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Norway Needs to Walk the Walk, Divest Holdings in Giant Palm Oil Groups Operating Illegally in Borneo

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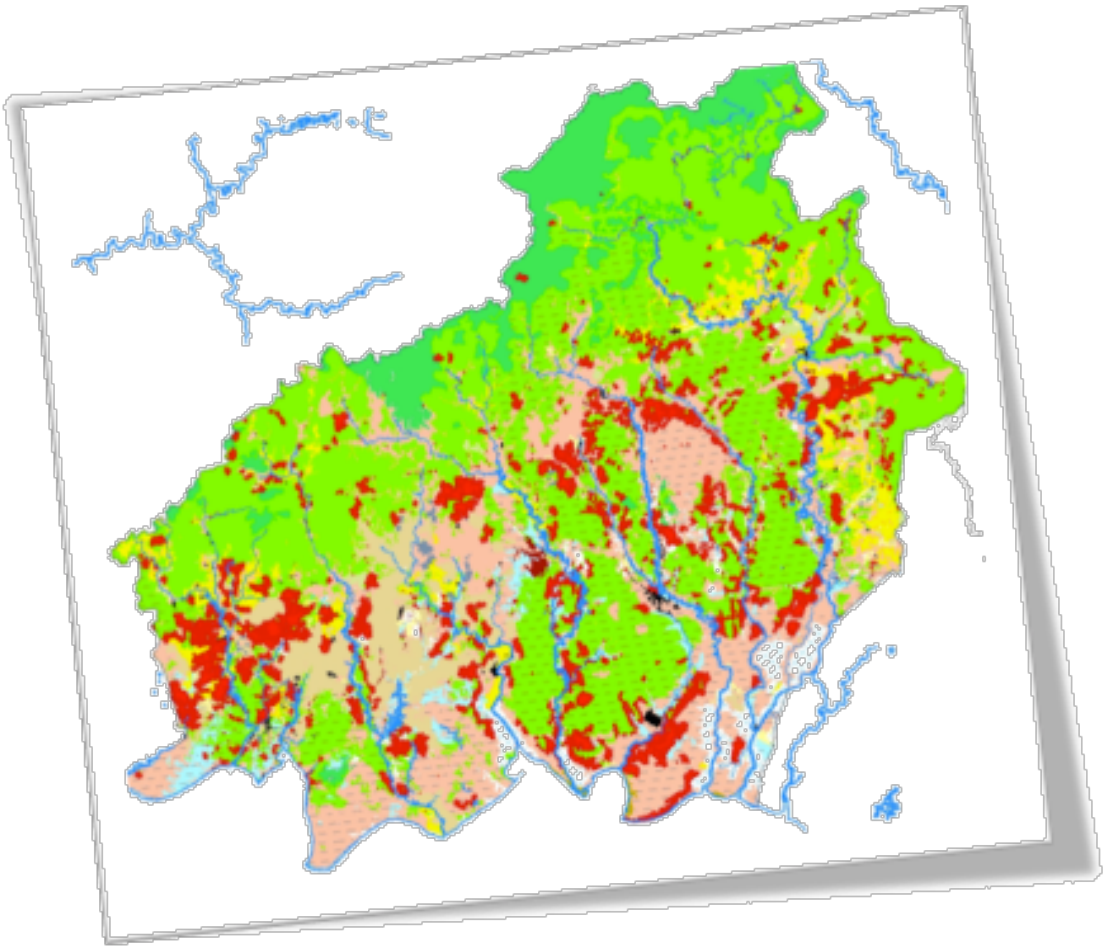
Central Kalimantan as First LoI Pilot Project Province



The Greenomics Indonesia map showing the extent of deforestation on Central Kalimantan over the 2000-2009 period shows just how much peatland forest has been lost in the province. On 26 May 2010, Indonesia and Norway signed a Letter of Intent in Oslo, Norway's capital city, with a view to "Cooperation on Reducing Greenhouse Gas Emissions from Deforestation and Forest Degradation." The agreement runs from the date of its signing until 2016.

The Indonesia-Norway Letter of Intent refers to "Selecting a province-wide REDD+ pilot." Further, the LoI states that "the province must have large intact tracts of rainforest and face planned deforestation and forest degradation projects of a scale that will have significant impact on national emissions levels if implemented."

At a cabinet meeting on 23 December 2010, Indonesian President Susilo Bambang Yudhoyono decided that Central Kalimantan would be the first pilot project province. The main reason given for this was that Central Kalimantan still possessed extensive forest and peatlands and faced a real and present threat of widespread deforestation.

