

FAILURES IN WILMAR'S PROMISE TO CLEAN UP THE PALM OIL BUSINESS

FULL REPORT | December 2015



UP IN SMOKE

Friends of the Earth Europe
Report 2015

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Friends of the Earth Europe is the largest grassroots environmental network in Europe, uniting more than 30 national organisations with thousands of local groups.

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We campaign on today's most urgent environmental and social issues. We challenge the current model of economic and corporate globalization, and promote solutions that will help to create environmentally sustainable and socially just societies. We promote environmentally sustainable societies on the local, national, regional and global levels. We seek to increase public participation and democratic decision-making. Greater democracy is both an end in itself and is vital to the protection of the environment and the sound management of natural resources. We work towards environmental, social, economic and political justice and equal access to resources and opportunities on the local, national, regional and international levels.



Research: Walhi (Friends of the Earth Indonesia), Milieudefensie (Friends of the Earth Netherlands) and Friends of the Earth United States. For this research GPS, NASA data as well as concession maps have been used. Several field visits have been conducted in September and October 2015. Friends of the Earth ('Et al') ensured that a due hearing procedure with the primary affected parties (the palm oil companies and its most important European and US financiers) was followed to verify the research' findings. Friends of the Earth ('Et al') have subsequently decided how to process the respondents' comments. Friends of the Earth ('Et al') takes full responsibility for the text presented here.

Pictures: Victor Barro (FoE) and Anouk van Baalen (Milieudefensie-Friends of the Earth Netherlands).

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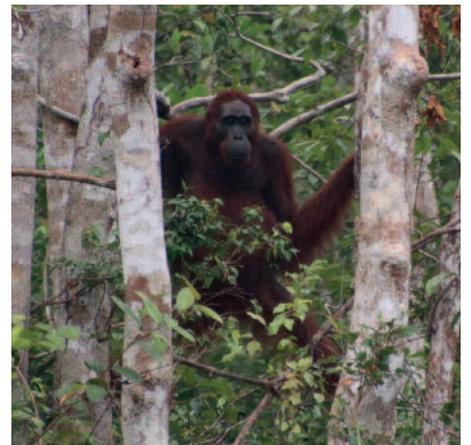




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Above: Orangutan sighted
in ASMR plantation,
Central Kalimantan,
September 2015.
© Anouk van Baalen/FoE

Left: ASMR concession,
Central Kalimantan,
September 2015.
© Victor Barro/FoE

EXECUTIVE SUMMARY

In August and September 2015, as in the dry seasons of previous years, fires started to smolder and roar in the forests and peatlands of Sumatra and Kalimantan, Indonesia. The fires of 2015 caused enormous health and environmental problems for hundreds of thousands of people in Indonesia and neighboring countries. In peat land areas the fires can burn for months, releasing carbon dioxide, methane and nitrous oxide. The impact of peat fires can be more than 200 times worse for the climate than fires on other land.¹ Bloomberg calculated that on 14 October, 2015, emissions from the fires alone soared to 61 megatons, almost 97 percent of Indonesia's total emissions.²

At the time of this writing, as the monsoon rains bring relief to Indonesia, and as the world gathers for UNCOP 21 in Paris to address the global climate crisis, the question that rises from the ashes is: who is responsible for these fires? And how can we prevent this from happening next year and in the years beyond?

In 2011, the Indonesian government instituted a moratorium on plantation development on peat deeper than three meters; in 2013, the moratorium was extended for another two years. Yet due to frequent revisions of the moratorium area, palm oil companies have been consistently allowed to develop plantations on fragile peatlands formerly designated as peat moratorium areas.

Friends of the Earth has conducted research into five palm oil plantations in Central Kalimantan that belong to the palm oil companies Wilmar International (WIL: Singapore) and Bumitama Agri Ltd. (BAL: Singapore). Despite the fact that both palm oil companies have adopted high-profile policies prohibiting burning, deforestation, and exploitation of peatlands, we have found that both companies appear to have flouted national laws, their own sustainability policies and the widely celebrated New York Declaration on Forests by developing palm oil on peatlands, causing or allowing the destruction of High Carbon Stock areas, and taking insufficient measures to prevent forest fires in their plantations.

Of course, these palm oil companies do not operate in isolation. While the Indonesian government has made strong declarations and issued presidential decrees to prevent future forest fires and promote restoration of affected areas, government bodies have repeatedly issued plantation permits overlapping the peat moratorium area, enabling peatland drainage, development, and ultimately, destruction by fire.

