV D QDWXU with logging roads throughout and beyond Keresa Plantations Sdn %KG V SODQWDWLRQ DUHDV RXWOLQ



- Map: 1994-1998: 7KLV LPDJH VKRZV D QDWXU with logging roads throughout and beyond Keresa Plantations Sdn %KG V SODQWDWLRQ DUHDV RXWOLQ

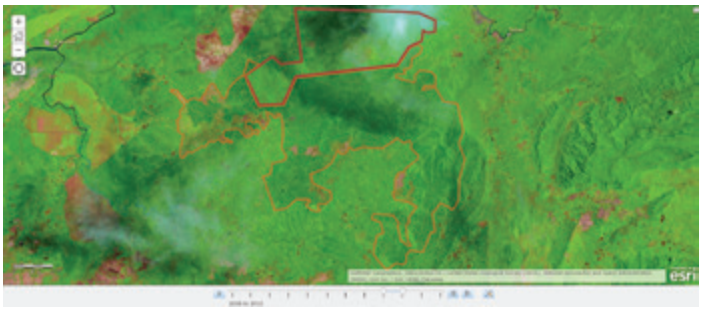
- Map: 1998-2002: 7KLV LPDJH VKRZV D FOHDU natural forest (darker green) which covered much of the Keresa 3ODQWDWLRQV 6GQ %KG V SODQWDW

Source: USGS LandsatLook Viewer, Earthstar Geographics, Esri

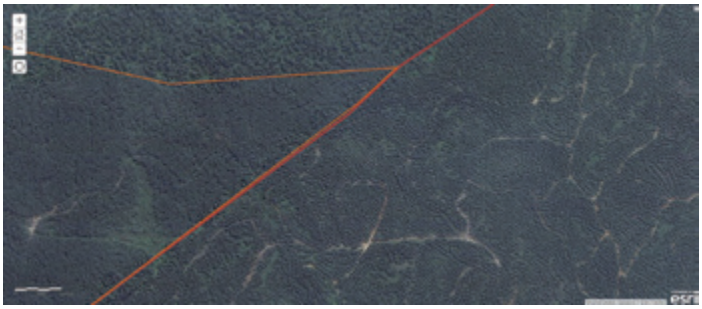


- Map: 2002-2006‹ 3 O D Q W D W L R Q J U R Z W K O L J I growing over the previously clear-cut area within Keresa Plantatio concession area. Additional clear-cutting takes place of natural, O R J J H G I R U H V W L Q . H U H V D 3 O D Q W D W L orange. (During this period, the neighboring concession, outlined i red, also experiences a clear cut of much of its forest land.)

- , Q ' L J L W D O * O R E H V D W H O O L W H L P D J H palm plants are growing – contrasting with the remaining natural I R U H V W R Q . H U H V D 3 O D Q W D W L R Q V S



- Map: 2006-2010‹ 3 D O P Y H J H W D W L R Q F D Q E H almost the entire Keresa Plantations plantation area. The neighbo plantation outlined in red has also been replanted, but the vegetati seen there is not palm. Rather, this vegetation appears to be anot type of tree plantation.



- In a zoomed view of the boundary between the two plantation area and an area outside of both, clear differences can be seen betwee palm plantation, other plantation, and natural forest.

Source: USGS LandsatLook Viewer, Earthstar Geographics, Esri

3.4 RSPO-CERTIFIED FOREST DESTRUCTION

7KH oUVW RLO SDOP oUP Keresa Plantations Sdn. Bhd. became a member of the Roundtable on Sustainable Palm Oil (RSPO) on June 2, 2009.[538] DQG UHFHLYHG LWV 563 certification in 2010.[539] Despite clearance of natural forest by the company in the years leading up to their membership, Keresa Plantations has been VHOOLQJ WKHLU RLO SDOP FRQVXPHUV DV D FHUWLIL sustainable grower since 2010.

The RSPO requires that an evaluation to determine whether land planned for plantations contains high conservation value (HCV) areas is carried out prior to new plantings, in an effort to prevent the destruction of primary forests or other important areas for conservation.[540] This audit report also says that the earliest oil palm planting took place in 1997.[541] Keresa Plantations asserted to auditors assessing compliance with RSPO standards that their land previously hosted a rattan plantation, and therefore concluded that the company had not developed over High Conservation Value Forest (HCVF).[542] In the same audit report, Keresa Plantations said that "an independent body…approved by the RSPO as an assessor," had undertaken a High Conservation Value (HCV) Assessment "prior to development" in 2005, and found an absence of "protected, rare, or threatened species."[543] In yet another area of the report, the auditors note that the land was initially a logging concession which was given permission to plant rattan, and which, in 2005, got government approval to convert an area previously used for rattan to oil palm plantation.[544]

Satellite imagery of Keresa Plantations operations shows that this area contained natural forests until its conversion for plantations by Keresa Plantations beginning in 1997. An assessment in 2005, several years after deforestation began, to evaluate whether HCV areas existed in the plantation is functionally meaningless. Satellite imagery from LANDSAT FRQIUPV WKDW D VLJQLILFDQW DUHD WKDW previously covered the plantation had been cleared.

The Land and Survey Department transaction LRW . H U H V D 3 O D Q W D W L R District indicates that the concession was allocated to the company with the purpose of cultivating rattan,[545] a fast-growing non-timber species of vine that grows naturally in South East Asia.[546] Plantation development by Keresa Plantations included both oil palm and rattan D Q G F R P S D Q \ o Q D Q F L D O the two were developed in parallel beginning in 1997.[547] . H U H V D 3 O D Q W D W L R QV o Q D Q F L D O UHSRUWV make references to trial plantings for rattan being harvested as early as May 2000.[548] However, after a negative assessment by agricultural consultants, the rattan plantings were written off as losses in 2003.[549] From then on, development of and revenues from oil palm G R P L Q D W H W K H F R P S D Q \ V o Q D Q F L D O U H S R U W V D Q eventually, by 2007, rattan disappears from the E R P S D Q \ o Q D Q F L D O If palm oil was developed over land that previously hosted rattan planting, it is clear that the rattan plantings also corresponded to Keresa Plantations operations, and therefore should not be excluded from assessment of the F R P S D Q \ V U H V S R Q V L E L O L W

$ O W K R X J K W K H F R P S D Q \ V does report some encouraging progress in W H U P V R I R S H U D W L R Q D O S chemical use, and smallholder engagement. Th RSPO auditors, nonetheless, were not able to provide consistent information about when Keresa Plantations began operations and planting, throughout the report.[550] EIA has not found further reference to the 2005 HCV assessment in any other publicly available company documents and Keresa Plantations D Q Q X D O o Q D Q F L D O U H S R U W L V L Q J I U R P S X E O L F O \ D Y

The completion of the conversion on Keresa 3 O D Q W D W L R Q V O D Q G I U R P place around the same time the company was accepted as an ordinary member of the RSPO, 2009, led by director Graeme Brown. The group used their RSPO membership status to promot a sustainable image, not only in Keresa Plantations Sdn. Bhd., once land had already been deforested, but also in pitches to potential investors in Asian Plantations Ltd.[551]

3.5 ASIAN PLANTATIONS LTD.'S SUBSIDIARIES IN SARAWAK: VARIATIONS ON A THEME

Asian Plantations Ltd. did not acquire Malaysian land directly, but rather through a network of subsidiaries in Sarawak. Through three immediate holding companies, Asian Plantations Ltd. acquired other Malaysian companies, which themselves held valuable land allocations in the state. This use of a multi-layered corporate structure to acquire land while maintaining distance from the ultimate parent company in this case, Asian Plantations Ltd. as listed on AIM.

Asian Plantations Ltd. corporate structure in Sarawak was built on three main subsidiaries: Asian Plantations (Sarawak) Sdn. Bhd. (APS1), Asian Plantations (Sarawak) II Sdn. Bhd. (APS2), and Asian Plantations (Sarawak) III Sdn. Bhd. (APS3). These subsidiaries were used to segregate the companies various land holdings, other holding companies, and mill operations, H I I H F W L Y H O \ V H J P H Q W L Q J milling facility into APS1 and APS2, while a much smaller community planting project was isolated in a separate subsidiary: APS3.[555]

$ V L D Q 3 O D Q W D W L R Q V / W G subsidiary holding companies had various common characteristics. APS1 and APS2 lay dormant until their acquisition of plantation land holding via other subsidiaries, while APS3 never directly or indirectly acquired any land or lease rights. All three holding companies were previously owned by Directors of Asian Plantations Ltd. or companies that they controlled, and both APS2[556] and APS3[557] were founded by Dennis Melka and previously held by him and other companies that he partially or fully owned. All three companies acquired bank loans from Malaysian Banks, secured by land which they held lease rights over, at higher valuations than it was issued by the State.[558,559]

ASIAN PLANTATIONS (SARAWAK) SDN. BHD. (APS1)

(Until July 6, 2012, called Arus Plantation Sdn. Bhd.)[560]

APS1 is the primary holding company through which Asian Plantations Ltd. acquired its initial plantation land and carried out business in Sarawak, ultimately holding three of the

F R P S D Q \ V o Y H S O D Q W D W L R I D F L O L W \ % - & R U S R U D W L R C Malaysia-based corporate acquisition which held rights to plantation land in Sarawak.

Created in April 2007 by Directors Alex Ting . X D Q J . X R D Q G 7 K \ H + Z H H originally called Arus Plantation Sdn. Bhd.[561] In 2007, Arus Plantation was a fully owned subsidiary of Asian Palm Oil Company Sdn. Bhd.[562] but in 2008, its immediate holding company became Keresa Plantations, and its ultimate holding company was listed as Rajang Wood (the parent company and full owner of Keresa Plantations).[563,564] By June 2008, Leonard Linggi, Graeme Brown, Dennis Melka, and / H R Q D U G / L Q J J L V V R Q * H U D Directors of Arus Plantation, with Alex Ting Kuang Kuo the only remaining original director.[565]

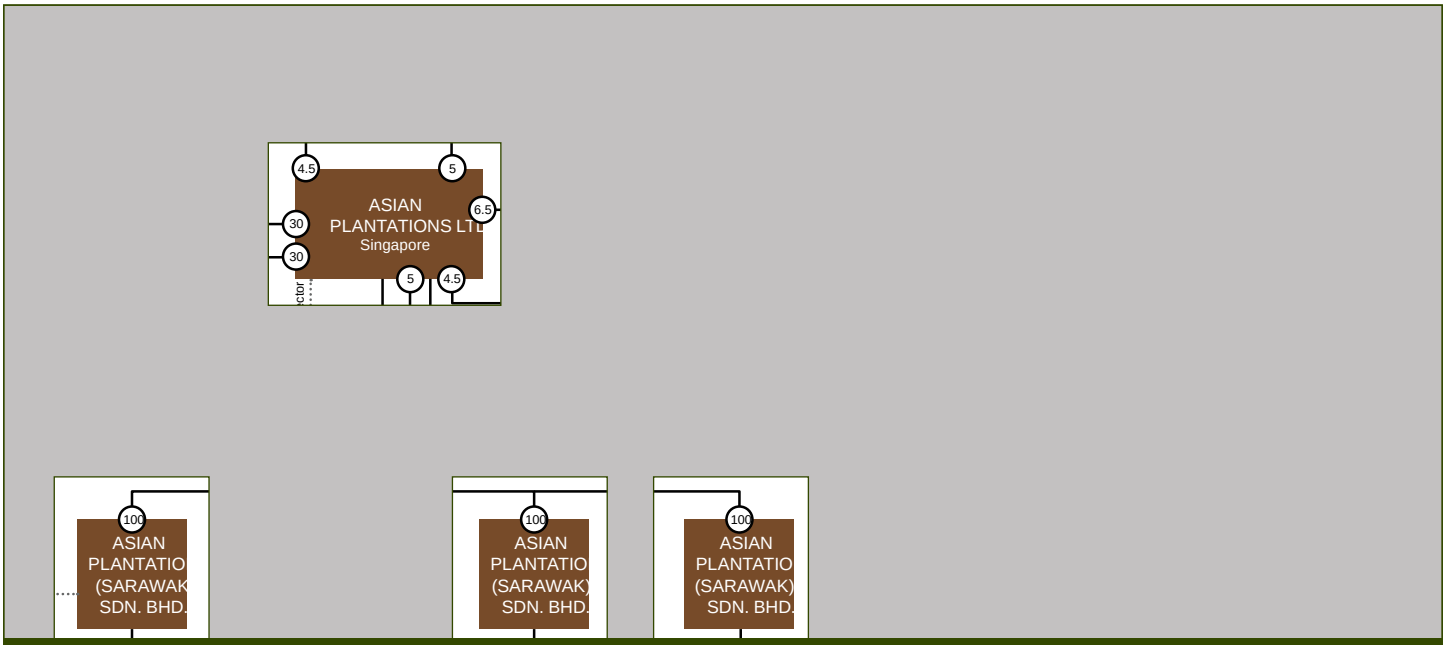


FIGURE 18 Three holding companies: Asian Plantations (Sarawak) Sdn. Bhd., Asian Plantations (Sarawak) II Sdn. Bhd.; and Asian Plantations (S

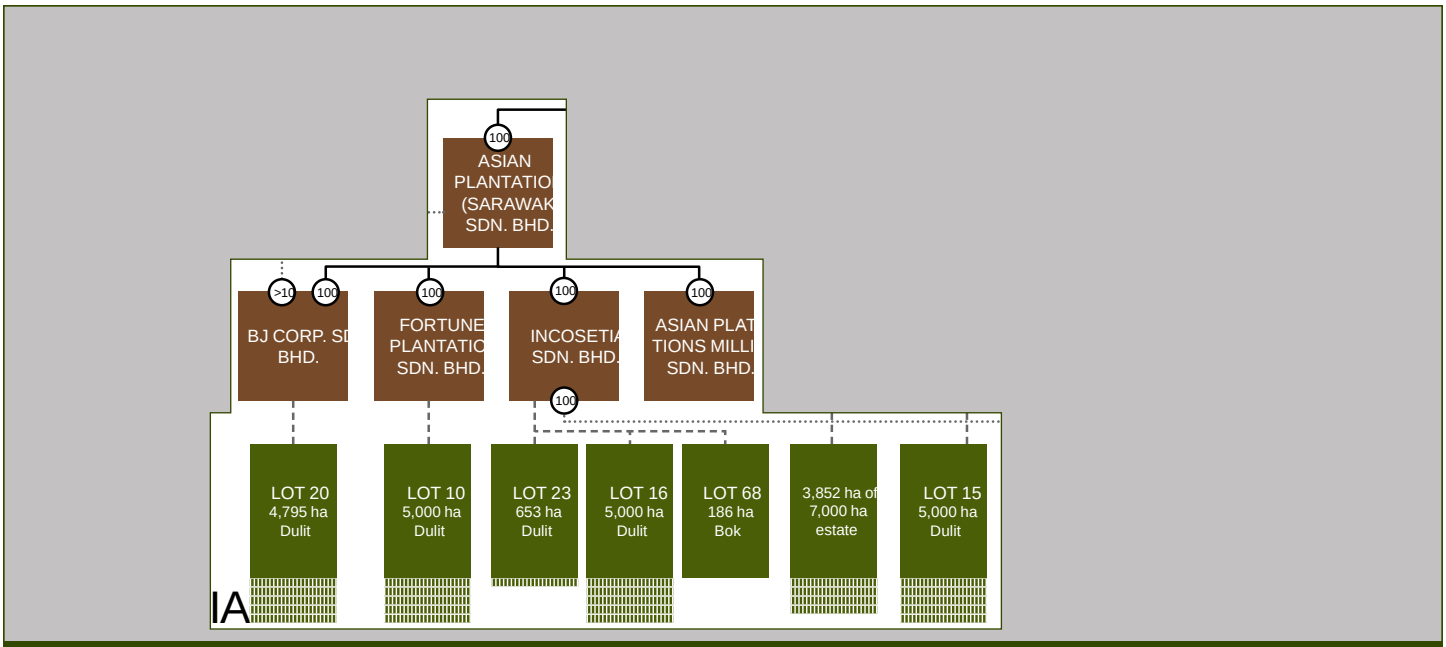


FIGURE 19 %- &RUSRUDWLRQ 6GQ %KG $VLDQ 3ODQWDWLRQV /WG V oUVW DFTXLVLWLF

BJ CORPORATION SDN. BHD. : LAND ACQUIRED FOR BELOW MARKET VALU

%- &RUSRUDWLRQ ZDV WKH oUVW DFTXLVLWLRQ E\ $VLDQ 3ODQWDWLRQV /W only 20 percent of its true value.