No doubt, the Government of Norway well understand the problem of deforestation in Central Kalimantan province, together with the challenges involved in reducing the rate of deforestation in the province, which was presumably why they agreed to the selection of Central Kalimantan as the first pilot project province for the implementation of the Indonesia-Norway Letter of Intent.

Forest clearance for oil palm plantations strongly suggests criminal violations of forestry law

In the Indonesia-Norway Letter of Intent, it is stated that the actions to be taken include to "identify, develop and implement appropriate Indonesia-wide policy instruments and enforcement capabilities," which include enforcing "existing laws against illegal logging and trade in timber and related forest crimes and set up a special unit to tackle the problem."

On 1 February 2011, the Ministry of Forestry and the Legal Mafia Eradication Taskforce announced that only 67 out of 352 oil palm plantation companies operating in Central Kalimantan province possessed Forest Relinquishment Licenses. The said companies' operations cover at least 4.6 million hectares.

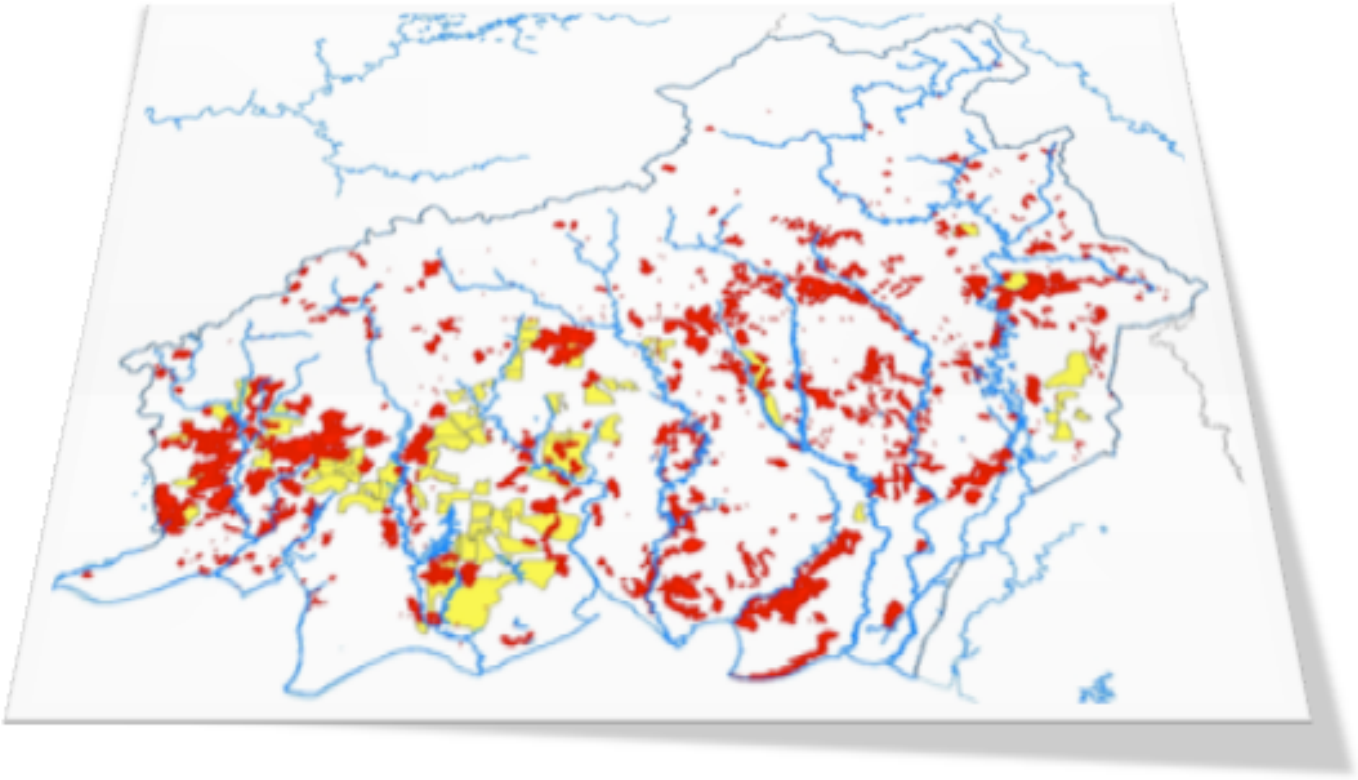
Not only that, the majority of those involved in forest clearance operations also lacked Timber Exploitation Licenses. Thus, it should come as no surprise that the Ministry of Forestry and the Taskforce estimated the resulting losses at billions of dollars.