Given the complexity of the landscapes, land uses, and concession boundaries and the role of smallholder farmers within and nearby company concessions, it is consistently challenging to prove who started the fires; however, according to the forest law no. 41/1999 article 49,³ companies are legally responsible for fires within their concessions. The allegations contained in this report, therefore, are based not on proving, or needing to prove, who exactly started the fires, but on recognizing that accountability and legal liability rest ultimately with the concession owners. Company claims that external sources are responsible for fires in their concessions lack credibility if no proof for those claims is provided. Neither Wilmar nor Bumitama have provided such evidence.

Financiers in the UK, Netherlands, France, the United States, and other countries are providing direct financing to these companies – many of them doing so despite having publicly committed to Environmental, Social and Governance (ESG) criteria that should prevent their financing such destructive activities. Of eleven financiers in the EU and fourteen in the US to whom Friends of the Earth has sent this report for comments, seven have responded by the time of publication. The answers we received range from advice that FoE file a complaint with Wilmar itself or with the Roundtable on Sustainable Palm Oil (RSPO) – notably, a multi-stakeholder body without a legal mandate and with a notorious lag-time in addressing complaints⁴ – to a lengthy response arguing that Wilmar is in fact operating sustainably.

That is to say that, despite detailed, independent, satellite-based and ground-checked evidence⁵ on specific cases, even financiers that have committed to upholding environmental standards do not seem alarmed by the lack of implementation of their own and their investee companies' policies during what many commentators are calling the largest environmental crisis of the 21st century.⁶ Such a lax attitude bodes extremely ill for the efficacy of voluntary corporate commitments to social and environmental responsibility.

We call on financiers linked to Wilmar and Bumitama, as well as to other companies in the palm oil sector found in breach of environmental commitments, to withdraw their financial services from these companies to make clear that there will be zero tolerance for breaches of the companies' and their financiers' environmental and social commitments. The Indonesian government must review all permits given to palm oil developers, and must take appropriate sanctions against companies and plantations with fires. They must also ensure the responsibility of companies for the rehabilitation of forests and peatlands burned within their concessions, and demand that these companies take responsibility for damages to the people and lands impacted by the fires and haze in the burned areas.

FOOTNOTES:

- <http://www.wri.org/blog/2015/10/indonesia-s-fire-outbreaks-producing-more-daily-emissions-entire-us-economy>
- www.bloomberg.com/news/articles/2015-10-28/how-indonesia-s-fires-made-it-the-biggest-climate-polluter
- Indonesian forest law (NUMBER 41 YEAR 1999) Article 49: "Holders of rights or licenses shall be responsible for forest fires occurring in their working area." (unofficial English translation)
- Environmental Investigation Agency and Grassroots. Who Watches the Watchmen: Auditors and the breakdown of oversight in the RSPO. November 2015. <https://eia-international.org/wp-content/uploads/EIA-Who-Watches-the-Watchmen-FINAL.pdf>
- GPS survey points (using professional GARMIN), KMZ files of moratorium, national park and concession boundaries, provided by WALHI. Fire hotspots were acquired from the NASA Fire Information for Resource Management System. Base map imagery was provided by ESRI.
- Among other sources see <http://jakartaglobe.beritasatu.com/opinion/erik-meijaard-indonesias-fire-crisis-biggest-environmental-crime-21st-century/>; www.democracynow.org/2015/10/27/massive_indonesian_plantation_fires_create_environmental_warships-put-standby; <http://www.enca.com/world/indonesia-forest-fires-warships-put-standby>



01

INTRODUCTION



BGA concession, Central Kalimantan, September 2015.
© Victor Barro/FoE

In the autumn of 2015, billions of tonnes of greenhouse gas emissions (CO₂ equivalent) were released into the atmosphere from forest and peat fires in Indonesia.⁷

As this report shows, some of these fires can be traced to companies that supply or are owned by Wilmar International, a company that spurred a dramatic wave of sustainability pledges in the palm oil sector in December 2013 when it adopted a commitment to “No Deforestation, No Peat, No Exploitation.”⁸ Two of the plantations examined in this report are owned by Bumitama Agri Ltd., a major supplier to Wilmar International, which launched its own sustainability policy in August 2015, including commitments to no deforestation and no development on peat over 50 centimeters in depth.⁹

Wilmar and Bumitama are of course far from being the only actors responsible for the fires. But this report endeavours to illustrate, using a set of case studies of plantations owned by Wilmar and Bumitama, some of the conditions that allow for these fires to burn out of control, even after the actors responsible have pledged to change their destructive practices.