For BJ Corporation Sdn. Bhd., as well as other companies ultimately owned by Asian Plantations Ltd., it is important to understand between the corporate entity and the land it acquired. Whereas a corporate entity might change names, management, and ownersh the company depend on whether a company has land lease or ownership rights to a designated area, at a designated period in tim company can change names and ownership, and still hold and operate upon the same land. In this particular case, the company ch times and had various directors and shareholders during different periods since its incorporation in 1984, although the corporate en to have had only minor or completely absent business operations until acquiring land in 2007.[566]

BJ Corporation was originally created as Sebelas Edar Sdn. Bhd. in 1984 by director and shareholder Sabino Chok.[567] Although Sebelas Edar between 1987 and 1998, its name was changed to Harta Strata Sdn. Bhd., although the company maintained some of the same directors and ownersh &RPSDQ\ oOLQJV VWDWH RQO\ LQ JHQHUDO WHUPV WKDW WKH SULPDU\ FRPS but the company annual reports declared that operations completely ceased between 1998 and 2006.[568] [569] [570] This pause occurred just before the company acquired the land, on which Asian Plantations Ltd. would develop oil palm, in 2007.[571]

%- &RUSRUDWLRQ V DQQXDO UHSRUWV IRU GRFXPHQW D QXPEHU RI FRPS KROGLQJ FRPSDQ\ DQG OHDVHKROG ODQG DSSHDUV DV DQ DVVHW FDWHJRU land lease rights.[572]

This amount corresponds exactly with the amount recorded for the sale of the property in the leaked Land and Surveys Department 2011 by Sarawak Report:

Applicant / Owner (Name Origin)	Liaison 2 I o F H U Tel. / Fax	Land Alienated / Approved For Alienated				Premium (MYR)	Approval Headquarters (Number Date)	Document Title (Type)	Dates	Notes
BJ CORPORATION SDN. BHD. 35-1-2, Jalan 3/50 Daimond Square Off Jalan Gombak, 53000 Kuala Lumpur	10W R Bin Sidik 03-40248073 03-40249957	6 Lot 20 Dulit L.D	Oil Palm	4,795	Terletak di Long Aya, Tinjar, Baram	3,553,095	35/HQ/AL/47/ 99 (4D) bertarikh 22.9.2006	II	07.05.2007 (60 years)	1. Mengantikan Lot 2 Patah L.D

Source: Sarawak Report. 2011. http://map.sarawakreport.org/data.html

This land was acquired in May 2007 directly by BJ Corporation, for the price listed according to both the leaked Land and Surveys Department data and the Annual Report for 2007. The price per hectare for this transaction was

D S S U R [L P D W H O \ 0 < 5 [572]

below the market value already established by independent valuation experts.

&R U S R U D W L R Q D Q Q X D O [573]

that, in February 2007, the land was revalued by Donald Lam Joon Omn of Rahim & Co. Chartered

6 X U Y H \ R U V D Q G I R X Q G W R E H Z R U W K 0 < 5 R U D S S U R [L P D W H O \ 0 < 5 R U 8 6 ' [574]

$1,121 per hectare. This means that, even before the allocation of the land by the Land

D Q G 6 X U Y H \ V ' H S D U W P H Q W W K H O D Q G V W X H Y D O X H K D G E H H Q H Y D O X D W H G D Q G I R X Q G W R E H Z R U W K 6 Y H [575]

times what the Sarawak government sold it for to BJ Corporation. Publicly available documents at SSM for BJ Corporation do not indicate why the price of acquiring the land was only 20 percent of its true value.

During January 2008, a host of new directors came on board at BJ Corporation Sdn. Bhd.

Graeme Brown, Alex Ting Kuang Kuo @ Ting

. Z D Q J . X R D Q G 7 K \ H + Z H H < D Q Z K R U H V L J Q H G 0 D \ D Q G L G H Q W L O H G . K X J H V Z D W K V R I [576]

one day after his appointment. The previous directors resigned at that same time, and Arus Plantation became a 90 percent owner of the

%- &R U S R U D W L R Q ‹ H T X L Y D O H Q W W R W K H V K D U H K R O G L Q J [577]

percentage no longer held by previous directors

D Q G L Q G L Y L G X D O V K D U H K R O G H U V L Q W K H [578]

The revaluation of the land in 2007 provided the

E D V L V I R U W Z R L P S R U W D Q W o Q D Q F L Q J R S S R U W X Q L W L H V W R E H V H F X U H G $ U X V 3 O D Q W D W L R Q V 3 D O P Q H W W H R P S D Q \ Z D V H U H V D [579]

which BJ Corporation secured based on this same land lease holding over the next several

P R Q W K V D O R D Q Z R U W K 0 < 5 I U R P [580]

Malayan Banking Berhad secured for BJ Corporation on August 20, 2008 affecting Lot 20, Dulit Land District; and a share issuance of 18,216,905 based on the same revaluation in 2009.[581]

Of these new, issued and paid-up shares in BJ

&R U S R U D W L R Q Y D O X H G D W 0 $ [582]

Plantation was issued 16,485,215 (90 percent) and Keresa Plantations was issued 1,831,690 (10 percent).[583] However, Arus Plantation and Keresa Plantations did not pay cash for these shares:

U D W K H U %- &R U S R U D W L R Q V O H Z ' L U H F W R U V k F D S L W D O L V H G D V X P R I >0<5@ I U R P W K H Asset Revaluation Reserve Account arising from

W K H U H Y D O X D W L R Q R I W K H &R P S D Q \ V O D Q G H G property and the same applied towards payment in full.[584] Therefore, the new directors of BJ Corporation used their knowledge of the

W H X H Y D O X H R I %- &R U S R U D W L R Q V O D Q G W R L V V X [585]

new paid up shares. This allowed related companies, Arus Plantation and Keresa Plantations, to acquire ownership in the company and its land holdings, without paying cash for shares or the true value of the land.

o Q D Q F L D O U H S R U W V I O O E D W H

By the end of 2009, through the swaps in shares of BJ Corporation and Arus Plantation between Keresa Plantations and Asian Plantations Ltd. in Singapore, as mentioned in the section above, the ultimate holding (parent) company of BJ Corporation and its land holdings had become Asian Plantations Ltd., with the immediate holding company being Arus Plantation.[586]

This complicated and murky land acquisition and takeover process by related actors in the

V D P H J U R X S P D G H L W G L D O F X O W W R W U D F N W K H O D Q G [587] T H [588]

was responsible for the massive deforestation that followed the acquisition of this land by Asian Plantations Ltd. Using satellite imagery,[589] EIA cross referenced the plantation areas for BJ Corporation as referenced by Asian Plantations Ltd. in their report to shareholders published

0 D \ D Q G L G H Q W L O H G . K X J H V Z D W K V R I [590]

clear-cutting of natural forest in Sarawak between 2008 and 2013.[591]

ARUS PLANTATION (APS1) AS INTERMEDIARY

Prior to its acquisition by Asian Plantations Ltd.,

$ U X V 3 O D Q W D W L R Q V 3 D O P Q H W W H R P S D Q \ Z D V [592]

Plantations Sdn. Bhd., with its ultimate parent company being Rajang Wood Sdn. Bhd.[593] However, additional shareholders appear in the latest available shareholder detail prior to this

W U D Q V D F W L R Q L Q $ 3 6 [594]

30, 2009: Leonard Linggi (10 percent), Graeme Brown (5 percent), and Asian Palm Oil Ltd. (30 percent), a company registered in the British Virgin Islands, owned in equal halves by Graeme Brown and Dennis Melka.

$ U X V

Already an owner of 90 percent of BJ Corporation, Arus Plantation acquired the remaining 10 percent worth of shares in BJ Corporation from Keresa Plantation Sdn. Bhd., its own immediate holding company at the time. BJ Corporation Sdn. Bhd., became a fully owned subsidiary of Arus Plantation Sdn. Bhd. on November 2, 2009, less than one month

E H I R U H $ V L D Q 3 O D Q W D W L R [595]

public offering.

On November 9, 2009, one week after BJ Corporation became fully owned by Arus Plantation, shareholders of Arus Plantation entered into a direct share swap agreement for shares in Asian Plantations Ltd., with the result that Arus Plantation became a fully owned subsidiary of Asian Plantations Ltd., registered in October 2009 in Singapore.[596] In return, Keresa Plantations became a major shareholder in Asian Plantations Ltd.[597]

$ G G L W L R Q D O \ $ U X V D X G [598]

information demonstrates that the parent companies, Keresa Plantations and Rajang

: R R G K D G L Q M H F W H G 0 < 5 [599]

Plantation in 2007, equivalent to US $6,732,141 according to average exchange rates for 2007

D Q G X O W L P D W H O \ [600] T H [601]

paid back to the parent company via an issuance of shares to Keresa Plantations in Arus Plantation, equivalent to the amount advanced.[602]

I L Q D Q F L Q J I U R P $ U X V 3 O D Q

companies, Rajang Wood and Keresa Plantations, thus kick-started the development of Asian Plantations Ltd. business model in Sarawak, Malaysia, via share swaps and direct

o Q D Q F L D O W U D Q V I H U V W R

and its fully owned subsidiary plantation, BJ Corporation.

The presence of an existing land lease and loca

o Q D Q F L Q J I R U S O D Q W L Q J R

ownership of and loans to BJ Corporation, mad

D Q L P S R U W D Q W o Q D Q F L D O E D V H G $ V L D Q 3 O D Q W D W L R Q

AIM market. Investors make decisions about share purchases based on and assessment of

F R P S D Q \ V Y L D E O H O D Q G K V $ Q Q X D O 5 H W X U Q I U R P - X

agriculture sector), capital, and corporate structure prepared to mobilize potential

V K D U H K R O G H U V L Q Y H V W P H

came from revaluation of land acquired from the Sarawak government at a below-market value price and the injection of capital from companies linked to politically-motivated land handouts for timber and plantation land. Subsequent shareholder investment in Asian Plantations Ltd. contributed capital for further land acquisitions and deforestation via a complex network of holding companies, transfers, and physical plantations in Sarawak itself.

Fully owned by Asian Plantations Ltd. from 2010 until the latest available records, Asian Plantations (Sarawak) Sdn. Bhd. went on to acquire two additional land holdings, via Incosetia Sdn. Bhd. and Fortune Sdn. Bhd. and also set up an oil palm mill, Asian Plantations Milling Sdn. Bhd., between 2009 and 2014. Extensive deforestation and acquisition of land for below-market rates were the hallmarks of Asian Plantations Ltd.'s development in Sarawak, including immediate holding companies, APS2 and APS3, as well as the four other plantation estates which Asian Plantations Ltd. acquired. These transactions and related deforestation are discussed in further detail in report annexes.

A PATTERN OF MISSING RECORDS

In 2009, the same group of individuals directly and indirectly created Asian Plantations Ltd. in Singapore; went public on AIM; and acquired initial land holdings for oil palm plantation development, BJ Corporation Sdn. Bhd. from the Malaysia Companies Commission (SSM) for 2009.[593] $ Q Q X D O o Q D Q F L D O complete for years prior to and after 2009.

Documents from before and after 2009 demonstrate that the combination of companies and individuals who owned APS1 S U L R U W R $ V L D Q 3 O D Q W D W L R Q V / W G V S X E O L F O D (Keresa Plantations, Leonard Linggi, Graeme Brown, and Asian Palm Oil Ltd. (BVI)), moved to consolidate ownership of APS1 in Asian Plantations Ltd. prior to the launch.[594] The details about how these ownership changes were transacted are unavailable, because of the missing records.

Another notable gap is in Asian Plantations /W G V V X E V F U L S W L R Q G R F X P H Q W V W R $ 0 G D W H G November 24, 2009: the documentation does Q R W L Q F O X G H o Q D Q F L D O V W D W H P H Q W V I R U Corporation at the time when it acquired the plantation land, in late 2007, and when Arus acquired BJ Corporation, on December 31, 2007.[595] The AIM launch document includes D X G L W H G o Q D Q F L D O G R F X P plantation for years 2007 and 2008, but information about BJ Corporation only covers 2008.[596] This means that from the AIM launch document, it is not possible to know how, and at what price, BJ Corporation and its land holdings were acquired without further L (SSM) U P D W L R Q D E R X W % - & R records from that time. Without clear documentation of land acquisition practices, prices, and values of its subsidiaries in Malaysia, Asian Plantations Ltd. AIM Subscription documents do not show a potential investors.

The absence of an Annual Report from Arus Plantation (APS1) for the year 2009 in SSM U H F R U G V D O V R P H D Q V W K D transaction via which Asian Plantations Ltd. became full owner of APS1 is not available in D X G L W H G o Q D Q F L D O V W D W Subscription document, which the London Stock Exchange rules required Asian Plantations to publish, shows how Rajang Wood and Keresa Plantations played a central role as % - V K D U H K R O G H U V D Q G o Q D Q F acquisitions.[597]

3.6 ASIAN PLANTATIONS LTD.'S MODEL OF INTERNATIONAL FINANCING FOR OIL PALM

8QOLNH .HUHVD 3ODQWDWLRQV customary rights land, but that native claims were operations from bank loans in Malaysia and could, however, exist."[601] timber extraction (see Section3.3), Asian 3ODQWDWLRQV /WG UDLVHG VLJQLoFDQW LQWHUHVW LQ WKH /RQGRQ 6WRFN ([FKDQJH V FDSLWDO RQ WKH /RQGRQ Alternative Investment Market (AIM).[598] AIM 3ODQWDWLRQV /WG V GRFXPHQW IRU DGPLVVLRQ WR this exchange described AIM as a "market designed primarily for emerging or smaller companies to which a higher investment risk tends to be attached than to larger or more established companies," noting that "[t]he rules of AIM are less demanding than those of the 2IoFLDO /LVW RI WKH 8QLWHG .LQJGRP /LVWLQJ Authority."[599]

Indeed, in that same document, various risk factors are outlined for potential investors in Asian Plantations Ltd., including "environmental risk," "expansion risk," "native claims," and the "Sarawak land code" which "contains restrictions on foreigners (non-Malaysian persons and companies) from owning land in Sarawak."[600] The document states that FODVVLoFDWLRQ RI WKH OODQG DV kPLJHG]RQHG QDQGV by the Sarawak government means that its land is not part of any land designated as native

$W WKH WLPH RI $VLDQ 3ODQWDWLRQV /WG V ODXQ the London Stock Exchange, Melka held a 50 percent share in two offshore corporations located in the British Virgin Islands: Asian Palm Oil (BVI) Limited and Asian Forestry Holdings (BVI) Limited. Graeme Brown owned the other 50 percent of these companies. These two companies held shares in Asian Plantations Ltd. from as early as its launch on the Alternative Investment Market of the London Stock Exchange (in 2008) until as late as August 0RXVW EHIRUH [illegible] 3DFLoF &DSLWDO /WG Dennis Melka[604] and registered at the same address as Asian Plantations in Singapore held shares in Asian Plantations Ltd. for the same period.

2QH RI $VLDQ 3ODQWDWLRQV NH\ LQYHVWRUV GXUL LWV oUVW \HDUV RI SXEOLF WUDGLQJ RQ $,0 $VLDQ Agri Capital, which is registered at the same DGGUHVV DV $VLDQ 3ODQWDWLRQV /WG V 6LQJDSR RIoFHV JDLQHG SHUFHQW UHWXUQ RQ investments in 2010, most notably from its investments in Asian Plantations Ltd.[605] The fund

WKHQ ZHQW RQ WR FKDQJH Capital[606] and in 2011 announced plans to invest $50 million in oil palm, cacao, and rubber 3ODQWDWLRQV /WG V ODXQ [illegible]

In March 2012, Asian Plantations Ltd. became a Primary Member of the Roundtable on Sustainable Palm Oil,[607] although the RSPO website does not indicate that the company H Y H U EHFDPH 5632 FHUWLo as its for compliance. Despite clear links EH W Z H H Q WKH LQLWLDO oQ IURP FRUUXSW DFWRUV LQ documents, and the use of clear-cutting as shown in satellite imagery, the membership of both Kerasa Plantations Sdn. Bhd. and Asian Plantations Ltd. in the RSPO have served as a marketing point for the company to international investors.[608–610]

OFFSHORE TAX HAVENS:
A MONEY MAGNET FOR AGRIBUSINESS

Jurisdictions with lax tax laws and low UHTXLUHPHQWV RI GLVFORVXUH RI oQDQFLDO transactions, such as Singapore and the Cayman Islands, while often used by legitimate businesses, are often used to hide illicit oQDQFLDO pRZV DOORZ IRU GHOLEHUDWH WUDGH misinvoicing[611] WR GLVJXLVH SURILWV DQG RWKHUZLVH avoid taxes that could otherwise contribute to development in poor countries.[612]

Although all its subsidiary holdings are physically located in Malaysia, Asian Plantations Ltd., is registered in Singapore, a notorious tax haven and secrecy jurisdiction UDQNHG oIWK JOREDOOO LQ WKH)LQDQFLDO Secrecy Index.[613] 3DFLoF &DSLWDO &RUSRUDWH \ called Asian Agri Capital), which manages an "Asian Agriculture Fund" with the sole purpose RI oQDQFLQJ $VLDQ 3OD(QWDWLRQ /WG RI OLYWKH same address as Asian Plantations Ltd. in Singapore on its website until 2013.[614] 3DFLoF Agri Capital Ltd. has also set up locations in Bogotá, Colombia and the Cayman Islands.[615]

FINANCIAL MODELS IN SARAWAK MIRRORED IN PERU

The complicated corporate web built by Asian Plantations Ltd., including a multi-level RZQHUVKLS VWUXFWXUH to track relationships and transactions between the related companies. This structure also obstructs transparency or knowledge of palm oil concession ownership and therefore who is responsible for deforestation when it occurs. It appears that a similar structure is being used in the creation of an even more complex web of agribusiness subsidiaries in Peru, via United Cacao Ltd. and United Oils Ltd., both registered in the Cayman Islands. (QWDWLRQ /WG RI OLYWKH structure of United Cacao Ltd. and United Oils Ltd., shows they are using a similar model to the one employed by Asian Plantations Ltd., in 6DUDZDN %RWK JURXSV XVH RIIVKRUH centers made to establish parent companies IRU VXEVLGLDULHV ZKRVH SURILWV FRPH IURP based agricultural investments..