Minister of Forestry said that his officials would not hesitate to enforce the law in the forestry sector. The Task Force also said that it wanted to see the law being upheld *(www.kompas.com)*.

The first Indonesia-Norway LoI pilot project in Central Kalimantan will obviously need to address the issue of law enforcement in respect of the exploitation of timber in violation of the law.

One would expect Norway to be well informed as to the massive extent of illegal deforestation in Central Kalimantan province, particularly that resulting from the clearing of land for the establishment of oil palm plantations without Forest Relinquishment Licenses and/or Timber Exploitation Licenses.

A look at the map will immediately make clear the extent of deforestation in Central Kalimantan between 2000 and 2009, the bulk of which was the result of forest clearance for the development of oil palm plantations without Forest Relinquishment Licenses, and in many cases without Timber Exploitation Licenses.



Claims by plantation concessionaires

The oil palm plantation concessionaires continue to argue that they are not at fault legally as the 2003 Central Kalimantan Provincial Spatial Plan allocated the land they occupy as non-forest cultivation land.

Accordingly, they argue, they did not need Forest Relinquishment Licenses. In particular, they rely on a letter sent by an official of the Ministry of Forestry (September 2000) in response to a query on this matter from an official of the Central Kalimantan Provincial Forestry Agency (July 2000).

Even if we suppose for a moment that this argument is well grounded, does that mean that the concessionaires are exempted from the need to obtain Forest Relinquishment Licenses, and thereby absolved of all wrongdoing? The answer to this question is a resounding NO.

The vast majority of the concessionaires do not have Timber Exploitation Licenses that would allow them to economically exploit the timber that resulted from their land clearing operations.

That timber belonged to the state, and its unlawful exploitation has inflicted losses upon the state, and therefore the taxpayer.

Thus, whatever way this issue is approached, the oil palm plantation concessionaires which lack Timber Exploitation Licenses and are exploiting the timber resulting from their land clearance operations are guilty of forestry offenses and are liable to pay compensation for the standing timber stocks that they felled in order to make way for their oil palm plantations.

BPK Audit

A State Audit Board (BPK) audit conducted in 2009 found that the unlicensed clearance of forest to make way for oil palm plantations in Central Kalimantan province was taking place in violation of forestry law.

Not only that, the BPK recommended that the Minister of Forestry ask the relevant regents to halt the operations of the oil palm plantation concessionaires involved so as to avoid further losses to the state and damage to the environment.

The BPK audit findings also referred to the letter of 3 July 2007 from the Central Kalimantan Governor to all regents and mayors in Central Kalimantan province, stating that companies that submitted applications for oil palm plantation licenses between 12 September 2000 and 11 September 2006 were required to obtain Forest Relinquishment Licenses.

Even if the concessionaires possessed Land Cultivation Rights Title (HGU) but did not have Forest Relinquishment Licenses, then the BPK concluded that their operations would still be unlawful.

Consequently, the BPK audit stressed that oil palm plantation concessions located in forest areas that were not accompanied by Forest Relinquishment Licenses were unlawful under the forestry legislation.

Licensing Compliance by Five Giant Palm Oil Groups Operating in Central Kalimantan

Verification by Greenomics Indonesia based on data produced by the Ministry of Forestry (per December 2010) found that a number of giant palm oil groups lack Forest Relinquishment Licenses and/or Timber Exploitation Licenses.

These groups include Golden-Agri Resources Ltd. (GAR/Sinar Mas Group), Wilmar International, IOI, Sime Darby, and Astra Agro Lestari *(See also the Aidenvironment report (2009) titled "Verification of the Greenpeace Report "Burning Up Borneo")*

The verification conducted by Greenomics showed that 9 out of 10 companies owned by GAR did not appear on the list of palm-plantation companies possessing Forest Relinquishment Licenses, thus giving rise to strong suspicions that they also lacked Timber Exploitation Licenses for the land clearance work they had undertaken.

Of 7 active companies owned by the Wilmar Group, the names of 5 of them were also not to be found on the list, once again giving rise to strong suspicions that they lacked Timber Exploitation Licenses. There are also reasons for suspecting that even the other two Wilmar companies that do have Forest Relinquishment Licenses do not possess Timber Exploitation Licenses.