Clearly these corporate social responsibility pledges are insufficient to address the problem. At the end of October 2015, more than 100,000 fires were burning across Indonesia, covering the region in a thick layer of smog and affecting the health of some 44 million people. The fires are mainly concentrated on peatlands in Sumatra and Kalimantan.¹⁰ Most of the fires are set deliberately to clear land for timber, pulp, and palm oil plantations,¹¹ because burning is the cheapest way to clear the land. In peat land areas (including large areas of Sumatra and Kalimantan), fires can burn for months, releasing tonnes of carbon dioxide, methane and nitrous oxide. The impact of peat fires can be more than 200 times worse for the climate than fires on other land.¹² Bloomberg calculated that on 14 October, 2015, emissions from the fires alone soared to 61 megatons, almost 97 percent of the country's total emissions.¹³

FOOTNOTES:

- 7 www.globalfiredata.org/updates.html
- 8 www.wilmar-international.com/wp-content/uploads/2012/11/No-Deforestation-No-Peat-No-Exploitation-Policy.pdf
- 9 http://files.shareholder.com/downloads/AMDA-WWON6/2944084857x0x84602_0/77847980-62D3-4B91-BAE4-E49BCE53FFB0/Bumitama_-_Sustainability_Policy.pdf
- 10 www.wri.org/blog/2015/10/indonesia%E2%80%99s-fire-outbreaks-producing-more-daily-emissions-entire-us-economy
- 11 <http://blog.cifor.org/23000/forests-news-update-qa-on-fires-and-haze-in-southeast-asia?fnl=en>
- 12 www.wri.org/blog/2015/10/indonesia%E2%80%99s-fire-outbreaks-producing-more-daily-emissions-entire-us-economy
- 13 www.bloomberg.com/news/articles/2015-10-28/how-indonesia-s-fires-made-it-the-biggest-climate-polluter

INTRODUCTION

CONTINUED

The causes of the fires are multiple and complex, and involve many companies; the causes can be traced as well to government inaction, global industrial demand for palm oil, and easy financing from Europe, the United States, and Asia. Clearing forests to grow agricultural commodities such as palm oil accounts for roughly half of global deforestation and the related carbon emissions.¹⁴

Recently, a lot is happening in this field: increased awareness of the global climate impacts of the palm oil sector has led to an apparent wave of reform. In 2014, national governments, sub-national governments and companies banded together at the UN Secretary General's Climate Summit in New York to endorse the New York Declaration on Forests -- a pledge to halve the rate of loss of natural forests globally by 2020 and to help meet the private-sector goal of eliminating deforestation from the production of agricultural commodities, including palm oil, by no later than 2030. The non-binding pledge also included a commitment to agreeing a post-2020 global climate agreement – the deal that is on the table at UNCOP21 Paris at the time of this writing.

Among the high profile corporate signatories of the New York Declaration were some of the biggest global palm oil traders, including Wilmar International. The declaration was also signed by the Indonesian national government and the provincial governments of Central Kalimantan and West Kalimantan.

Wilmar – which has faced serious criticism for its activities for many years – has committed to ending deforestation, peat land development and the exploitation of communities by its own operations and those of its suppliers, by the end of 2015.¹⁵ Its zero deforestation policy was seen as a substantive part of the “supply chain revolution” in the New York Declaration's Action Agenda.¹⁶

This report looks at the evidence of Wilmar's and Bumitama's activities around fire hot spots in Central Kalimantan, and, in light of the fires, examines the effectiveness of the voluntary commitments these companies have made. Both Wilmar and Bumitama have been invited to comment on a draft version of this report. Their response has been incorporated in the report where relevant, and in summary.¹⁷

Given the major climate impacts of the destruction of forested peat land ecosystems, the report looks specifically at the relation of these companies' concessions to protected areas established under Indonesia's peat moratorium. The moratorium, established by presidential decree in 2011 and extended in 2013,¹⁸ requires that no new cultivation permits be issued within the moratorium area. However, the national map designating the moratorium area is revised every six months, causing the peat moratorium area to fluctuate widely, with the overall trend showing a significant decrease in the area covered under each revision.