SINGAPORE

Singapore is expected to overtake Switzerland DV WKH ZRUOG V ODUJHVW by 2020.[616] The Banking Act in Singapore allows criminal prosecution and jail time for revealing LQIRUPDWLRQ DERXW D FR PDNHV LW GLIoFXOW WR relationships, and the country has built strong barriers against tax authorities searching IRU XQWD[HG SURoWV OHD and individuals in neighboring South East Asian nations, including Malaysia.[617] Using KHDGTXDUWHUV LQ 6LQJDS is in multiple ways due to its attractive tax incentives for corporate actors, including a full tax exemption for foreign-sourced income received by individuals who do not reside in Singapore.[618] HGYWKH WPHQW DQG RZQHUV Behind only China, Russia, Mexico, and India, 0DOD\VLD UDQNV oIWK RQ [619] Countries. Based on averaged data from 2003-2012, the list shows an average of approximately $39 billion USD leaving Malaysia annually (more than 10 percent of WKH FRXQWU\ V JURVV GRP a total of more than $394 billion USD illicitly leaving the country during that period.[621]

In 2013, an undercover investigation by Global Witness revealed in detail how land and forestry concessionaires in Malaysia used Singapore for business deals in order to illegally avoid paying the Malaysian Real Property Gains Tax on land transactions, and to circumvent other laws that prevent foreigners from controlling land in the country.[622] Malaysia also has laws restricting WKH pRZ RI 0DOD\VLDQ 5LQ currency transactions and payments, which developing countries often put in place to DYRLG RXWpRZV RI ZHDOWH UH LQYHVWPHQW RI SURoW

Until its sale in late 2014 to Felda Global, VHYHUDO RI WKH EHQHoFLDO RZQHUV RI $VLDQ Plantations Ltd. and its shareholders were Malaysian companies and individuals linked WR $VLDQ 3ODQWDWLRQV /WG V VXEVLGLDULHV 0DODVLD $VLDQ 3ODQWDWLRQV /WG V PDMRULW shareholder, Keresa Plantations Sdn. Bhd. DQG .HUHVD 3ODQWDWLRQV SDUHQW FRPSDQ\ Rajang Wood Sdn. Bhd.[624] EIA found evidence of dozens of transactions per year between $VLDQ 3ODQWDWLRQV /WG V VXEVLGLDULHV L Sarawak, Malaysia and with the Singapore-based company.[625] However, largely due to 6LQJDSRUH V FRUSRUDWH VHFUHF\ ODZV IXUWKHU HYLGHQFH RI ZKHWKHU $VLDQ 3ODQWDWLRQV /WG V transactions were illegal, or simply exploited due to easy tax loopholes, is uncertain. However, the business model of obtaining SURoWV LQ UHVRXUFH ULFK FRXQWULHV ZKLOH GHFODULQJ SURoWV LQ RIIVKRUH oQDQFH jurisdictions with major tax loopholes, is common of both Asian Plantations Ltd. in Sarawak and more recently, United Cacao Ltd. in Peru.

CAYMAN ISLANDS

Still an Overseas Territory of the United Kingdom, the Cayman Islands are ranked fourth (just ahead of Singapore) in the Tax Justice Network's Secrecy Jurisdiction Ranking (2013).[626] The Cayman Islands collect no direct taxes, and are notable for tolerance of tax avoidance, allowing corporations and individuals to hold accounts and funds there in order to avoid paying taxes on LQFRPH RU FRUSRUDWH SURoWV IURP DQRWKHU jurisdiction.[627] Further, the Cayman Islands do not maintain company ownership records, and the law dictates penalties for not only revealing, but asking about company ownership details by unauthorized parties.[628] UK news outlet The Guardian has reported on the use of the Cayman Islands, and other UK-linked jurisdictions such as British Virgin Islands and Bermuda, by forest and palm oil conglomerates from South East Asia to hide fraudulent accounting practices.[629]

,Q 8QLWHG &DFDR /WG WKH /RQGRQ 6WRFN ([FKDQJH V $OWHUQDWLYH Investment Market (AIM), the company lists several favorable tax conditions for its corporate residence in the Cayman Islands.[630] In addition to the lack of "income, corporation, capital gains or other taxes in effect in the Cayman Islands," the company notes that it has received an "undertaking from the Governor-In-Cabinet of the Cayman Islands dated 19 June 2013."[631] This agreement between United Cacao Ltd. and the Cayman government states that any tax laws enacted in the next 20 years in the Cayman Islands will not apply to United Cacao Ltd., and that the Cayman Islands will not tax "the shares, debentures, or other obligations of the company," and that taxes will not be payable "by way of the withholding in whole or in part of a payment of dividend or other distribution of income or capital by the Company to its members or dividends."[632] In short, United Cacao Ltd. has made a concerted HIIRUW WR DYRLG WD[HV RQ SURoWV RI WKH FRPS in its place of residence, the Cayman Islands, subsidiaries all take place in the Peruvian Amazon.[633] As of its admission to AIM, assets held by United Cacao Ltd. in the Cayman Islands are 13 times greater than the assets held in Peruvian banks.[634] Most recently, as of June 2014, total assets of United Cacao Ltd. were listed at $8,694,524, USD while assets held in Peruvian banks (in USD and PEN) held the equivalent of $552,812 USD.[635] 7KLV UHSRUW OD\V RXW (,S of company-published documents and information gained about agribusiness companies via public records requests in Peru and Malaysia. This evidence gives a unique view into the operations of agribusiness companies with primary operations in GHYHORSLQJ FRXQWULHV‹U headquarters in known tax havens and secrecy jurisdictions. United Cacao Ltd. is connected to illegal deforestation in Peru, and Asian Plantations Ltd. is linked to politically-motivated land handouts in Malaysia. IURP WKHVH FRPSDQLHV D countries are entering the international marketplace through their parent companies, in offshore jurisdictions, which are publicly listed on the AIM of the London Stock Exchange.[637, 638]

As a development model, natural resource extraction is not likely to bring many EHQHoWV WR GHYHORSLQJ DQORZHG XQGHU QDWLRQ as corporations around the globe are from land investments, forest clearance, and commodities production in offshore jurisdictions. Until further scrutiny of and transparency about this major black hole in LQREDO oQDQFH LV UHTXLU international scale, developing countries will FRQWLQXH WR oJKW DQ XS sustainable investments that can provide much needed development.

LACK OF TRANSPARENCY IN GLOBAL MARKET

7KH LQWHUQDWLRQDO oQDQFLDO PDUNHW DQG LWV GHPRQVWUDWHV D FDVFDGH RI LQIOXHQFH RQ OHJDO DQG LOOHJDO DFWLYLWLHV UHODWHG WR OXPEHU DQG SDOP RLO SURGXFWLRQ LQ WKH acquisition and expansion of plantation land in remote areas of the planet, where corruption and transparency remain a challenge. The massive allocation of land and forests for less than fair market value and without public transparency constitutes, in essence, theft of resources that VKRXOG EH IRU WKH EHQHILW RI WKH SHRSOH RI WKH FLWL]HQV ‹HVSHFLDOOO\ WKRVH ZKR VWLOO GHSHQG GIRUHVW DQG LDQG RQ land and forests for their livelihoods.

Selling land for less than fair market value which is revalued at a higher rate, as the pattern in this UHSRUW LQGLFDWHV EHQHIWV D WHZ ZHOO FRQQHFWHG power players, and contributes minimally, if at all, to overall economic development. Companies that, even indirectly, engage in business with politically-connected individuals and companies WKDW EHQHoW IURP EHKLQG WKH VFHQHV DDQG handouts, show that they are willing to overlook economic injustice, land rights, and the protection of natural resources crucial to survival, in the QDPH RI FRUSRUDWH SURILW.

The use of a complicated ownership structure that employs a web of holding companies, subsidiaries, and investment funds located in offshore tax havens, greatly thwarts public scrutiny of land deals and deforestation. In a global context in which major corporate traders of oil palm, as well as consumer goods companies, have made commitments to zero-deforestation and zero exploitation for palm oil in their supply chains, the common use of complex, multi-national corporate structures, without clarity about land locations and ownership, makes monitoring ongoing deforestation and potential rights violations a challenge. The purchase of a company previously involved in deforestation by new actors, or the transfer of recently-deforested land between companies, should not be an acceptable basis for deforestation-free claims by suppliers, traders, or other downstream companies. Without accountability on the ground for deforestation, past and present, supply chain linkages purporting to showcase sustainable, ethical sourcing carry little meaning.

LHU VD 3ODQWDWLRQV Vale embodies local power-players in plantations, later claiming that their land had already been deforested before oil palm operations began, shows that sustainable supply chains must not be limited to one sector. As land holdings, themselves, increase in value, while commodities prices shift on global markets, the value of the commodity grown could easily drop relative relevance to the value of the land itself. Commitments to sustainable commodities in some sectors will not deter companies from the search for cheap, desirable farmland and market access in other sectors. Land and forest governance should be prioritized by national governments and by investors who truly desire sustainably-sourced commodities.

National governments also have an importa WUR\LQJ UHJXODWLQJ country. At a minimum, corporate records a land holdings, corporate ownership, investo operations should be available through simp processes to the public, without charge. Mis oOLQJV VKRXOG QRW EH breaking transparency and records laws sho WKURQJ HQRXJK WR VLJQ compliance. Transparency about corporate RSHUDWLRQV DQG SURoW better analyze sustainability claims and the SHUWLQHQWDO EHQHoWV EU SURoW IURP UHVRXUFH H

Above all, the global marketplace must not consider land and governance failures in th developing world to be irrelevant to capital m on international stock exchanges. Without p transparency and safeguards against disast practices like clear-cutting and politically motivated land handouts, international capit investment in agribusiness will only exacerb forest destruction and land rights violations, WKH VFKHPH RI ORFDO SRZHU-SODYHUV WR enrich themselves by capitalizing from colle resources relied on by land and forest depe peoples around the world.

SOCIAL AND ENVIRONMENTAL IMPACTS OF TIMBER PRODUCTION AND FOREST DEGRA

Healthy forest ecosystems are central to maintaining biodiversity, storing climate-changing carbon, and keeping soils and waterways robust. The selective removal of large trees decreases sources of fruit and nuts, as well as habitat for humans and many forest species.

By 1986, a combination of logging and forest clearance, primarily for oil palm plantations, had affected at least 30 percent of Borneo forests.[639] After experiencing decades of logging and palm H[SDQVLRQ E\ DERXW SHUFHQW RI WKH LVODQGV forests had been cleared outright.[640] Of the areas on the island, Sarawak had the highest density of logging roads by 2010.[641] Trends over the last two decades have seen an acceleration of clearance: over half of carbon-storing peat swamp forests were lost between 2000 and 2010 in Sarawak.[642]

After decades-long degradation of forests by industrial-scale logging and clearance for oil palm plantations in Sarawak and Sabah, these states only retain three and eight percent respectively, of intact forests under protection. The extent of forest degradation in Malaysian Borneo conveys exploitation well in excess of the 60-year rotation recommended in forest management plans.[643]

As detailed in research by scholars and activists DURXQG WKH ZRUOG WKH IHOOLQJ RI 6DUDZDN V IRUHVWV KDV EHQHoWHG D VPDOO QXPEHU RI HOLWH DFWRUV ZLWK powerful political and economic connections. The PRVW LQIDPRXV 7DLE 0DKPXG UXOHG DV 6DUDZDN V Chief Minister from 1981 to 2014, and held JRYHUQPHQW SRVLWLRQV IURP WKH WLPH RI 0DOD\VLD V independence in 1963.[644] In 2011, national media reported that the Malaysian Anti-Corruption Commission had launched an investigation related WR HYLGHQFH VKRZLQJ 7DLE V XVH RI JRYHUQPHQW power to award timber and land concessions to political allies in return for their allegiance (a practice coined "timber corruption").[645] In 2013, Global Witness released evidence of bribes paid in exchange for land and forestry concessions among D WLJKW QHWZRUN RI 6DUDZDN HOLWHV headed by Taib himself.[646] By 2014, so much FRQWURYHUV\ DURXQG 7DLE V PDVVLYH ZHDOWK KDG JDLQHG ZKLOH KH ZDV KROGLQJ RIoFH he was forced to step down from his Chief Minister position and he assumed the role of Governor of Sarawak.[647]

Unsustainable timber extraction practices coupled with a massive expansion of oil palm plantation GHYHORSPHQW‹DQG WKXV threatening to demolish all forests in Sarawak and Sabah.[648] Conservation organizations are arguing that the government should make it a priority to avoid conversion of logged forests to oil palm plantations.[649]

PALM OIL IN MALAYSIA

Despite massive exploits of high-value timber in the UHFHQW SDVW PDQ\ RI 6DUDZDN V IRUHVWV VWLOO SU non-timber forest products and livelihood generating activities for communities, as well as canopy cover for biodiverse forest ecosystems, until promotion of palm oil plantation development at the national level facilitated a new wave of land handouts. For local communities, the expansion of palm oil has further threatened their land and resource rights.[650]

Around the turn of the 21st century, the Malaysian palm oil industry exploded. In 2000, the central government in Malaysia created a specialized government agency mandated to drive growth in production and to "promote the use, consumption, and marketability of oil palm," the Malaysian Palm Oil Board (MPOB).[651] By 2005, the land under cultivation for palm oil was estimated at 4.2 million hectares.[652] Malaysia produced over 20 million metric tons of palm oil annually as of 2014, according to the United States Department of Agriculture, second globally only to its neighbor Indonesia.[653] ,Q 6DUDZDN WKH FRXQWU\ V ODUJHVW VWDWH ODQG palm oil plantations can be obtained more cheaply than in Sabah or Peninsular Malaysia. By 2014, acquisitions of developed agricultural land (or EURZQoHOG ZHUH YDOXHG DW WR 0DOD\VLDQ 5LQJJLW [654] 0\5 SHU KHFWDUH ZKLOH XQGHYHORSHG RU JUHHQoHOG UHTXLULQJ SUHSDUDWLRQ 12,500 to 17,500 per hectare ($3,750 - $5,250 USD), according to industry news reports.[655] 7DLE V PDVVLYH ZHDOWK KDG neighboring Sabah and in Peninsular Malaysia, where much of the area available had already been allocated, was valued at three to four times those amounts.[656]

Satellite imagery analysis has suggested that on the entire island of Borneo, industrial agriculture now covers about 10 percent or more than 73,000 km2 (7,300,000 ha) of the land area.[657] The forest area loss has been concentrated in the elevations lower than 1000 m on the island, with over 21,000 km2 (2,100,000 ha) of forest loss documented between 1973 and 2010 in Sarawak alone.[658]

IMPACTS ON LOCAL COMMUNITIES

Deforestation for industrial oil palm development KDV GHYDVWDWHG UHVRXUFH traditional inhabitants, rural communities of YDULRXV HWKQLFLWLHV ZKLF interior, depend. Studies have documented that on average 15 percent of the species found in natural forests are found on palm plantations,[659] so animals that communities hunt for protein, and plants used WUDGLWLRQDOO\ IRU[660] IRRG D Erosion from logging and plantations has also led to contamination of water sources, and native oVKHUPHQ KDYH UHSRUWHG V plummeted.[661]

Many traditional communities in Sarawak have lost out, as companies were permitted to establish SODQWDWLRQV RQ WKHLU OD sometimes destroying small community farms without notice or compensation.[662] Without pre-existing, legally recognized land titles to community farms and forests, native customary rights claimants must navigate lengthy and costly court battles against powerful corporate actors.[663]

Harmful social and environmental impacts of agribusiness expansion for palm oil across Sarawak, the country of Malaysia, and South East Asia in general, have been well documented and widespread.[664] Now, countries and regions outside RI LQGXVWULDO 86 RLO SDOP V East Asia are witnessing new capital and investments for industrial-scale palm oil. Projected demand for palm oil could require up to seven million hectares of additional production,[665] and L QYHVWRUV DUH ORRNLQJ WR[666] Latin America[667] as potential expansion areas.

CONCLUSION

The investment thirst for new lands, the incentives to grow Amazon, and announcements that there is “land to be had” in the country is drawing agribusiness to the Amazon. The tragedy of this draw is environmental destruction, including deforestation in one of the most biodiverse regions. As cultivation of this highly valued and sought after global commodity shifts from its traditional production centers in Southeast Asia, few countries have in place adequate legal frameworks and enforcement capacity to monitor and effectively enforce national laws and policies. Peru is not a threat but are nonetheless seduced by promises of rural development and economic growth. The history of palm oil expansion, more often than not, however, tells a very different story.

The same corporate actors that have decimated Malaysian forests are now pursuing forested land in Peru. In Malaysia, logging companies operating forest concessions, given by politicians to curry favor with local ethnic leaders,[670] subsequently funneled their profits into timber[671] into oil palm plantations.[672] Start-up capital for palm plantations[673] was then used to purchase new land and clear forests, as the logging companies channeled investment into new sectors.[674] The massive allocation of land and forests for cheap and without public transparency that occurred in Malaysia, is in essence, theft of resources that should benefit the nation's people, especially those that depend directly on land and forests for their livelihood.