In addition, four palm-plantation companies owned by the IOI group were not on the list, once again giving rise to doubts about whether they have Timber Exploitation Licenses for the land clearing operations that have undertaken. Not only that, three other companies belonging to the group and operating in Central Kalimantan also lacked Timber Exploitation Licenses.

Three plantation companies belonging to the Sime Darby Group that have operations in Central Kalimantan also lack Timber Exploitation Licenses, even though the names of all three appear on the list of plantation firms that have Forest Relinquishment Licenses.

Finally, the names of three companies belonging to the Astra Agro Lestari Group are also absent from the list of Forest Relinquishment License holders. We can rest assured that they also lack Timber Exploitation Licenses.

The Greenomics Indonesia investigations also show that 3 out of 4 of the palm oil companies belonging to the Musim Mas Group are not to be found on the list of Timber Exploitation License holders. Accordingly, it is reasonable to assume that they lack Timber Exploitation Licenses. We have not discussed the Musim Mas Group in this report as it is not directly related to the purposes of the report.

Minister of Forestry Decree No.146/Kpts-II/2003 states that the clearing of forest without a Forest Relinquishment License and/or Timber Exploitation License constitutes forestry crimes.

US$183 million: The value of the Norwegian State's investment in the Five Giant Palm Oil Groups Operating in Central Kalimantan Without the Necessary Licenses

The Government Pension Fund-Global (GPFG) is an investment fund financed by Norway's oil and gas revenues. The fund was previously known as The Petroleum Fund of Norway, and adopted its present name in 2006. Although it is styled a pension fund, in reality it is not actually a pension fund as it funded by oil and gas revenues, rather than pension contributions. As per 19 October 2010, the total value of the fund stood at NOK 3 trillion (US$512 billion). The Fund primarily invests in the capital markets so as to anticipate eventual declines in the contribution of oil and gas to the Norwegian economy over the next few decades. The Government Pension Fund Global is managed by Norges Bank Investment Management (NBIM), part of the Norwegian Central Bank, on behalf of the Norwegian Ministry of Finance. The NBIM predicts that by the end of 2014 the fund will be worth US$765 billion (*http://en.wikipedia.org*).

On 27 August 2010, the Environmental Investigation Agency (EIA), a UK and US-based NGO focused on exposing environmental crimes and abuses and which has been investigating illegal logging and deforestation for more than a decade, revealed that the Norwegian Government Pension Fund-Global owns shares in Golden Agri-Resources Group (GAR) – the palm oil arm of the Sinar Mas Group – worth US$17.8 million.

After reviewing the Norway's Pension Fund Holdings *(www.nbim.no)*, Greenomics Indonesia further reveal that the GPFG owns shares in:

- Wilmar International Group, a Singapore-based business group, the value of which shares stood at US$62.51 million as per the end of December 2009.
- The IOI Group, a Malaysia-based business group, the value of which shares stood at US$40.55 million as per the end of December 2009.
- The Sime Darby Group, another Malaysia-based business group, the value of which shares stood at US$56.93 million as per the end of December 2009.
- The Astra Agro Lestari Group, the value of which shares stood at US$5.17 million as per the end of December 2009.

It needs to be stressed again at this juncture that GAR, Wilmar International, IOI, Sime Darby, and Astra Agro Lestari are the parent companies of a large number of plantation firms that are operating in Central Kalimantan without Forest Relinquishment Licenses and/or Timber Exploitation Licenses.

The Government of Norway should take the time to study Indonesian forestry legislation and regulations, which would make it immediately clear that the operation of plantation companies in forest areas without Forest Relinquishment Licenses and Timber Exploitation Licenses constitutes a serious criminal violation of Indonesian forestry law.

Questioning Norway's Commitment

The Government of Norway should review the contents of the Indonesia-Norway Letter of Intent, particularly as regards the commitment of the Indonesian government to enforcing existing laws against illegal logging and trade in timber and related forest crimes.