In the province of Central Kalimantan, the area covered by the moratorium was reduced from 4,531,349 in 2011 to 3,669,893 hectares today – a loss of 861,457 hectares, or 19 percent.¹⁹ This has created a situation where current company concessions stand on land that was previously protected: fully one-fifth of the land initially protected under the peat moratorium in 2011 is fair game for legal development in 2015 – despite retaining the same ecological value. This trend demonstrates a clear lack of political will on the part of Indonesian government authorities to maintain strict enforcement of its own climate and land use policies – a situation that works to the advantage of the palm oil companies, regardless of their stated sustainability commitments.



© Victor Barro/FoE

FOOTNOTES:

- 14 <http://www.un.org/climatechange/summit/wp-content/uploads/sites/2/2014/07/New-York-Declaration-on-Forest-%E2%80%93-Action-Statement-and-Action-Plan.pdf>
- 15 www.wilmar-international.com/wp-content/uploads/2012/11/No-Deforestation-No-Peat-No-Exploitation-Policy.pdf
- 16 <http://www.un.org/climatechange/summit/wp-content/uploads/sites/2/2014/07/New-York-Declaration-on-Forest-%E2%80%93-Action-Statement-and-Action-Plan.pdf>
- 17 Communication between Friends of the Earth and Bumitama and Friends of the Earth and Wilmar.

- 18 Presidential Instruction no. 10/2011 Regarding Suspension of Granting of New Licenses and Improvement of Governance of Natural Primary Forest and Peat Land <http://forestclimatecenter.org/files/2011%20Presidential%20Instruction%20No%2010%20Year%202011%20Regarding%20Suspension%20of%20Granting%20of%20New%20Licenses%20and%20Improvement%20of%20Governance%20of%20Natural%20Primary%20Forest%20and%20Peat%20Land.pdf>, visited on 16 November 2015. And Presidential Instruction No.6/2013 on the moratorium on the issuance of new conversion permits for primary forest and peatlands <http://unorcid.org/index.php/about-redd/redd-in-the-news/sustainable-development/125-president-susilo-bambang-yudhoyono-extends-moratorium-on-new-permits-issued-for-forest-usage-through-presidential-instruction-no-6-2013>, visited on 16 November 2015.
- 19 Teaby, Urness, 2015. Boundary Extent Change, Peat Moratorium Encroachment and Fire Location Analysis of Palm Oil Concessions in Central Kalimantan Province, Indonesia <https://milieudefensie.nl/publicaties/rapporten/peat-moratorium-encroachment-and-fire-location-analysis-central-kalimantan>



SIGNING UP TO HALT DEFORESTATION

02



Excavator in BGA concession, Central Kalimantan, September 2015.
© Victor Barro/FoE

Over the past several years, thanks to civil society pressure, companies in the palm oil sector have made a lot of promises to break the link between their production of palm oil and the deforestation on which this commodity historically depends. Among the earliest and most publicized commitments was that of Wilmar International, one of the world's largest palm oil traders, responsible for some 45% of the global palm oil trade. Wilmar announced its "No deforestation, no peat, no exploitation" policy in December 2013 following extensive criticism of the company's environmental and human rights track record, including land disputes,²⁰ forest clearance and burning on peat soils.²¹ Wilmar employed non-profit consultancy The Forest Trust (TFT) to assist it in implementing the policy throughout its supply chain by the end of 2015. The company's policy implementation includes the establishment of an online global dashboard to increase transparency, and a company-level grievance mechanism to address complaints.

The "supply chain revolution" initiated by Wilmar's commitment reached a crescendo in September, 2014 with the New York Declaration on Forests, which was endorsed by 36 national governments (including

Indonesia) and a host of sub-national governments (including the Indonesian provinces of Central and West Kalimantan).

The Declaration has now been signed by more than 50 of the world's biggest companies, including Wilmar.²² Companies endorsing the New York Declaration commit to an associated voluntary "action agenda" which encourages them to:

- Commit to eliminate deforestation from supply chains, including third party suppliers, as soon as possible, and collectively by no later than 2020;
- adopt the highest possible standards for forest conservation particularly as they relate to protection of high carbon stock landscapes, no expansion onto peatlands and the protection of human rights and land rights;
- support and promote sound forest governance and strong forest policies, including economic incentives for action.

While bold on their face, the pledges made by commodity traders and producers in the New York Declaration were not new - the declaration highlights the voluntary zero deforestation commitments made by Wilmar International and other palm oil companies, and brings together existing commitments made by these companies and the industry associations that represent them.