With this precedent set in Malaysia, oversight and enforcement in the palm oil sector is critical. Palm oil operations in the country are growing at an alarming rate, yet the Peruvian government lacks the effective power to enforce laws and regulations, even when illegalities are documented and denounced. The Peruvian government currently does not seem to have the capacity to evaluate, manage and monitor large-scale agriculture projects and should refrain from approving new projects until it develops the internal capacity to monitor and effectively enforce national laws and policies.

This does not mean that all government actors lack the will or the commitment to affect change. On the contrary, progress can be made and some efforts are underway to strengthen capacity, and improve upon and enforce laws.

In December 2014, the Ministry of Agriculture published their Guidelines for Agrarian Policy (Lineamientos de Política Agraria),[675] with the goal of streamlining procedures, and helping to coordinate and implement the national priorities for land use. The three strategic guidelines related to forests: Sustainable management of water and soil; Forestry development; and Legal security over the land.[676] The guidelines represent an important advance in that they prioritize forest management, a subtle yet critical shift away from the historical promotion of agriculture at the expense of forests.

At the moment, the way in which large national and foreign agribusinesses in Peru are allowed to remove forest and replace it with monoculture commodity crops such as palm oil, is through a skewed interpretation of the forest definition in Peruvian law. The Peruvian authorities are using the Best Land Use Classification regulations – which only consider soil and climate, and not the trees on top of the land – to grant land titles to forest lands. If a private investor submits a BLUC study arguing that the soil under the forest they are considering for development has some agricultural capacity, the trees can be removed and the government does not call this deforestation. The current BLUC practice also means that about 20 million hectares of primary forests, which have not been yet by the government, are at risk of being deforested. If a private investor submits a BLUC study arguing that the soil under the forest they are considering for development has some agricultural capacity, the trees can be removed and the government does not call this deforestation.

While there is some hope in the Forest and Wildlife Law (29763), particularly related to the registration between the National and the Best Land Use Classification, there are also new risks. Forest Law 29763 attempts to clarify that BLUC applies only in specific cases and is not a definition of forests, it has the potential to limit government authorities to determining activities to be carried out in them. This change may help deter future deforestation in the Amazon. However, the Peruvian environmental law organization Derecho Ambiente y Recursos Naturales (DAR) has warned[677] that Forest Law 29763 allows for “elimination of forests for agro-development activities, such as palm cultivation, if it is shown that the lands where said forests grow have agro-production capacity, which is provided for through a process called classification for elimination of up to 70 percent of trees in specific forests.[678] The most dangerous issue, according to DAR, is article 38 of Forest Law 29763, since it opens the window for land use change for lands of public domain (to public domain) without solving pending land titling and land zoning issues, and does not clarify the capacity and attributions of relevant institutions.[679]

To some extent, Peru is experiencing a moment of opportunity as the authorities who approved irregular documents or ignored mandatory procedures at the national level have been replaced. At the regional level, in January 2015. Where there is change, there is hope. The chance for improvement and uncertainties between the national and regional governments must be resolved. A clear chain of authority for deciding over which land and under which criteria agro-industrial projects will be approved, and when

and how national land will be allocated for such projects must be established. Until this happens, companies like the Melka Group or the Grupo Romero, will be able to take advantage of institutional weaknesses and destroy national resources.

As discussed in this report, plans for four Grupo Romero palm oil projects show that they will result in illegal deforestation of more than 20,000 hectares of primary forests[680] (See Section 1: Grupo Romero). This deforestation would be an open violation of the current Forest and Wildlife Law, and a violation of Supreme Decree 015-2000-AG. Likewise, at least two of the projects will fail to meet the 30 percent reserve requirement that companies must abide by when developing on forested land (See Section 1.2).[681]

Penalties for non-compliance with mandatory requirements must be appropriately VLJQLoFDQW WR GLVVXDGH IXWXUH 0LQRU oQHV RU violations risk becoming a perverse incentive, encouraging companies to not follow the law DQG WKHQ VLPSO\ SD\ D they would not have otherwise been able to acquire or deforest to install their plantations.

/HDGLQJ JRYHUQPHQW RIIILDOV DQG WKH QHZ administration in Loreto have the great opportunity of not only ending impunity in the cases highlighted in this report, but protecting vast tracts of existing forests that remain YXOQHUDEOH WR WKH 0HONH *UXSS DFWLRQV

The Melka Group has already requested from the government another 96,192 ha of public Amazon land for thirteen additional agro industrial projects.[682] Due to limited access to information, EIA has been able to map RQO\ oYH RI WKRVH SURMHFWV KHFWDUHV RI IRUHVWHG ODQG IRU oYH DGGLWLRQDO RLO SDOP projects between the Tamshiyacu and Manití rivers, in the Fernando Lores province, in the Loreto region.[683] As the map on Figure 7 shows, the mapped projects border 3HUPDQHQW 3URGXFWLRQ)RUHVWV ‹ QDWXUDO forests determined by the state to hold value as standing forests.[684] Satellite analysis documents that the deforestation in the area targeted for development thus far has been minimal and most of the area remains primary forest (Figure 7a).[685]

Given the illegal deforestation already conducted by the Melka Group and its resistance to follow the law in spite of legal processes and requests from different national and regional authorities, no new land should be granted to these companies until past violations have been resolved and assurances have been put in place that there will be no repeat of those or other violations in the proposed projects.

In a global context in which major corporate traders of oil palm, as well as consumer goods companies, have made commitments to zero-deforestation and zero-exploitation for palm oil in their supply chains, the common use of complex, multi-national corporate structures with unclear ownership and locations and ownership, makes monitoring ongoing deforestation and potential rights violations a challenge. The purchase of a company previously involved in deforestation by new actors, or the transfer of recently-deforested land between companies, should not be an acceptable basis for deforestation-free claims by suppliers, traders, or other downstream companies. Without accountability on the ground for deforestation, past and present, supply chain linkages purporting to showcase sustainable, ethical sourcing carry little meaning.

What occurred in Malaysia, sale of State lands at below market value and subsequent logging and palm expansion is tantamount to the theft of public goods, goods that could KDYH EHQHoWHG DOO SHRS Peru, land is allocated in violation of national legislation for agribusiness expansion. To do any less than prosecute companies that violate the law and stop them from repeat RIIHQVH LV WR H[SRVH 3HU patrimony to rampant illegality and ultimately deforestation. When it comes to the Amazon, the cost is simply too high, the victims too many, for Peru not to act.

RECOMMENDATIONS

FOR THE GOVERNMENT OF PERU:

Strengthen land use policy:

- The General Directorate of Environmental Affairs (DGAAA) should create and publish D PDS RI ODQGV FODVVLoHG EV HOW GD QXVH capacity (capacidad de uso mayor). This is a critical tool for making decisions regarding titling processes, land adjudication, land use change authorizations, and ecological and economic zoning.
- The national government must allocate UHVRXUFHV WR oQDOL]H (FRORJLFDO =RQLQJ =((regions where palm oil expansion is planned and taking place, which includes Ucayali and Loreto. This process can help identify already deforested areas that may be suitable for agriculture, or other uses in the future. The =((SURFHVV VKRXOG EH and its results should be published to help ensure civil society has access to information necessary for monitoring land use in these regions.
- 7KH JRYHUQPHQW PXVW DGKHUH WR WKH GHoQLWLRQ of forest patrimony found in the Peruvian Forestry Law, and not disregard forest cover when making decisions about land use capacity and land use change.
- Current authorization for land use change is dependent upon the best land XVH FODVVLoFDWLRQ ,I appropriate for pastures or agriculture, the land use change is approved. Once legislation LV PRGLoHG WR LQFOXGH IRUHVW FRYHU LQ WKH EHVW OD QG XVH FODVVLoFDWLRQ SURFHVV WKH JRYHUQPHQW VKRXOG WKHQ LHTXLUH oHOG YLVLWV the competent authorities (DGAAA) to areas under consideration for land use change. 6XFK oHOG YLVLWV DUH information in requests (expedients) is true. :LWKRXW oHOG YHULoFDWLRQ SURWHFWHG DUHDV DQG forested lands are, and will continue to be, deforested.

Guarantee the enforcement of Peru's environmental law and respect for the rights of affected populations through the Environmental Impact Assessment process:

- The Peruvian Government should make oHOG YHULoFDWLRQ D UHTXLUHG VWHS LQ WKH Environmental Impact Assessment (EIA) evaluation process. Before any detailed or VHPL GHWDLOHG (,$ LV DSSURYHG RIoFLDOV IURP '*$$$ VKRXOG PDNH oHOG YLVLWV WR FRUURERUDWH information provided to them in writing by the companies or individuals requesting the land and their consultants.
- Public hearings should be held during the EIA process at the local, regional and national levels, and prioritize outreach to civil society actors. This will allow civil society and affected communities to provide critical input and observations to authorities. Currently DGAAA LVVXHV RIoFLDO REVHUYDWLRQV LQ WKH (,$ hearings are held, making it impossible for public observations to be taken into consideration or adequately included in the '*$$$ V REVHUYDWLRQV LQ WKH (,$ SURFHVV
- Public comments must be solicited and LQFOXGHG DV RIoFLDO FRPPHQWV RQ (,$V
- Opinions issued by the National Forest Service 6(5)25 PXVW EH FODVVLoHG DV EL QGLQJ opinions in both the detailed and semi-detailed EIA process. Currently, the Forest &XVWRPV &RQWURO &RQVHUYDWLRQ &RQWURO &RQVHUYDWLRQ WKHUHIRUH (,$V FDQ EH from the SERFOR.
- The Minister of Agriculture and Irrigation has said that the approval of the EIA is a prerequisite to authorization of land use change for agro-industrial projects, and all other agrarian activities that must secure HQYLURQPHQWDO FHUWLoFDWLRQ WKURXJK DQ (,$ must reinforce this interpretation of the law and be vigilant about enforcing this process.
- If land has been illegally cleared for agricultural development, all operations on that land should cease, and an assessment of how to best restore the land should be undertaken, with broad civil society consultation.

Ensure enforcement of the Forestry and Wildlife Law:

- The government must insist on full application of the 30 percent reserve requirement, which is established in Law 27308 (The Forest and Wildlife Law) and requires that at least 30 percent of any forested area intended for conversion must be set aside as "reserve" land. Ideally reserves should be established to create biological corridors, avoiding piece meal reserves across conversion lands in the Amazon.

Promote transparency:

- Governments should collect information on the identity of people who own and control companies, and basic information RQ EHQHoFLDO RZQHUVKLS companies with all competent authorities in the country where they are operating and/or investing.
- Publish information about illegally cleared land, so that investors can avoid proposing projects in those areas and carry out due diligence in their supply chains.

Protect the rights of local and indigenous communities to preserve their traditional territories through effective land titling:

- The government must prioritize the land titling and recognition process of the 20 million hectares of land currently claimed by native communities in the Amazon. Secure title and full recognition of Indigenous land rights in the Amazon is currently the single most effective step to controlling illegal deforestation and illegal expansion of oil palm and other agro-industrial crops in the region.

Fully comply with obligations under international law to protect the rights of citizens and communities impacted by development projects:

- Small holder palm oil production may represent a viable sustainable development opportunity for rural communities, but only

when investments in palm oil projects ensure formal recognition of land rights and are carried out in consultation with local and Indigenous communities according to the International Labor Organization Convention No. 169. In order to comply with its obligations to provide free, prior and informed consent to communities affected by development projects, the Peruvian government must "take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories [that indigenous and tribal peoples] inhabit."[686] In addition to following the Peruvian law on prior consultation of Indigenous communities, the Peruvian government must employ a results-oriented approach that ensures these F R P P X Q L W L H V U L J K W V W K D W P D [L P L]H political participation, access to justice, culture and cultural identity, communal ownership of their traditional territory, and environmental integrity.

FOR THE GOVERNMENTS OF NORWAY AND GERMANY:

@e J\gk\dY\i#)'(+ k_\ ^fm\ied\ekj f] EfinXp and Germany entered into a historic Letter of Intent with Peru, referred to as the "Cooperation for the Reduction of Greenhouse Gases from Deforestation and Forest Degradation and the G i f d f k `f e f] J l j k X `e X Y c \ ;\m\cfgd\ek `e G\il%E As part of the agreement, Norway committed 300 million dollars for forest protection and forest related emissions reduction, to be [`jYlij\[gif^i\jj`m\cp k_ifl^ implementation. Promising in scope and spirit, the agreement has potential to halt mass [\]fi\jkXk`fe `e G\il Xe[i\fi \ek j\m\cfgd\ek efforts towards forest protection. The following recommendations will help ensure that the agreement is not undermined by tendencies and mechanisms currently allowing for palm expansion into forested areas

- Condition dispersal of committed funds U L J R U R X V G R F X P H Q W D W L R Q R I 3 H U X V S U R J U H V V[687] toward ending the conversion of soils under forest and protection categories to agricultural use.
- Prioritize funding and technical support to track deforestation caused by land use F O D V V L o F D W L R Q D Q G W K H U H I R U H O D O G X V H F K D Q J H (conversion) in Peru.
- Maintain support for the regularization of o Y H P L O O L R Q K H F W D U H V R I O D Q G, and begin scaling up support to help secure recognition of communal and territorial i \ j \ i m \ j in the Amazon.
- *L Y H Q 3 H U X V Q R W R U L R X V O \ G H O D \ H G W L W O L O J process for Indigenous lands, actively monitor the regularization progress during the tenure of the LOI, insisting that Peru meet targets set up in the "transformation" phase of the agreement.
- At the regional and national level, support capacity building for comprehensive land use planning focusing on entities in charge of land D O O R F D W L R Q R U O D Q G F K D Q J H P D [L P L]H Contribute and prioritize technical support for the creation of a national cadastre, to be used for improved sustainable development planning and land rights allocations in the Amazon.
- Prioritize diplomatic attention to the security and protection of environmental and land rights defenders, and as necessary monitor, and act, on cases of human rights violations and threats to these defenders, particularly as related to lands and resources in the Peruvian Amazon.

FOR THE GOVERNMENT OF UNITED STATES:

- Cease to fund all support for palm oil activities and other agribusiness crops that threaten forests, until the Peruvian government demonstrates the ability to enforce national environmental and land use laws.
- When funding palm oil and other agriculture activities, USAID should implement due diligence processes with special attention given to the process by which land for agriculture development projects was F O D V V L o H G
- The United States Trade Representative should enforce environmental obligations in the United States-Peru Free Trade agreement, taking action related to Peruvian Law 30230 of 2014, which is a violation of such obligations and has weakened the Environmental Impact Assessment process[688]
- Prioritize diplomatic attention to the security and protection of environmental and land rights defenders, and as necessary monitor, and act, on cases of human rights violations and threats to these defenders, particularly as related to lands and resources in the Peruvian Amazon.

FOR THE PALM OIL INDUSTRY:[689]

- Adopt and implement zero deforestation policies, and ensure that no forest land is converted into plantations or used for non-forest-based production.
- Introduce policies and methodologies that are D S S O L F D E O H W R D O O R I D F and suppliers, and to their global operations.
- Ensure the rights of Indigenous peoples and local communities who will be affected by plantation operations are respected. Free, prior and informed consent of the communities shall be ensured to develop oil palm plantations on their legal and/or customary lands.

FOR INTERNATIONAL ORGANIZATIONS:

- Support community-led mapping and monitoring initiatives. Such initiatives should strengthen community land titling and recognition processes, and lead to greater community knowledge and control of natural resources in their territory.
- Support transparency through documentation efforts, including community monitoring and reporting of environmental crimes. Offer ample legal and political support to leaders and communities engaged in documentation and advocacy efforts and the local, national and international level.
- Invest in livelihood and economic initiatives that respond to local needs and proposals. Prioritize non-palm oil and non-agro-industrial crop initiatives.
- Prioritize outreach to communities in current and projected agriculture expansion areas.

FOR PRIVATE INVESTORS:

- Employ rigorous due diligence processes, ensuring that all investments and the projects they fund comply with national legislation and regulations. Subcontractors RU oQDQFLDO LQWHUPHGLDULHV VKRXOG EH VXEMHFW RI oQDQFLQJ LQ SDUWLFXODU RU DQ LQGHSHQGHQW DXGLW to these due diligence processes as well.
- Invest in consultations with all project-affected communities and organizations and ensure that a free prior and conformed consent process be carried out for all agribusiness projects targeting lands held, inhabited by, or depended upon by Indigenous and forest dependent communities.
- Do not invest in companies that are contributing to clearance of natural forests.
- Require recipients of funding to publish geo-referenced information about their plantations on the ground, their subsidiaries and ownership structure, and relationships with any politically exposed persons.
- Be wary of unsubstantiated claims about "sustainability" by agricultural companies seeking investment, particularly in tropical regions known to support natural forests. Ground-truth or require independent YHULoFDWLRQ RI WKHVH FODLPV ZKHQHYHU DQG wherever possible.