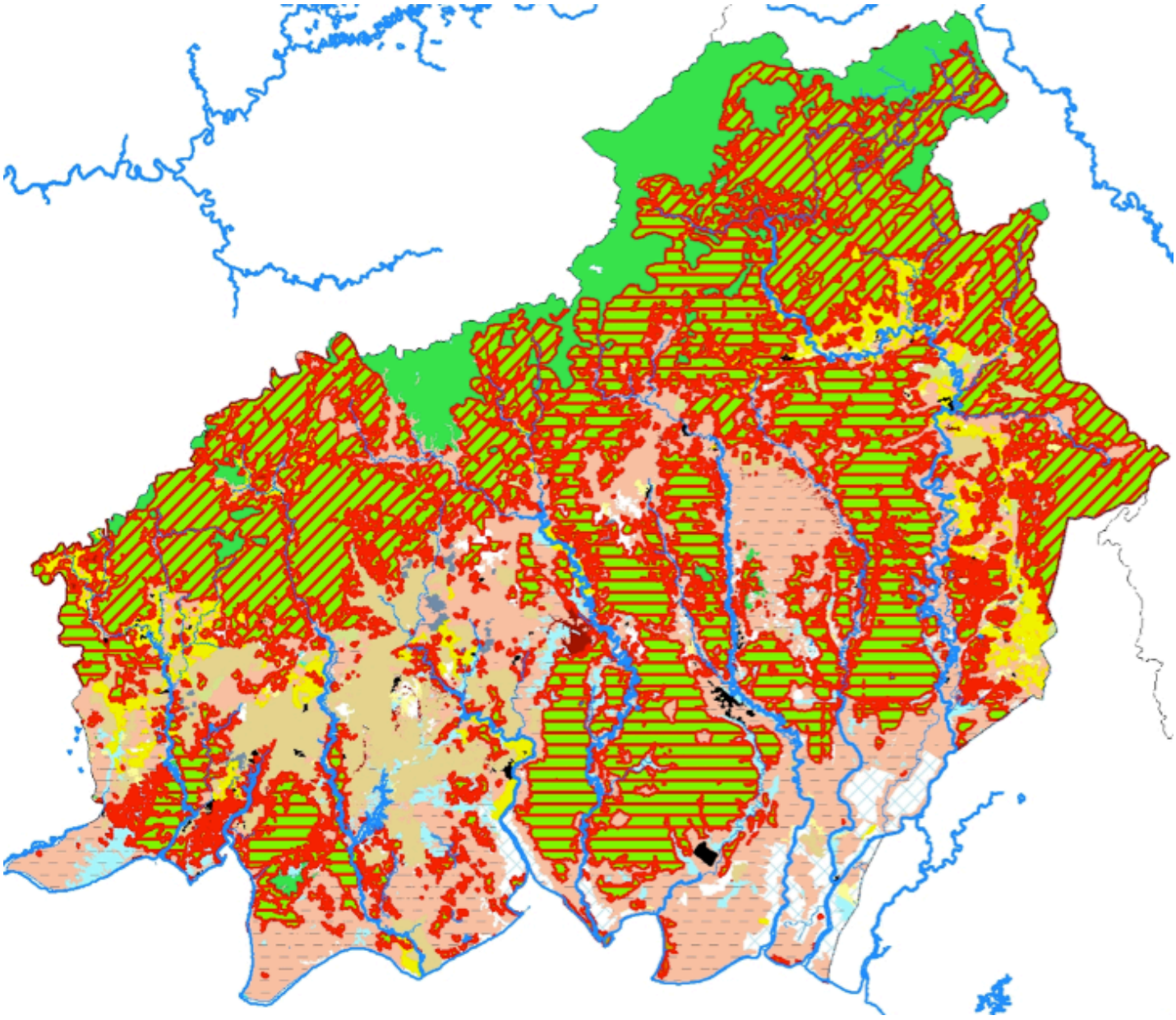
The ownership of shares by the Norwegian State in five giant palm oil groups that have 24 subsidiaries operating without the necessary licenses and in violation of the law in Central Kalimantan province will obviously give rise to questions in the minds of the public. It should be remembered that the violations we are talking about here are criminal violations of Indonesian forestry law.

To strengthen the resolve of the Indonesian government in enforcing the law, and to eliminate suspicions in the minds of the public and any possible conflicts of interest involving Norway, the Government of Norway should ensure that its state pension fund (Government Pension Fund-Global/GPFG) immediately divests its holdings (worth US$183 million) in the five business groups involved.

If the Government of Norway fails to do so, then it could stand accused of undermining both the Letter of Intent and the first pilot project in Central Kalimantan province.

For further information please contact:

Elfian Effendi
Executive Director of Greenomics Indonesia
elfian@greenomics.org



Greenomics Indonesia (2011) conducted a study to estimate the potential for the expansion of deforestation in Central Kalimantan province. As shown on the map, there is enormous potential for the expansion of deforestation in secondary natural forest located on peatland. The threat posed by conversion to oil palm plantations is particularly serious.