FOOTNOTES:

20 Forest Peoples Program, Tuk, Sawit Watch. Conflict or Consent? The Palm Oil Sector at a Crossroads.2013 <http://www.forestpeoples.org/sites/fpp/files/publication/2013/11/conflict-or-consentenglishlowres.pdf>

21 http://awsassets.panda.org/downloads/wwf_indonesia_palmimg_off_a_national_park_tesso_nilo_sumatra_2013.pdf

22 UN Climate Summit New York Declaration on Forests. www.un.org/climatechange/summit/wp-content/uploads/sites/2/2014/07/New-York-Declaration-on-Forest-%E2%80%93-Action-Statement-and-Action-Plan.pdf

BURN, DEGRADE, DEVELOP, LEGALIZE: PEAT & FOREST FIRES IN THE OPERATIONS OF WILMAR & BUMITAMA IN CENTRAL KALIMANTAN

03



ASMR concession, Central Kalimantan, September 2015.
© Victor Barro/FoE

It is widely recognized that the use of fire is a common, low-cost method for preparing land for monoculture plantations in Indonesia. But increased regulation accompanied by corporate sustainability pledges, the availability of remote sensing data, and scrutiny from environmental organizations have raised the stakes on burning.

Still, the burning has continued. Anecdotal reports as well as mapping analysis suggest at least two ways in which fires continue to be used to clear land that is subsequently used to develop oil palm plantations:

- One strategy, which we might term a political strategy, is the stepwise removal of land protected by the government peat moratorium and the haphazard or intentional degradation of this land, allowing the oil palm companies to then develop these areas.
- Another strategy involves a cultivation method in which oil palm trees are planted in unburned peat soils, and then freshly planted areas are burned. While this strategy would appear counterintuitive, oil palm trees between 2 and 5 years old are not harmed by burning; to the contrary, burning the trees has been shown to result in increased yield and therefore a higher rate of return.²³

FoE investigated palm oil plantations of two palm oil companies: Wilmar International (WIL:Singapore) and Bumitama Agri Ltd. (BAL:Singapore, mother company of BGA).²⁴ For Wilmar we researched

three plantations, and two plantations that belong to BGA. BGA is a major supplier of crude palm oil to Wilmar International.²⁵

All of the cases show burning within concession boundaries. It is difficult to assign direct culpability for the fires within the different plantations investigated for this report; but regardless of what individual or entity may have set the fires, the company is responsible for preventing and controlling them – and the company may profit from the land clearing occasioned by the fires.

However, in their responses to Friends of the Earth, both companies blame other parties, such as local communities, or climatic factors such as winds that carry fires into concession areas. However, neither company provided evidence to support these statements, and Indonesian forest law places responsibility for fires with the company that owns the concession.²⁶

FOOTNOTES:

- 23 Bakoumé et al., 2010, Effects of Fires in Juvenile Oil Palm Fields on Yield and Oil Palm Breeding, Journal of Agricultural Science While the study concluded that fire needs to be prevented among oil palms of all ages it also shows there is a financial incentive to burn palms between 2 and 5 years old. These palms do not yet carry fruits and are fire resistant and will respond to the fire by growing more fruits when mature: "From two years after the fires onwards, burnt oil palms reacted by producing a high number of bunches, which compensated for the small average bunch weight. Fire damage to juvenile oil palms disrupted the selection of precocious progenies that helps procure for the plantations an early financial return on their investment." https://agritrop.cirad.fr/561051/1/document_561051.pdf
- 24 www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=34677008
- 25 Bumitama Sustainability Report 2014 http://files.shareholder.com/downloads/AMDA-WWON6/1041070984x0x846019/1958E25E-1E74-4B62-A5A6-7D735C476C3C/Bumitama_-_Sustainability_Report_2014.pdf
- 26 Indonesian forest law (NUMBER 41 YEAR 1999) Article 49: "Holders of rights or licenses shall be responsible for forest fires occurring in their working area." (unofficial English translation).



MORATORIUM ON PRIMARY FOREST & PEAT LAND DEVELOPMENT

Following UN COP 15 in Copenhagen in 2009, Indonesia and Norway agreed to protect forests on peat land in order to make drastic reductions in greenhouse gas emissions. The agreement was put into operation in May, 2011 when the Indonesian government, under a presidential decree, instituted a two-year moratorium on primary forest and peat land development on peat deeper than three meters. In 2013, the moratorium was extended for another two years.²⁷ The moratorium requires that no new cultivation permits be issued within the moratorium area, but does allow companies to develop plantations within the peat moratorium area if they hold a location permit that was issued before the moratorium area was defined in 2011.