FOR COMPANIES OPERATING IN-COUNTRY (INCLUDING PLANTATION OPERATIONS):

- Publish information about their sources of oQDQFLQJ LQ SDUWLFXODU RU DQ LQGHSHQGHQW clearance.
- Publish information about their ownership structure (corporate and individuals) and all subsidiary holdings. This should include information about any subcontractors, their company names, and their role in the business.
- Publish geo-referenced maps of any land to be developed for agriculture, and the legal ODQG FODVVLoFDWLRQ HFRORJLFDO DQG WHQXUH situation.
- Highlight ownership or decision-making power within the company which lies with any politically exposed persons.
- Publish volumes of agricultural commodities produced by each of their estates, annually, as well as indicate the buyers of plantation crops (such as mills), and subsequent buyers if that information is available (for example, in cases where a plantation company also owns/operates mills which process raw materials).
- Track and publish and inventory any timber being logged, transported, sold, and/or exported from land on which they carry out agricultural projects.

GLOSSARY OF TERMS AND ACRONYMS:

ACRONYMS AND ABBREVIATIONS	
AIDESEP	Interethnic Association for the Development of the Peruvian Amazon (8jfZ`XZ`•e @ek\i„ke`)ZX [\ cX J\cmX G\ilXeX
AIM	Alternative Investment Market
APL	Asian Plantations Ltd.
APS1	Asian Plantations (Sarawak) Sdn. Bhd.
APS2	Asian Plantations (Sarawak) II Sdn. Bhd.
APS3	Asian Plantations (Sarawak) III Sdn. Bhd.
BCP	National Credit Bank of Peru (Banco de Credito del Peru)
BLUC	Best Land Use Capacity (Capacidad de Uso Mayor)
BPP	Permanent Production Forest (Bosque de Producción Permanente)
CIEL	Center for International Environmental Law
CONAM	National Environmental Council (Consejo Nacional del Ambiente) 3HU X V previous national environmental agency before the creation of MINAM in 2008
DGAA	General Directorate of Environmental Affairs (Dirección General de Asuntos Ambientales)
DGAAA	General Directorate of Environmental and Agricultural Affairs (Dirección General de Asuntos Ambientales Agrarios)
DGFFS	General Directorate of the Forest and Wildlife Service. This agency was dissolved in 2011 with the creation of SERFOR, which took over as the forest authority.
EIA	Environmental Impact Assessment or Environmental Investigation Agency
FFB	Fresh fruit bunches, from which palm oil is extracted
FREDESAA	Defense and Development Front of Alto Amazonas (Frente de Defensa y Desarrollo de Alto Amazonas)
GOREL	Loreto Regional Government (Gobierno Regional de Loreto)
GORESAM	San Martin Regional Government (Gobierno Regional de San Martin)
IIAP	Research Institute of the Peruvian Amazon (@ejk`(klkf [\ @em\jk`^X Amazonía Peruana)
IFFS	National Forest and Wildlife Intendency (Intendencia Forestal y de =XleX J)`cm\jki\

ACRONYMS ABBREVIATIONS	
INRENA	National Institute for Natural Resources (Instituto Nacional de Recursos Naturales)
IPO	Initial Public Offering
LANDSAT	A joint program by NASA and the United States Geological Survey that F R P S L O H V V D W H O O L W H L P D J H U \ R I (D U W K
LSE	London Stock Exchange
Ltd.	Limited. Designation of a partnership or association whose partners enjo limited liability from corporate activities
MCLP	Concertation Board for Combating Poverty in Barranquita (Mesa de Concertación de Lucha contra la Pobreza de Barranquita)
MINAGRI	Ministry of Agriculture and Irrigation (Ministerio de Agricultura y Riego)
MINAM	Ministry of Environment (Ministerio del Ambiente)
ONERN	1 D W L R Q D O 2 I o F H I R U 1 D Ô V Z H X O E X Z H \ R X U F H <m X c l X Z `• e [\ l \ Z l i j f j E X k l i X c \ j
OSINFOR	Supervisory Body for Forest Resources and Wildlife (Organismo de Supervisión de Recursos Forestales y de Fauna Silvestre)
PAMA	Program for Remediation and Environmental Management (Programa de Adecuación y Manejo Ambiental)
PBB	Parti Pesaka Bumiputra Bersatu. A Malaysian political party
PETT	Special Program for Land Titling (Programa Especial de Titulación de Tierras)
PGMF	General forest Management Plan (Plan General de Manejo Forestal)
POA	Annual Operating Plan
Pte. Ltd	Private Limited. Designator for private corporations registered in Singapore.
REDD	Reduced Emissions from Deforestation and Degradation (Reducción de <d `j `f e \j [\i `m X [X j [\ c X ;\] f i \j k X Z `• e) p c X ;\^i
RSPO	Roundtable on Sustainable Palm Oil
SA	Anonymous Society (Sociedad Anónima). Designator for public corporations registered in Peru.
SAC	Closed Anonymous Society (Sociedad Anónima Cerrada). Designator for private corporations registered in Peru.
Sdn. Bhd.	Sendirian Berhad. Designator for private corporations registered in Malaysia.
SERFOR	Peruvian National Forest Service (Servicio Nacional Forestal y de Fauna Silvestre) =X l e X J `c m \j k i \
SEZC	6 S H F L D O (F R Q R P L F = R Q H & R P S D Q \ ' H V L the Cayman Islands.

ACRONYMS AND ABBREVIATIONS	
SPDE	Peruvian Society for Ecological Development (Sociedad Peruana de Ecodesarrollo)
SSM	Companies Commission of Malaysia (Suruhanjaya Syarikat Malaysia)
SUNARP	National Property Registry of Peru (Superintendencia Nacional de los Registros Públicos)
SUNAT	National Tax Administration of Peru (Superintendencia Nacional de Administración Tributaria)
TOR	Terms of Reference
UCL	8QLWHG &DFDR /LPLWHG 6(&=
ZEE	Economic Ecology Zoning Plan (Plan de Zonificación Económica Ecológica)

TERMS

Alternative Investment Market ($, 0 LV WKH /RQGRQ 6WRFN ([FKDQJH V (LSE) sub-market for smaller companies. AIM has different reporting requirements than LSE.

Annual Operating Plan (Plan Operativo Anual, POA): Document that VHWV RXW WKH SUHYLRXV \HDU V RSHUDWLRQV ZLWKLQ D ,RUHVW &RQFHVVL establishes the types and amounts of tree species within a forest concession that will be protected or removed in the upcoming year. This plan is overseen by OSINFOR.[690]

Annual report: A document submitted by a company to the government RI WKH FRXQWU\ ZKHUH LW LV UHJLVWHUHG LQ DFFRUGDQFH ZLWK WKDW F laws. The purpose of annual reports is to inform all stakeholders of the oQDQFLDO VLWXDWLRQ RI WKH FRPSDQ\ DQG WKH RPSDQ\< oQDQFLDO VWDWHPHQW VHH GHoQLWLRQ RI WKH FRPSDQ\ DQG SURSHUWLHV RI WKH FRPSDQ\ &RQVLGHUDWLRQ oQDQFLDO LQIRUPDWLRQ DQG SURSHUWLHV ZKDW WHUULWRU\ F ZHOO DV PLQLPL]H ORFDO FRQpLFW 6X OHYHOV RI JRYHUQPHQW =((V E\ PXQLF by both the regional government and by the Ministry of the Environm[691]

Apoderado: Legal representative or agent holding the legal power to represent or speak for another entity

Articles of incorporation: A document submitted by a corporation to the government for purposes of registering as a corporation in that country. The articles of incorporation generally contain basic information DERXW WKH FRUSRUDWLRQ KRZ GLUHFWRUV DQG RI FHUWDLQ DQG SURSHUWLHV other fundamental rules of operation.

Casual labor: Employment involving the performance of services usually on a temporary or part-time basis. Such labor arrangements often avoid duties that the employer would have to perform under a formal employment arrangement.

Capital: Value in the form of money or other assets (stocks, bonds, equipment, land, etc.) owned by an individual or organization, usually for the purpose of investment or starting a company.

Comptroller General (Contraloría General de la República): The &RPSWURROOHU *HQHUDO LV LQ FKDUJH RI FRQWURROLQJ WKH HIoFLHQW XVH national resources and assets, ensuring transparency and responsibility RI RIoFLDOV XVH RI WKHVH UHVRXUFHV

Concessionaire: The entity or individual who has rights to a concessior

Conversion: the process of legally and physically preparing land for agricultural production.

Council of Ministers (Consejo de Ministros): The Council of Ministers is made up of all of the Ministers who lead each Ministry. It is in charge directing and managing public services, and must approve some of t acts of the President of the Republic such as the President of the 5HSXEOLF V OHJLVODWLYH GHFUHHV 7H WKH HQWLW\ WKDW JXLGHV WKLV ERG\

Directoral Resolutions (Resoluciones de Dirección General): Resolutions emitted by Ministries concerning the activities under the jurisdiction.

Economic Ecology Zoning Plan (Plan de Zonificación Económica Ecológica): Instruments that characterize territory by its recommended use/ DQG WKH HQWLW\ WKDW WHUULWRU\ DV ZHOO DV

Executive Directoral Resolution (Resolución Directoral Ejecutiva): A Directoral Resolution by an Executive Director of an agency in Peru.

Forest Carbon Partnership Facility (FCPF): An international initiative that provides monetary compensation to developing countries for the standing forest, in order to assist those countries in their efforts to reduce carbon emissions from deforestation and forest degradation, manage forest resources sustainably, and foster forest conservation.[692]

Financial statement: A document submitted by a corporation to the government of the country in which it is incorporated containing the a RI WKH oQDQFLDO DFWLYLWLHV RI D FR

Forest and Wildlife Intendancy (Administración Técnica Forestal y de Fauna Silvestre): local and regional forest authorities under DGFFS pri to the creation of SERFOR.

General Directorate of Environmental and Agricultural Affairs (Dirección General de Asuntos Ambientales Agrarios): Body under MINAGRI that provides technical information and advice about land use and use of natural resources for the purpose of sustainable management of those resources.

General Directorate of the Forest and Wildlife Service (Dirección General Forestal y de Fauna Silvestre – DGFFS): Now called SERFOR; name for the national forest authority before the creation of SERFOR.

General Forest Management Plan (Plan General de Manejo Forestal): Document submitted by a holder of a forest concession, which sets out WKDW DOO FLWL]HQV IXQGDPHQWDO UL
WKH FRQFHVVLRQDLUH V SODQ IRU KRZ WKH FRQFHVVLRQ ZLOO EH ZRUNHG
SODQ FRQVLGHUV WKH WHFKQLFDO DQG HFRQRPLF
as well as concerns for preserving biodiversity and the environment.[693]

Graft: Generally, a legal claim against an individual for obtaining a EHQHoW PRQH\ DVVHWV OHJDO ULJKWV

Guidelines for Agrarian Policy (Lineamientos de Política Agraria): A norm passed in late 2014 by the Ministry of Agriculture and Irrigation to guide the impact of agrarian policy on rural populations.

Hectare: A unit of area equal to 10,000 square meters.

Holdings: The contents of an investment portfolio held by an individual or entity such as a mutual fund or pension fund. Portfolio holdings may encompass a wide range of investment products, from stocks, bonds and mutual funds to options, futures and exchange-traded funds, and relatively esoteric instruments such as private equity and hedge funds.[694]

Holding company: A company that owns a controlling share of another FRPSDQ\ WKH VXEVLGLDU\ WKHUHE\ HQDEOLQJ LW WR FRQWURO WKH VXEVLGLDU\
policies and management while shielding the individual owners from liability.[695] Generally, a holding company differs from a parent company in that the holding company does not partake in its own business ventures, EXW UDWKHU H[LVWV WR PDQDJH WKH oQDQFLQJ DQG DFTXLVLWLRQ RI LWV
subsidiaries (also see "parent company"). An immediate holding company is a holding company that itself is a subsidiary of (controlled by) another holding company. An ultimate holding company is a company that is not controlled by any other company.

Initial public offering (IPO): 7KH oUVW VDOH RI VWRFN E\ D SULYDWH FRPSDQ\ to the public.

Interethnic Association for the Development of the Peruvian Amazon (Asociación Interétnica de Desarrollo de la Selva Peruana - AIDESEP): National association of indigenous peoples of the Amazon.

Land title: Legal grant of possession or ownership of land.

Land grabbing: Possession or ownership of land obtained through illegal means that violate the rights of third parties

Legislative Decree (Decreto Legislativo): Decree by the President of the Republic or the executive branch, which is authorized by a delegation of legislative power to the Executive. Such a delegation is usually only for D FHUWDLQ SHULRG RI WLPH DQG FRQoQHG WR D FHUWDLQ VFRSH RI VXEMHFW

Ministry of Agriculture and Irrigation (Ministerio de Agricultura y Riego – MINAGRI): National ministry in charge of managing the development of agricultural policies.

Ministry of Environment (Ministerio del Ambiente – MINAM): Peruvian national ministry in charge of developing and enforcing national environmental policies

National Forest and Wildlife Intendancy (Intendencia Forestal y de Fauna Silvestre – IFFS): national forest authority which coordinates technical management of forest resources

National Institute for Natural Resources (Instituto Nacional de Recursos Naturales – INRENA): Institute under the Ministry of Agriculture and Irrigation that ensures the sustainable use of renewa resources, in particular rural resources and biodiversity.

1DWLRQDO 2PEXGVPDQ (Defensoría del Pueblo): Autonomous HQWLW\ RI WKH JRYHUQPHQW FUHDWHG
WKDW DOO FLWL]HQV IXQGDPHQWDO UL
7KLV HQWLW\ UHFHLYHV FLWL]HQV FRP
emits reports in response to those complaints.

National Property Registry of Peru (Superintendencia Nacional de los Registros Públicos – SUNARP): Institution under the Ministry of Justice that coordinates the National Public Registry System and dic WKLV V\VWHP V SROLFLHV DQG SURFHG

Parent company: A company that either wholly owns or owns more tha 50 percent of another company (the subsidiary), thereby enabling it t FRQWURO WKH VXEVLGLDU\ V SROLFLHV
company")[696]

Permanent Production Forests (Bosque de Produccion Permanente – BPP): Term used by the Ministry of Agriculture and Irrigation in its territorial organization plans to categorize areas granted to third part for timber logging and use of forest resources, in accordance with th)RUHVW DQG :LOGOLIH /DZ 1R 7KH
INRENA and approved by MINAGRI.

Portfolio: A range of investments held by an individual or an organization.

Power of attorney: A legal right to act in the place of, or as an agent or representative of, another individual or organization.

Precautionary measures (medidas cautelares): Measures dictated by a court or administrative body for the purpose of stopping the occurren or prevent or preventing harm to legal interests.

President of the Congress (Presidente del Congreso): In Peru, the President of Congress and the President of the Permanent Assembl the leaders of each house of Congress. The President of the Republ the other hand, is the president elected to lead the executive branch

Program for Remediation and Environmental Management (Programa de Adecuación y Manejo Ambiental – PAMA): Document required to be submitting by companies for projects that implicated environmental obligations under Peruvian law. These documents set out the action policies and investments that the company must undertake to reduc control the generation of waste, prevent pollution and comply with environmental law and regulations.

5HJLRQDO $JUL (Dirección Regional Agraria): Entities within each regional government tasked with promoting sustainable agriculture, business development, and technological use and innov for productivity in the region.

Revenue: The amount of money that a company receives during a VSHFLoF SHULRG RI WLPH &RVWV DUH
determine net income.

Roundtable on Sustainable Palm Oil (RSPO) – The RSPO is a not-for-profit organization whose mission is to promote the growth and use of sustainable palm oil through dialogue and collaboration with its members, which include palm oil producers, manufacturers, retailers, investors, and civil society organizations.[697]

Secrecy jurisdiction – Secrecy jurisdictions are places that intentionally create a regulatory environment that is more favorable than that of other jurisdictions to attract business from entities not resident in their geographical domain. That regulation is designed to undermine the legislation or regulation of another jurisdiction. To facilitate its use secrecy jurisdictions also create a deliberate, legally backed veil of secrecy to ensure that the people from outside the jurisdiction making use of its regulation cannot be identified.[698]

Seed funding/seed capital – The initial capital used to start a business.

Share swap – This occurs when the shares of the company being acquired are exchanged for shares of the acquiring company as part of a merger or acquisition.

Shareholder meeting (Junta General de Accionistas) – Meeting in which shareholders of a partnership or corporation discuss actions to be taken by the partnership or corporation

Soil use capacity (Capacidad de uso mayor) – A technical determination of the land's natural capacity for production.

Special Program for Land Titling (Programa Especial de Titulación de Tierras – PETT) – A specialized institution within the Ministry of Agriculture and Irrigation that coordinates procedures for titling and registering rural land.[699]

Subsidiary – a company whose voting stock is more than 50% controlled by another company, usually referred to as the parent company or holding company. While the holding company must still report on the subsidiary's activities in its financial statements, the subsidiary is a distinct legal entity for the purposes of liability, taxation and regulation.[700] A fully-owned subsidiary is a subsidiary whose holding company owns 100% of its shares and thus completely controls its activities. Such an arrangement is often used to shield the holding company from liability for actions it commits through the subsidiary.

Supervisory Body for Forest Resources and Wildlife (Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre – OSINFOR) – National entity under the Council of Ministers that is in charge of supervising and enforcing the titles granted to parties for the use of forest resources and other environmental services.

Supreme Decree (Decreto Supremo – DS) – Decree by the President of the Republic that is signed by at least one Minister and regulates activities under one or more Ministries at the national level.

Swing vote areas – An area where votes are important to determining the outcome of an election.

Tax haven (Xiaoyu) – Any country or territory whose laws may be used to avoid or evade taxes which may be due in another country.[701]

Terms of reference (términos de referencia – TOR) – Document submitted by a company describing how it will implement a PAMA

OTHER TRANSLATIONS

District Attorney – Fiscalía

District Attorney of Alto Amazonas – Fiscala Especializada en Materia Ambiental de Alto Amazonas

National Attorney General – Fiscalía

INFORMATION ABOUT PUBLICLY TRADED COMPANIES

Asian Plantations Limited (APL) – ticker number symbol (PALM)

United Cacao Ltd., also called United Cacao Limited SECZ (UCL) – ticker symbol (CHOC)

MAPPING DEFORESTATION: ONGOING AND PROJECTED

MELKA GROUP MAPS METHODOLOGY

Since 2013, EIA has been producing maps for monitoring and analyzing the deforestation generated by two Melka Group projects:

- The Cacao del Perú Norte SAC project, in Tamshiyacu, Fernando Lores district, in the region of Loreto, in the Peruvian Amazon.
- The Plantaciones de Ucayali SAC project, in the Nueva Requena district, in the region of Ucayali, in the Peruvian Amazon.

By mid-2013, EIA found out about deforestation occurring in these areas from local sources. EIA then started looking at Landsat satellite imagery for the areas. EIA used the Landsat LPDJHU\ oUVW WR ORFDWH WKH DUHDV R RQJRLQJ deforestation, and then to analyze the areas over the previous 25 years to determine when deforestation in these areas actually occurred. Finally, EIA began to analyze new Landsat imagery to monitor the evolution of the deforestation as it has been happening. EIA RIoFLDOO\ UHTXHVWHG these projects from both the national and regional governments. However, EIA did not UHFHLYH WKH RIoFLDO 870 FRRUGLQDWHV IRU WKH external boundaries of either of these projects. But even without the UTM coordinates, EIA was able to connect Plantaciones de Ucayali SAC with the deforestation under development in the mapped area through the information obtained from the Peruvian property registry (SUNARP)[703] DV ZHOO DV IURP from the Ucayali Regional government that LQFOXGH 870 FRRUGLQDWHV IRU VSHFLoF happening inside the area of the projects, as well as printed maps.[703] Therefore, the maps presented here delineate the observed deforestation that has been conducted in the oHOG VLQFH WKH WLPH WKDW WKH UHVSHFWLYH 0HOND Group projects began, regardless of whether it occurred within or outside of project properties.

In the case of the Tamshiyacu area, in addition to the process above described, EIA obtained DFFHVV WR WKH 870 FRRUGLQDWHV IRU private properties that Cacao del Peru Norte acquired until early 2013.[704] Mapping these 45 properties, shown on the maps in the shape of vertical rectangles, aided EIA to locating the Cacao del Peru Norte project area and understanding the patterns of the deforestation conducted since June 2013. Cacao del Peru Norte continued buying more private properties and, by March of 2015, owned 80 rural properties in all the region of Loreto, where Tamshiyacu is located. According to the DGAAA, by December 2015 Cacao del Peru Norte owned around 60 properties in the Tamshiyacu area.[705] This explains why some of Tamshiyacu is showing out of the initial 45 units of property mapped by EIA. While EIA has not been able to obtain the UTM coordinates to map the other 15 properties referred by the DGAAA, the similarities in the results of the satellite analysis conducted by the DGAAA (1,944.21 ha deforested) and EIA (2,093.94 ha deforested) provide strong reasons to believe that they are part of the same area.

,Q WKH FDVH RI WKH 1XHYD 5HTXHQD DUHD, EIA maps document that the expansion of the deforestation in the area during the development of the Plantaciones de Ucayali SAC project, removed 5,821.74 hectares of forest. However, the Regional government only sold Plantaciones de Ucayali 4,759.77 hectares for the project. Since EIA has not been SURYLGHG ZLWK WKH RIoFLDO 870 FRRUGLQDWHV impossible for EIA to identify exactly which part of the deforestation is expanding beyond WKH OHJDO OLPLWV RI WKH SURMHFW (,$ V investigation did not uncover any other entity conducting clear cutting in this area.

2IoFLDO LQVSHFWLRQV FRQ Ucayali Regional Government authorities documented that Plantaciones de Ucayali W deforested at least 827 ha outside of their legal project boundaries.[706] There have also been complaints from the local populations that Plantaciones de Ucayali has come onto their lands and clearcut the forests.[707] The documentation by the government that Plantaciones de Ucayali conducted logging operations well outside the limits of its lands, together with the complaints against Plantaciones de Ucayali, as well as the patterns and timeline of the additional GHIRUHVWDWLRQ LGHQWLoHG LQ imagery analysis, provide substantial reason to believe that. Plantaciones de Ucayali is the most recent deforestation mapped in Tamshiyacu is showing out of the initial 45 units of property mapped by EIA. While EIA has not been able to obtain the UTM coordinates to map the other 15 properties referred by the DGAAA, the similarities in the results of the satellite analysis conducted by the DGAAA (1,944.21 ha deforested) and EIA (2,093.94 ha deforested) provide strong reasons to believe that they are part of the same area.

By November 26th, 2014, the date for the most recent satellite images incorporated in EIA analysis, a portion of the areas that had been clear-cut by the companies were deforested, while others had either been planted or had some minor secondary vegetation (acoma) growing on top of it. This is why, to estimate the total area that has been clear-cut by the companies, we add up the deforested areas, the plantation areas and the secondary vegetation areas, and subtract the area that was already deforested before the arrival of the projects.

responsible for most if not all of the additional deforestation that EIA documented in the area

CHART 1: Melka Group deforestation

	Total area	Total deforested	Previous deforestation*	Deforested during project time
Plantaciones de Ucayali — EIA estimations	5,821.74	5720.4	850	4870.4
Plantaciones de Ucayali — DGAAA estimations	4,759.77	4,593.00	545	4,048.00
Cacao del Peru Norte — EIA estimations	2,238	2,130.30	36.36	2,093.94
Cacao del Peru Norte — DGAAA estimations	3,097.41	1,949.36	5.15	1,944.21
TOTALS — EIA estimations		7,850.70		6,964.34
TOTALS — DGAAA estimations		6,542.36		5,992.21

* pre 2010 / 2011 for Nueva Requena
pre 2012 for Tamshiyacu

Elaboration: EIA

Sources: For EIA estimations: Landsat satellite imagery time series 1989 – November 2014.

For DGAAA estimations: Resolución de Dirección General 462-2014-MINAGRI-DVDIAR-DGAAA (Cacao del Perú Norte SAC) and Resolución de Dirección Genera DGAAA. (Plantaciones de Ucayali), based on Landsat images 2011 – August 2014.

CHART 2: Summary of the forest coverage for the areas of the four Grupo Romero projects. All the areas in the chart represent number of hectare in bold correspond to the key amounts quoted in the text. The amounts for the EIAs were estimated using the AutoCAD data included in the Env Assessments' annexes. Due to the methodology to build these numbers, it is possible that they slightly differ from those included in the text of th The amounts for the other sections of this chart have been estimated using the sources described in the text of this report.

Forest coverage according to the Grupo Romero EIAs					
Palm	16.746	6.956	366	987,5	25.055
30% Reserva	4.778	3.782	679	0,2	9.239
TOTAL	21.523	10.738	1.045	987,7	34.294

Deforestación de la Amazonía Peruana - 2000 (INRENA y CONAM)					MINAM	Total
	Primary forest	Secondary forest	Deforested	Total	Deforestation 2000-2011	Primary forest
Palm	23.231	190	1.634	25.055	86,0	23.145
30% Reserva	9.123	2	114	9.239	1,7	9.121
TOTAL	32.354	192	1.748	34.294	87,7	32.266

Mapa de Deforestación Departamento de Loreto al 2009 (IIAP 2012)			
	Forest	Deforestation	Total
Palm	23.056	1.998	25.054
30% Reserva	9.105	135	9.240
TOTAL	32.161	2.133	34.294

	Biomass (tons)
Palm	7.851.888
30% Reserva	2.989.117
1,7	9.121
TOTAL	10.841.005

GRUPO ROMERO MAPS METHODOLOGY

Based on the AutoCAD data provided in the Environmental Impact Assessment plans by Grupo Romero for their four new palm oil p /RUHWR (,$ PDSSHG WKH SURMHFWV DQG PRXQW HIGNAMOLERGENDRENA & CONAM,3 HUX as well as Landsat satellite imagery, as a way to demonstrate how the projects overlap with primary forest according to both: the Pe government as well as the historical satellite images.

ANNEXES

CHART 1: Replication of Asian Plantations Ltd.'s declared land holdings in Sarawak, Malaysia, as it appeared in the company r[668]		
BJ Corporation	4,795	ha
Incosetia	5,839	ha (acquired 30th December 2009)
Fortune	5,136	ha (acquired 30th December 2010)
Dulit	5,000	ha (acquired 28th February 2012)
GP	3,852	ha (acquired 21st August 2013)
TOTAL	24,622	HA (APPROXIMATELY 60,840 ACRES)

CHART 15: Holdings and Directorships of Asian Plantations Ltd. Directors			
Dennis Melka Full or Partial Holdings as of Nov. 2009	**Graeme Brown** Full or Partial Holdings as of Nov. 2009	**Leonard Linggi** Full or Partial Holdings as of Nov. 2009**	**Leo Moggie** Directorships and Partnerships as of Mar. 2010*
(DVW 3DFLoF & DS Rajang Wood Sdn/Bhd Tune Hotels.Com Limited Micro Hotel Holdings Pte Ltd Asian Starch Sdn Bhd Asian Forestry Holdings Limited Pte Ltd Asian Palm Oil Limited Arus Plantation Sdn Bhd BJ Corporation Sdn Bhd Asian Forestry Company Sdn Bhd Brown & Melka Sdn Bhd Sagajuta Sdn Bhd Tune Ventures Sdn Bhd Asian Plantations Capital Partners Pte Ltd Asian Plantations Limited South Asian Farms Pte Ltd Previous holdings: Tune Money Sdn Bhd Tune Talk Sdn Bhd Tune Retail Sdn Bhd Palm Oil Investment Trust Asian Palm Oil Company Limited	Rajang Wood Sdn/Bhd Premier Space Sdn Bhd Tera Management Sdn Bhd Pascali Sdn Bhd Keresa Plantations Sdn Bhd Waddell Holding Sdn Bhd Sarawakiana Management Sdn Bhd Pro-Formula Sdn Bhd Malesiana Tropicals Sdn Bhd Alkaz Sdn Bhd Borneo Plant Technology Sdn Bhd Sarawakiana Leisure Sdn Bhd Keresa Mill Sdn Bhd Sarawakiana Realty Sdn Bhd Keresa Sdn Bhd South Asian Farms Sdn Bhd Asian Forestry Company Sdn Bhd BJ Corporation Sdn Bhd Arus Plantation Sdn Bhd Straits Hospitality Company Sdn Bhd Begaraya Sdn Bhd Brown & Melka Sdn Bhd Waddell Holding Ltd K2 Hotel Sdn Bhd Previous Holdings: Palm Oil Investment Trust Pte Ltd Asian Palm Oil Company Limited	Keresa Transport Sdn Bhd None Syarikat Ulu Rejang Sdn Bhd Keresa Sdn Bhd Keresa Timber Corporation Sdn Bhd Limar Management Services Sdn Bhd Sarawakiana Sdn Bhd Rajang Wood Sdn Bhd Permodalan Sarawak Bhd Tanah Bungas Sdn Bhd Premiere Space Sdn Bhd Tera Management Sdn Bhd Rajang Resources Sdn Bhd Terabai Sdn Bhd Keresa Plantations Sdn Bhd Sarawakiana Realty Sdn Bhd Tun Jugah Foundation Pascali Sdn Bhd PSB Corporation Sdn Bhd PSB Properties Sdn Bhd PSB Construction Sdn Bhd PSB Estate Sdn Bhd Antara Sinar Sdn Bhd Solid Timber Sdn Bhd Ajau Sdn Bhd Solid Particle Board Sdn Bhd Malesiana Tropical Sdn Bhd Sarawakiana Leisure Sdn Bhd KP Premiere Sdn Bhd Alkaz Sdn Bhd Borneo Plant Technology Sdn Bhd Sim Swee Joo Shipping Sdn Bhd Keresa Mill Sdn Bhd Permodalan Dayak Bhd Arus Plantation Sdn Bhd BJ Corporation Sdn Bhd	Amarcorp Sdn. Bhd. Commonwealth Partnership For Technology Management Limited DiGi.Com Bhd. HMS Capital Sdn. Bhd. Knight Capital Sdn. Bhd. Tenaga Nasional Berhad The News Straits Times Press (Malaysia) Berhad

* "Since 2004, Tan Sri has been the Chairman of Tenaga Nasional Berhad (www.tnb.com.my), the integrated national power utility company of Malaysia, which is liste Stock Exchange with a market capitalisation in excess of US$10 billion. In addition, he is an Independent Non-Executive Director of DiGi.Com (www.digi.com.my), on telecommunication companies in Malaysia, which is listed on the Kuala Lumpur Stock Exchange with a market capitalisation in excess of US$4 billion." Source: Asian Directorate Change: London Stock Exchange Alternative Investment Market.

**All other data for this table sourced from "Subscription and Admission to AIM."

ANNEX: ASIAN PLANTATIONS LTD.'S SUBSID
SARAWAK: VARIATIONS ON A THEME (CONTINUED)

7KHVH DQQH[HV SURYLGH DGGLWLRQDO GHWDLOV DERXW WKH ODQG KROG
WKH IRUP RI ORDQV‹WKHVH VXEVLGLDULHV OHYHUDJHG RQ WKH SURSHUW\
3ODQWDWLRQV /WG WR FOHDU IRUHVWHG ODQG GHYHORS RLO SDOP SOD
conducted in 2013 by the Ucayali Regional Government authorities documented that Plantaciones de Ucayali deforested at leas
their legal project boundaries. There have also been complaints from the local populations that Plantaciones de Ucayali has com
and clearcut the forests. The documentation by the government that Plantaciones de Ucayali conducted logging operations well
of its lands, together with the complaints against Plantaciones de Ucayali, as well as the patterns and timeline of the additional d
LGHQWLoHG RQ (,$ V VDWHOOLWH LPDJHU\ DQDO\VLV SURYLGH VXEVWDQW
the additional deforestation that EIA documented in the area.

By November 26th, 2014, the date for the most recent satellite images incorporated in EIA analysis, a portion of the areas that ha
by the companies were deforested, while others had either been planted or had some minor secondary vegetation (purma) grow
This is why, to estimate the total area that has been clear-cut by the companies, we add up the deforested areas, the plantation
secondary vegetation areas, and subtract the area that was already deforested before the arrival of the projects.

SUBSIDIARIES OF ASIAN PLANTATIONS (SARAWAK) SDN. BHD.

Incosetia Sdn. Bhd. and its holding company, Jubilant Paradise Sdn. Bhd.

(VWDEOLVKHG LQ ,QFRVHWLD 6GQ %KG VZLWFKHG KDQGV PXOWLSOH
E\ D JURXS RI SROLWLFDOO\ SRZHUIXO PHPEHUV RI 0DODID &RQVXOW &RQ
Directors included the former Chief Minister of Melaka from 1999-2013, Mohd Ali Rustam, and Latiff Tamby Chik, currently a me
Council of the Melaka State Government for the period from 2013-2018.

,QFRVHWLD V DQQXDO UHSRUW IURP GHVFULEHV WKH FRPSDQ\ V DFTXL
FRPPHQFLQJ IURP)HEUXDU\ This Wikd deals concides with an entry from the leaked Sarawak Land
Surveys Department land transaction data, appearing as follows:

Applicant / Owner (Name Origin)	Liaison 2 I o F H U Tel. / Fax	Land Alienated / Applied For Alienated	1			Premium (MYR)	Approval Headquarters (Number Date)	Document Title (Type)	Dates	Notes
INCOSETIA SDN. BHD. Lot 208 Section 8, Jalan Haji Taha, 93400 Kuching.	Sadiah Basr 082-232208/ 082-422209	Lot 16 Dulit L.D.	Oil Palm	5,000	Batang Tinjar, Baram	3,705,000	43/HQ/AL /107/99(4D) bertarikh 28.6.2002 dan 51/HQ/ AL/107/99 (4D) bertarikh 13.7.2002	III	20.02.2003 (60 years)	

Similarly to the process undergone by BJ Corporation, Incosetia Sdn. Bhd. completed a revaluation process of the land, the sam
WKH SDUFHO LQ GXULQJ ZKLFK k5HJLVWHUHG DQG &HUWLoHG $SSUDLV
times the premium paid to the Sarawak government for the land. The Annual Report on the year 2003, when Incosetia acquired land, was
available when EIA requested historical company records for Incosetia, although reports for years before and after were availabl

Sadiah Basri, whose name appears in the land transaction data, had been a former director of Incosetia Sdn. Bhd., but on Aug. 21, 2002, before the land transaction took place, she and another director resigned and were replaced by Latiff Bin Tamby Chik and Ng Lee Na, who were both related to state-run corporations in Melaka.[717] <XVRI %LQ who would later become the Mayor of Melaka from 2008-2010,[718][719] was appointed as a director in late 2002,[720] and Mohd Ali Rustam was appointed as a director in early 2003.[721] This case shows how members of the national ruling coalition (Barisan Nasional) acquired land for below market value, even beyond the state of Sarawak in the early 2000s. The PBB Party in Sarawak makes up part of the Barisan Nasional, as does the United Malays National Organization (UMNO) party.[722] Mohd Ali Rustam, now a Senator (2013-2016) in 0DOD\VLD V QDWLRQDO SDUOLDPHQW.[723][724]

In 2005, Incosetia secured a loan from a FRPPHUFLDO EDQN IRU 0<5 oQDQFH SDOP RLO [725] oUVW FKDUJHV WR WKLV ZHUH VHFXUHG RQ ,QFR WKH ODQG ZDV UHYDOXH 25,788,000.[726]

Asian Plantations Ltd., via its subsidiary APS1, acquired Jubilant Paradise Sdn. Bhd. (a holding company) and Incosetia Sdn. Bhd. (Jubilant 3DUDGLVH V RQO\ VLJQ 30, 2009. With this acquisition just a month after its listing on AIM, Asian Plantations Ltd. was not required to disclose details about ownership and assets of the company or about the land acquisition, as it had for BJ Corporation in its AIM Subscription.[727] In public statements, Asian Plantations Ltd. indicated that it had acquired 5,850 hectares in the Incosetia estate, via its holding company Jubilant Paradise Sdn. Bhd., for USD$12,023,000[728] RU 0<5 [729] This price of USD$6,900 per hectare favored Asian 3ODQWDWLRQV /WG DFFRUGLQJ WR WKH FRPSDQ\ V director Graeme Brown. “Through our long standing local relationships and on-the-ground presence, we were able to secure the parcel in a negotiated, non-competitive situation,” he explained.[730]

-XELODQW 3DUDGLVH V \$QQXDO 5HSRUW IRU LV PLVVLQJ IURP SXEOLFO\ DYDLODEOH 660 oOHV EXW WKH FRPSDQ\ V UHSRUW VD\V WKDW -XELODQW 3DUDGLVH SXUFKDVHG ,QFRVHWLD IRU 0<5

31,174,080, by purchasing shares in Incosetia in 2009.[731] 7KLV SXUFKDVH ZDV assistance from the parent company of Jubilant 3DUDGLVH \$36 IRU 0<5 statements by Asian Plantations Ltd. said funding for the purchase of Jubilant Paradise and Incosetia was furnished by a new debt DELOLW\ LQ 0DODD\VLD “new equity capital raised at the time of the &RPSDQ\ V DGPLVVLRQ WR WUDGLQJ RQ \$,0 LQ November 2009.”[732] 7KH ORDQ IRU 0<5 55,000,000 was secured by BJ Corporation against the land lease it held.[733] Asian 3ODQWDWLRQV /WG oQDQFHG IXUWKHU ODQG acquisition by raising funds publicly on AIM and obtaining loans against its previously acquired land (held by BJ Corporation).

Jubilant Paradise transferred all ownership of ,QFRVHWLD DQG WKXV ,QFRVHWLD V ODQG OHDVH APS1 the same year which it acquired it, 2009.[734] Under its new leadership, Incosetia acquired two additional properties in 2011 (a total of approximately 850 ha in addition to its initial 5,000 ha).[735] The prices paid for these 0<5 1,250,000.[736] It is unclear which price paid corresponds to which land.

Between 2009 and 2012, Incosetia, with the help of its new parent companies, APS1 and Asian Plantations Ltd., took out loans secured on its own land leases.[737] The lands located at Lot 23, Sungai Bok Land District, 6DUDZDN FRQWDLQLQJ KD ,QFRVHWLD V LQLW 5,000 ha (Lot 16) land holding; and the land located at Lot 68, Bok Land District, containing 186 ha, were used as collateral to secure:

- D 0<5 ORDQ IRU ,QFRVHWLD[738]
- D 0<5 ORDQ IRU ,QFRVHWLD[739]
- DGGLWLRQDO EDQN ORDQV IRU \$36 IRU 0<5 24,750,000,[740]
- DQG DV FROODWHUDO IRU %- &RUSRUDWLRQ V 0<5 million medium term notes facility (a multi-year loan), in 2012.[741]

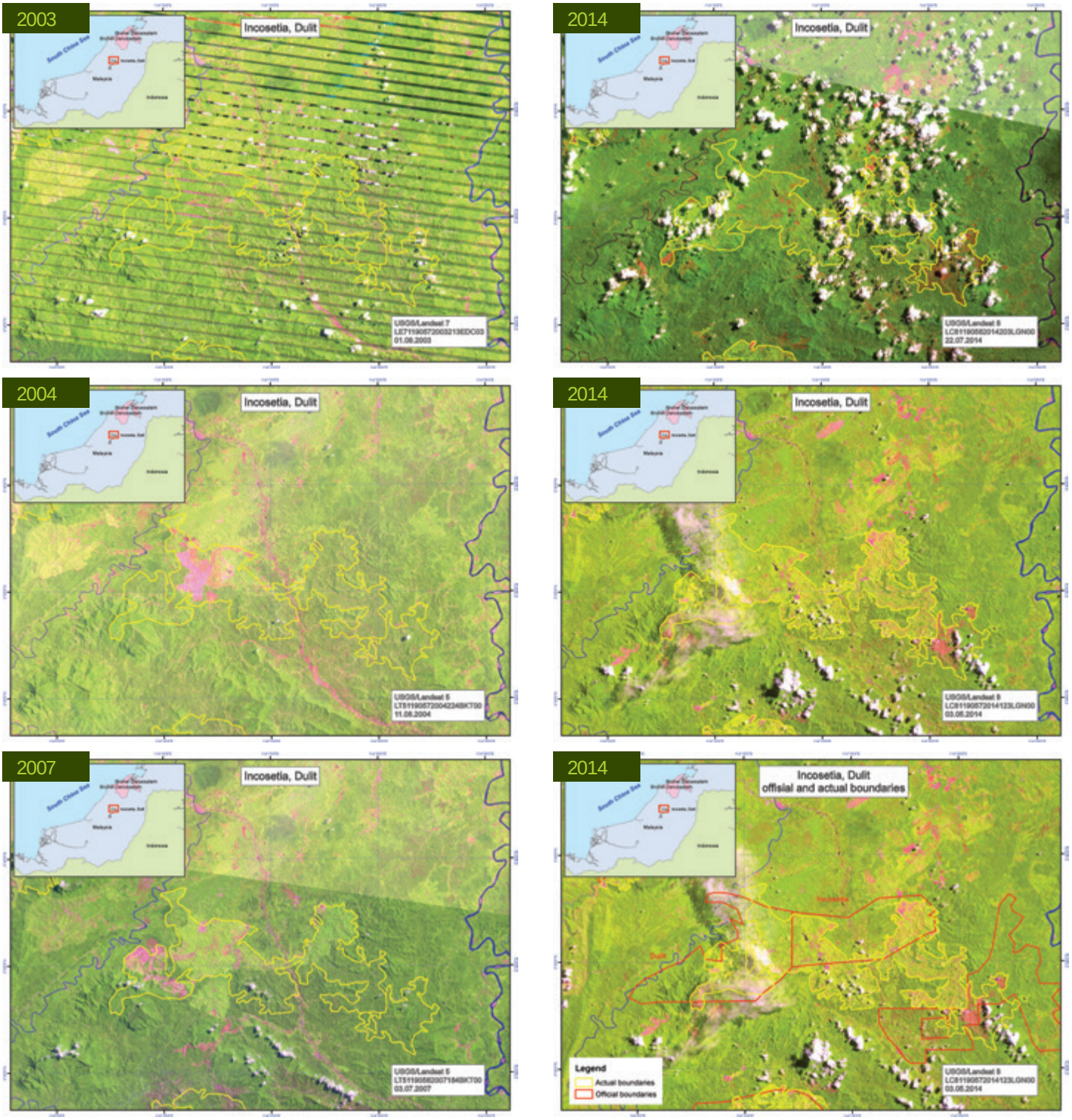
Asian Plantations Ltd. also restructured its holding companies in 2011, to separate Jubilant Paradise and Incosetia completely. Jubilant Paradise, again a holding company with no VLJQLoFDQW DVVHWV ZDV DFTXLUHG E\ D QHZO\ formed holding company of Asian Plantations Ltd., Asian Plantations (Sarawak) III Sdn. Bhd. (APS3), while Incosetia and the actual plantation land continued to be held by APS1.

Imagery from USGS Landsat satellites shows that the two areas reported as the “Incosetia” HVWDWH LQ \$VLDQ 3ODQWDWLRQV update from May 2013 retained forest cover as of August 2003. Forest clearing for the smaller Incosetia site started in 2011 and continued until 2014, while clearing for the larger site began as early as 2004. Planting took place as HDUO\ DV DQG ZDV oQD[743]

Meanwhile, APS1 pursued the acquisition of another plantation land holding, to be FRPSOHWHG DURXQG \$VLDQ year anniversary of trading on AIM.

INCOSETIA CONCESSION LOT 16 MAPS 2003-2014

FIGURE 20



Actual" boundary maps, in yellow, were drawn by mapping experts at Transparent World, based on analysis of LANDSAT data. These areas indicate Incoseti
IRU k2IoFLDOy ERXQGDU\ PDSV LQ UHG ZDV GUDZQ XVLQJ $VLDQ 3ODQWDWLRQV /WG SXEO
APL in May 2013.

FORTUNE SDN. BHD.

Fortune Sdn. Bhd. was incorporated in March 2003,[744] in the era marked by widespread large scale land acquisitions by politically-conn Malaysians facilitated by the Sarawak Land and Survey Department.[745] Separate directors were appointed in the articles of incorporation, includi Mohammed Ali Mahmud.[746] 7KH EURWKHU RI 6DUDZDN V &KLHI 0LQLVWHU 7DLE 0DKPXG director by November 30, 2005.[747]

7KH QH[W PRQWK LQ 2FWREHU)RUWXQH 6GQ %KG DF[748] details in the 2007 oQDQFLDO VWDWHPHQW LQGLFDWH WKDW OHDVHKROG ODQG ZDV DFTXLUH asset for the company at that time.[749]

Applicant / Owner (Name Origin)	Liaison 2 I o F H U Tel. / Fax	Land Alienated / Approved For Alienated				Premium (MYR)	Approval Headquarters (Number Date)	Document Title (Type)	Dates	Notes
FORTUNE PLANTATION SDN. BHD. Lot 1035, Jalan Cattleya 5, Piasau Industrial Area, CDT 139, 98009 Miri	Robert Galang 085651778 /085-652480	Lot 10 Dulit L.D.	Oil Palm	5,000	Batang Tinjar, Baram	3,705,000	2/HQ/AL /71/ 2003(4D bertarikh 29.10.2003	III	3.10.2006 (60 tahun)	

In the annual reports on 2006 and 2007, the QHZ RZQHUV DQG GLUHFWRUV DV ZHOO that operations had not begun.[750] However, satellite images show that between mid-2006 and mid-2007, heavy logging took place in the area that would subsequently be clear cut for oil palm. In 2008 the company stated it RIoFLDOO\ FRPPHQFHG RSHUDWLRQV principally engaged in the development of oil palm estates.[751] Satellite imagery shows that massive clear cutting of remaining forest land on the Fortune Estate took place during that time. (SEE Figure 21)

On December 30, 2010, all former directors resigned and were replaced by Leonard Linggi and Graeme Brown.[752] Asian Plantations Ltd. announced its acquisition of Fortune Plantation to shareholders the same day, at a price of USD$12.2 million for 5,139 hectares, or USD$2,374 per hectare.[753] Commenting on the events, Dennis Melka issued a public statement to shareholders on the London Stock Exchange: "The Fortune Estate was acquired in a non-competitive process, driven by the %RDUG V ORFDO UHODWLRQVKLSV DQG DW DQ DWWUDFWLYH valuation per hectare, being within 5 per cent of the value the Company paid for its original estate acquisition in 2007…the Board believes that the Company has secured an attractive valuation of the Fortune Estate, relative to other publicly announced land transactions in East Malaysia, at a time of increasing scarcity of agricultural land in Malaysia."[754]

In the annual reports which cover late 2010, the new holding company is APS1, and the ultimate holding company is Asian Plantations Ltd.[755] Dennis Melka was appointed as a director shortly after in May 2011.[756] Fortune Plantation went on to obtain at least two separate loans from Malaysian banks secured on the land in Lot 10, Dulit Land District, where)RUWXQH 3ODQWDWLRQ OLHV IRU DW OHDVW 0.< 5 39,000,000.[757]

ASIAN PLANTATIONS MILLING SDN. BHD.

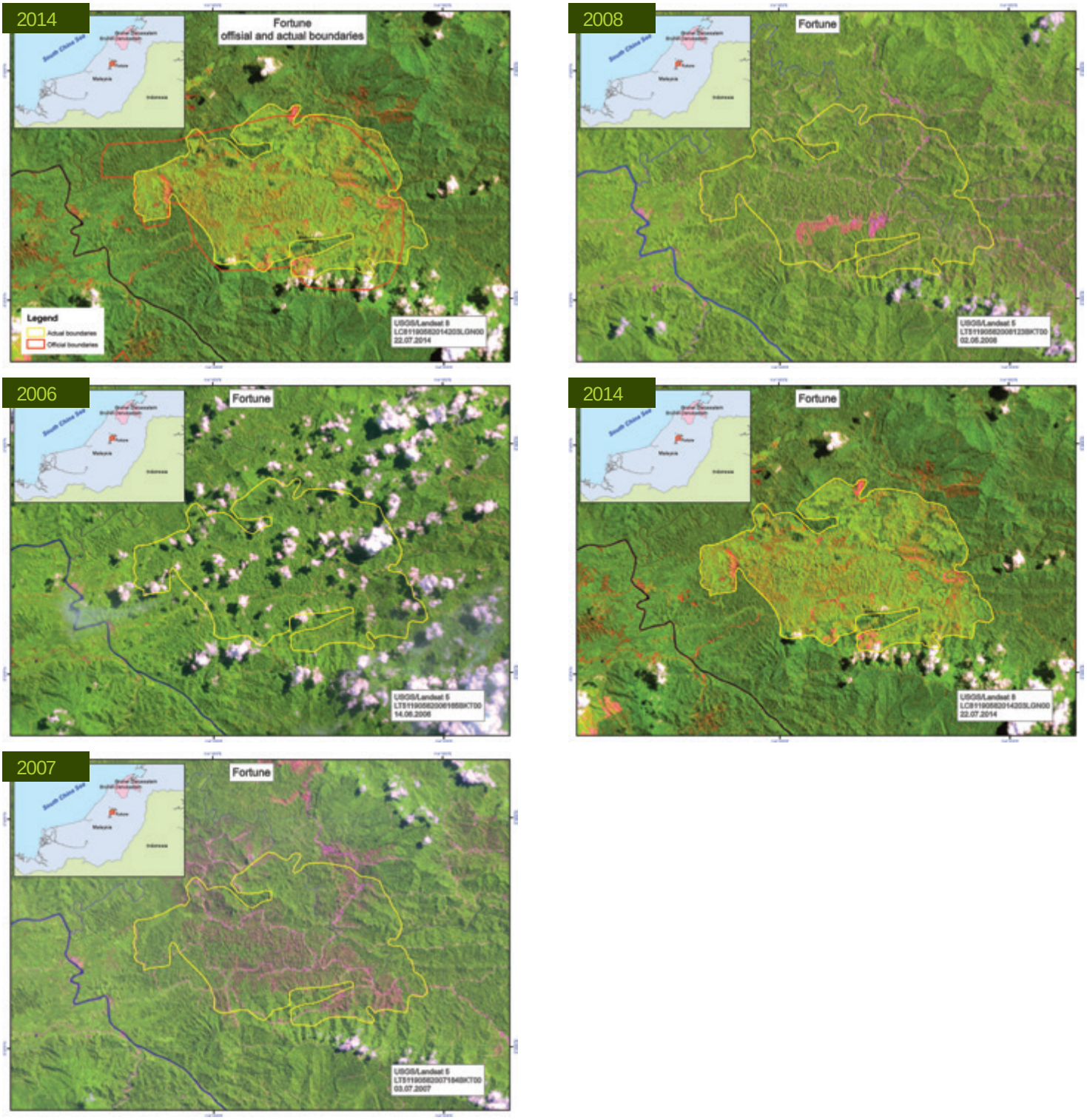
Directors of Asian Plantations Ltd., Dennis Melka and Graeme Brown, along with Leonard /LQJJL V VRQ *HUDOG UHJLVWHUHG $VLDQ Plantations Milling Sdn. Bhd. for incorporation in Malaysia in October 2009, held in equal parts of one share each by Dennis Melka and Arus Plantation (later, APS1).[758] In 2012, the holding company, Asian Plantations Ltd., secured the following assets against an ambitious Medium Term Notes Programme GHVLJQHG WR oQDQFH WKH FRQVWUXFWLRQ RI D QH[W SDOP RLO PLOO DV ZHOO DV WKH SDQ\ V H[LVWLQJ GHEW

- "All leasehold land of the group which the group prepaid rights to use,
- "Leasehold land of related subsidiary, Kronos Plantation Sdn. Bhd.
- All shares in subsidiary Asian Plantations Milling Sdn. Bhd.
-)L[HG DQG pRDWLQJ FKDUJ subsidiary Asian Plantations Milling Sdn. Bhd.
- Corporate guarantee from its holding company and its fellow subsidiary Asian Plantations (Sarawak) II Sdn Bhd."[759]

6LJQLoFDQW ODQG KROGLQ DFTXLUHG RYHU LWV oUVW ZHUH XVHG DV WKH EDVLV expansion of oil palm development and industry, this time in the form of a mill. The presence of a mill with capacity to process dozens of tons of palm oil per hour, (Asian 3ODQWDWLRQV /WG V PLO responds to supply of oil palm fruit, but also creates greater demand for fresh fruit bunches in the surrounding area. Sources familiar with the palm oil industry estimate that a mill can receive fruit from anywhere within a 24 hour journey of the mill site.[762]

FORTUNE CONCESSION LOT 10 MAPS 2006-2014

FIGURE 2: Fortune Sdn. Bhd. deforestation



Source 1: “Actual” boundary maps were drawn by mapping experts at Transparent World, based on analysis of LANDSAT data.

6RXUFH 'DWD IRU k2IoFLDOy ERXQGDU\ PDSV ZDV GUDZQ XVLQJ $VLDQ 3ODQWDWLRQV /WG

ASIAN PLANTATIONS (SARAWAK) II SDN. BHD. (APS2)

(Until June, 2011: Asian Starch Sdn. Bhd.; until May, 2009: Asian Ethanol Sdn. Bhd.)

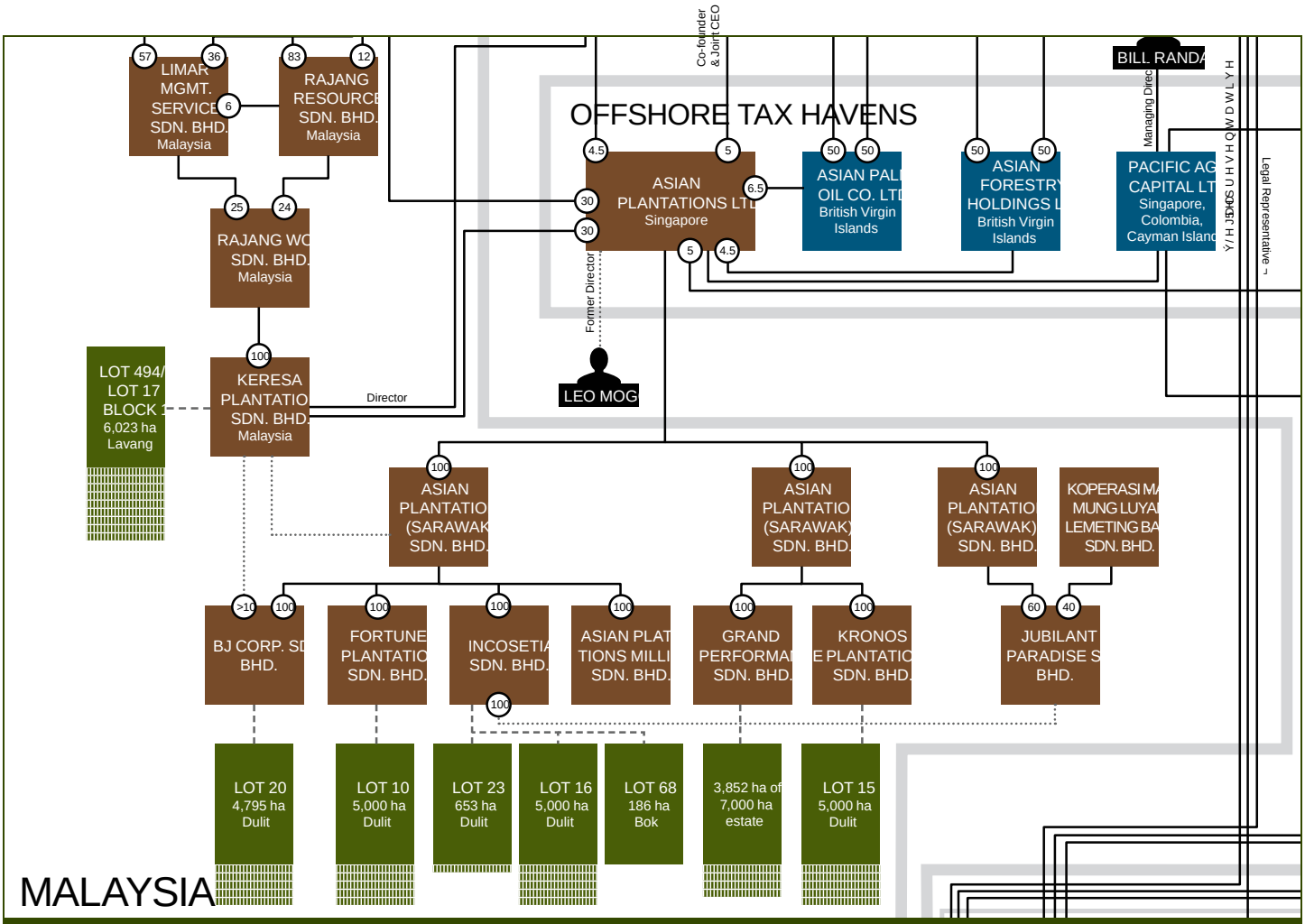


FIGURE 2: Asian Plantations (Sarawak) II Sdn. Bhd.: Asian Plantations second investment holding and oil palm development company

Dennis Melka and his fully owned investment [illegible] Asian Ethanol Sdn. Bhd. in February 2009 [illegible] investment holding and oil palm development company.[763] The company changed its name to Asian Starch Sdn. Bhd. in 2009, and later to Asian Plantations (Sarawak) II in 2011 (APS2).[764] The two issued shares in the company [illegible] 2011,[765] when the company, now called APS2, became a subsidiary of Asian Plantations Ltd.[766]

Other directors of the company, Graeme Brown and Alexis Lawrence Marcel Wan Ullok, joined in July 2010.[767]

APS2 did not state any ongoing business activities during 2009 [illegible] 2011, however, the company acquired Kronos Plantations Sdn. Bhd., a holding company which had previously been inactive.[769] Two months prior, Kronos Plantations had entered into an agreement to purchase land lease rights to another plantation lot in the Dulit Land District.[770] [illegible] 71,400,000 from Malayan Banking Berhad secured on the land lease rights held by Kronos Plantation with remaining tenure of 51 years.[771] In 2012, APS2 began to report revenue from fresh fruit bunches produced by its oil palms.[772]

Leonard Linggi became an APS2 company director in October 2012.

A second land acquisition in 2013 completed the APS2 portfolio by purchasing a company with access to 3,852 hectares in Sarawak, [illegible] 24,700,000, according to public press releases.[773] [illegible] Return for APS2 for 2013 the year GP was acquired is missing from publicly available SSM records.[774]

4.3.1 KRONOS PLANTATION SDN. BHD. AND DULIT LAND DISTRICT, LOT 15

As founders of Kronos Plantation, Alexis Lawrence Marcel Wan Ullok and Wong Choong Git each held one share.[775] By late early Februa
)HEUXDU\ :DQ 8OORN KHOG D WRWDO RI RI WKH FRPSDQ\ V VKDUH
.URQRV 3ODQWDWLRQ V DQQXDO oQDQFLDO VWDWHPHQWV IRU GHWDLO
Kronos Plantation, October 25, 2011, it also nominated Kronos to acquire on its behalf "a parcel of land situated at Batang Tinjar
DQ DUHD RI KHFWDUHV PRUH RU OHVV DQG GHVFULEHG [777] The report refers 'X
to an agreement to transfer the land dated August 25, 2011, between APS2 and the current holding company of the land, whose
mentioned.[778]

7KH DJUHHPHQW PDGH E\ $36 WR DFTXLUH WKH ODQG $XJXVW IUR
(October 25, 2011).[779] This agreement also came before Kronos Plantation, itself a holding company,[780] acquired the land. Tuin further
outlines how crucial the use of Malaysian shell companies was, as nominees to acquire land, for their parent companies. In this
3ODQWDWLRQ V LPPHGLDWH SDUHQW FRPSDQ\ ZDV $36 DQG[784] XOWLPDWHO\
%\ UHIHUHQFLQJ WKH OHDNHG GDWD IURP WKH /DQG DQG 6XUYH\ 'HSDUWPH[782]

Applicant / Owner (Name Origin)	Liaison 2 I o F H U Tel. / Fax	Land Alienated / Approved For Alienated				Premium (MYR)	Approval Headquarters (Number Date)	Document Title (Type)	Dates	Notes
HARTA MASTIRA SDN. BHD. Lot 208 Section 8, Jalan Haji Taha, 93400 Kuching.	A% 0 R K Naroden Majais 082-232208 082-234208 082-422209	Lot 15 Dulit L.D.	Oil Palm	5,000	Batang Tinjar, Baram	3,705,000	62/HQ/AL/107/99 (4D) bertarikh 23.11.2002	99	20.05.2003 (60 tahun)	

This land transaction lists the same land lot, "Lot 15 Dulit L.D.," and same area, 5,000 has, as the land described by APS2 for ac
lease term also coincides with the land acquired by APS2 – stated as 60 years upon its allocation in 2003, and at 51 years in AP
on 2012.[783]

The recipient of the land lease for a company called Harta Mastira Sdn. Bhd. was Mohd Naroden Majais, a State Assemblyman f
Sarawak,[784] $ V V L V W D Q W 0 L Q L V W H U L Q[785] and referred to by local bloggers as "King of Native Customary Rights cla
the "king of oil palm."[786] The online news blog, Sarawak Report, has uncovered corruption implicating Mohd Naroden and reported on Native
Customary Rights violations perpetrated by companies he owned.[787,788]

In the proposed acquisition announcement by Asian Plantations Ltd., the company issued the following statement:

"Through our long standing local relationships and on-the-ground presence, we were able to secure the parcel in a negotiated, non-competitive situation, which demonstrates our continued ability to source acquisition opportunities for the Company, as well as securing attractive local currency bank oQDQFLQJ ZKLFK ZH EH[H UH shareholder value…Assuming a conservative market value of approximately RM 9,000 (US$3,000) per hectare for the unplanted land in the Dulit Estate, the purchase price per planted hectare is approximately RM 31,400 (US$10,600), which the board of APL (the "Board") believes represents a substantial discount to recently transacted, planted parcels in the East Malaysian market."[789]

In 2012, the land use rights over the same area ZHUH RIoFLDOO\ DFTXLUHG E\ URRV 3ODQWDWLRQ EXW DW D VLJQLoFDQWO\ ORZHU SULFH URXJKOO SHUFHQW RI WKH LQLWLDO SULFH RI 0<5[790] This land holding in Dulit Land District, Lot 15 once acquired by APS2 (via Kronos Plantation) ZDV XVHG WR VHFXUH D ORDQ RI 0<5 in 2013.[791]

7KH SODQWDWLRQ ODQG ZDV RULJLQDOOY DFTXLUHG EY Grand Performance Sdn. Bhd. and its subsidiary PDSV IURP $VLDQ 3ODQWDWLRQV /WG literature. Much of the land was already deforested before acquisition by Kronos, but satellite images provided by Transparent World show that when the land was doled out to Mohd Naroden, thousands of hectares of natural forest still stood.[792] This forest was ZLSHG RXW‹FOHDU FXW LQ DIHZ VKRUW \HDUV following the land lease allocation. By 2014 the forest had been completely replaced by oil palm.[793]

GRAND PERFORMANCE SDN. BHD.

Grand Performance Sdn. Bhd. is the most recent acquisition by Asian Plantations Ltd. via its subsidiary, APS2. Asian Plantations Ltd. made the following statement about its acquisition of Grand Performance, which already held rights to land in Sarawak at the time the company was acquired by APS2:

"The Board believes that the Company has secured an attractive valuation of the GP Estate relative to other publicly announced land transactions in East Malaysia, at a time of increasing scarcity of agricultural land in Malaysia."[794]

APS2 acquired the land area of 3,852 hectares RI LWV VXEVLGLDU\ *UDQG 3HUIRUPDQFH IRU 0<5 25,762,750 in cash on August 19, 2013, when the plantation had not yet begun operations.[795]

Without further information from the Land and Survey Department about who acquired this land, when, and for how much, it is impossible to know whether this land was acquired by politically connected individuals for below market value, similarly to BJ Corporation, Incosetia, Fortune Plantation, or Kronos Plantation. The information available shows a pattern of forest conversion exhibited by Grand Performance at its purchased operation site.

Based on a map published by Asian Plantations /WG (,$ LGHQWLoHG SODQWDWLRQ EOHDULQJ LQ D ZKLFK $VLDQ 3ODQWDWLRQV /WG LGHQWLoHG DV *U Performance, according to satellite imagery. The actual land cleared in this area differs greatly from the map of land which Asian Plantations Ltd. said it had access to via Grand Performance. The satellite images show that clear cutting of forest continued to take place in this area until $VLDQ 3ODQWDWLRQV /WG V VDOH LQ

ASIAN PLANTATIONS (SARAWAK) III SDN. BHD. (APS3)

(Called Asian Pineapple Sdn. Bhd. until July 2011)

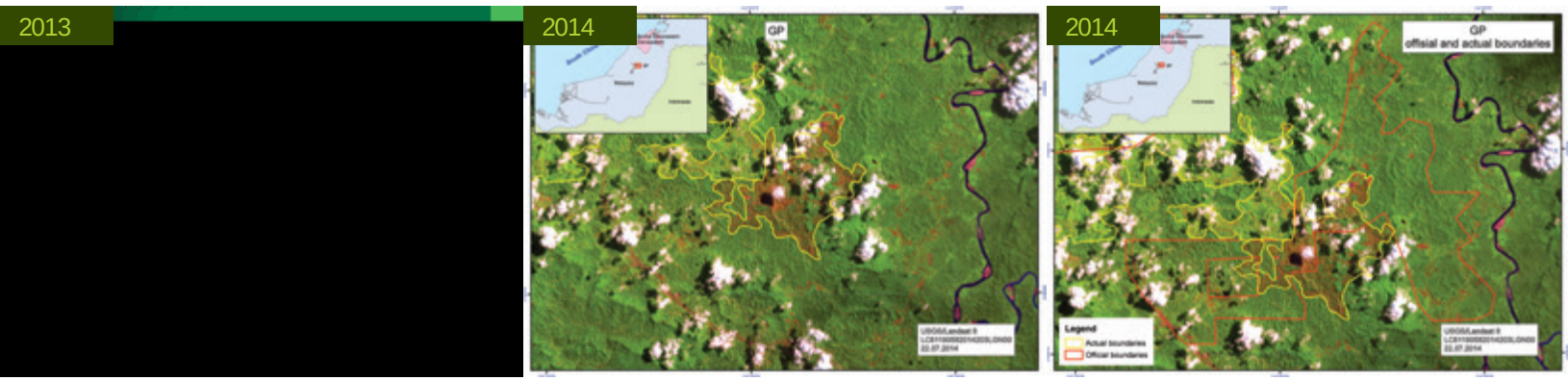
Created by Dennis Melka and Graeme Brown 2009, Asian Plantations (Sarawak) III was initially owned by a company held by directors of Asian Plantations Ltd., "Brown and Melka Sdn. Bhd." until June 2012, at which point it was acquired by Asian Plantations Ltd. directly.[796] [797]

The only company held by APS3 is Jubilant Paradise, formerly the holding company for Incosetia Plantation, which was subsequently split off and transferred to APS3. (See Section 4.2.4) This company is used as a corporate HQWLW\ IRU $VLDQ 3ODQWDWLRQV what the company refers to as its community 3ODQWLQJ SURMHFW $VLDQ report on 2012 stated that by December 31, 2012, 200 hectares of oil palm had been planted.[798]

SSM documents show that indeed, Jubilant Paradise is 60 percent owned by Asian Plantations Ltd. and 40 percent owned by an entity called "Kooperasi Majumung Luyang Lemeting Baram Bhd."[799] Documents for the "Kooperasi" entity could not be located in the Malaysian Companies Commission, and furthe UHVHDUFK LV QHHGHG RQ agreements with the communities, and whether promises have been kept.

What is clear is that the company segregated oQDQFLQJ UHYHQXHV DQG community planting project from all other oQDQFLQJ DQG UHYHQXH community ownership in a holding company ZLWK QR VLJQLoFDQW DVVH

FIGURE 2: Grand Performance plantation clearing



Source 1: "Actual" boundary maps were drawn by mapping experts at Transparent World, based on analysis of LANDSAT data.

6RXUFH 'DWD IRU k2IoFLDOy ERXQGDU\ PDSV ZDV GUDZQ XVLQJ $VLDQ 3ODQWDWLRQV /WG SX