However, the national map designating the moratorium area is revised every six months, with little or no apparent regard for ecological considerations. These changes have in some cases allowed companies to develop plantations on fragile peat lands formerly designated as peat moratorium areas. Research by Friends of the Earth reveals how the area of the peat moratorium has fluctuated widely, with the overall trend showing a significant decrease in the area covered under each revision. Within the province of Central Kalimantan, the areal extent of the peat moratorium was reduced from 4,531,349 to 3,669,893 hectares, a loss of 861,457 hectares or 19 percent in the area protected by the initial National Peat Moratorium.²⁸ That is to say, fully one-fifth of the moratorium area lost legal protection in the space of a few years following the initial decree.

At the height of the fire crisis in 2015, President Joko (Jokowi) Widodo issued a clear demand that companies stop new forest concessions on peat, and has forbidden companies from planting on burned land or clearing peat-forests even inside already awarded concessions.²⁹ Furthermore, a presidential letter and related instructions mandate that peat drainage canals should be blocked, and other measures should be adopted to keep the water level within vulnerable peatland areas at 40cm.³⁰

Beyond whatever protections that the government peat moratorium and recent presidential mandates provide, voluntary "No Deforestation, No Peat, No Exploitation" commitments made by both Wilmar International and Bumitama Agri stipulate that their own plantations and those of their suppliers will not burn, drain, or develop palm oil plantations on peat land of any depth.

The problems with regard to development on peat fall into two categories:

- 1 Legal violations:** The government issues the company a location permit overlapping peatlands within the moratorium area, in a government breach of its own policy. Often the issuance of the location permit is followed by a revision of the moratorium area to remove overlaps with company concessions, thereby legalizing formerly prohibited development on peat. Effectively such actions constitute a violation of the spirit of the moratorium, generally enabled by the regional government. This is the case in the ASMR concession (subsidiary Bumitama), described below.
- 2 Violations of company commitments:** The company develops palm oil on peatland (regardless of depth), violating the company's own policy. For this report, we used Indonesian government moratorium maps to determine the location of peatlands within and adjacent to concession areas. These maps only cover deep peat (>3 meters depth), while Wilmar's policy prohibits development on peat of any depth, which covers a larger area than the moratorium-defined peatlands. Both Bumitama and Wilmar have maintained that the plantations examined in this report are not on peatlands. However, at the time when the moratorium was established (2011) there was clear overlap of the peat moratorium areas with Bumitama's plantations ASMR (figure 7) and BGA (figure 12), and with Wilmar's plantations RHS (figure 2) and STP (figure 3).



Burning palms and peat in BGA plantation, September 15, 2015.
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FOOTNOTES:

- 27 Presidential Instruction no. 10/2011 Regarding Suspension of Granting of New Licenses and Improvement of Governance of Natural Primary Forest and Peat Land <http://forestclimatecenter.org/files/2011%20Presidential%20Instruction%20No%2010%20Year%202011%20Regarding%20Suspension%20of%20Granting%20of%20New%20Licenses%20and%20Improvement%20of%20Governance%20of%20Natural%20Primary%20Forest%20and%20Peat%20Land.pdf>, visited on 16 November 2015. And Presidential Instruction No.6/2013 on the moratorium on the issuance of new conversion permits for primary forest and peatlands <http://unorcid.org/index.php/about-redd/redd-in-the-news/sustainable-development/125-president-susilo-bambang-yudhoyono-extends-moratorium-on-new-permits-issued-for-forest-usage-through-presidential-instruction-no-6-2013>, visited on 16 November 2015.
- 28 Teaby, Urness, 2015. Boundary Extent Change, Peat Moratorium Encroachment and Fire Location Analysis of Palm Oil Concessions in Central Kalimantan Province, Indonesia <https://milieudefensie.nl/publicaties/rapporten/peat-moratorium-encroachment-and-fire-location-analysis-central-kalimantan>
- 29 <http://news.mongabay.com/2015/10/jokowi-readies-haze-response-faces-tough-questions-on-us-visit/>
- 30 Presidential Instruction on peat land management number S. 661/Menlhk-Setjen/Rokum/2015 dated 5 November 2015. Available on request. The Ministry of Environment and Forestry issued a new letter (S.494/MENLHK-PHPL/2015) and instructions (S.661/Menlhk-Sekjen/Rokum/2015) that stop new forest concessions on peat, and forbid to plant on burned land and to clear peat-forests even inside already awarded concessions. Furthermore, the letter and related instructions gives mandate to block canals or adopt other measures to keep the water level at 40cm (according to the Regulation No. 71/2014)."

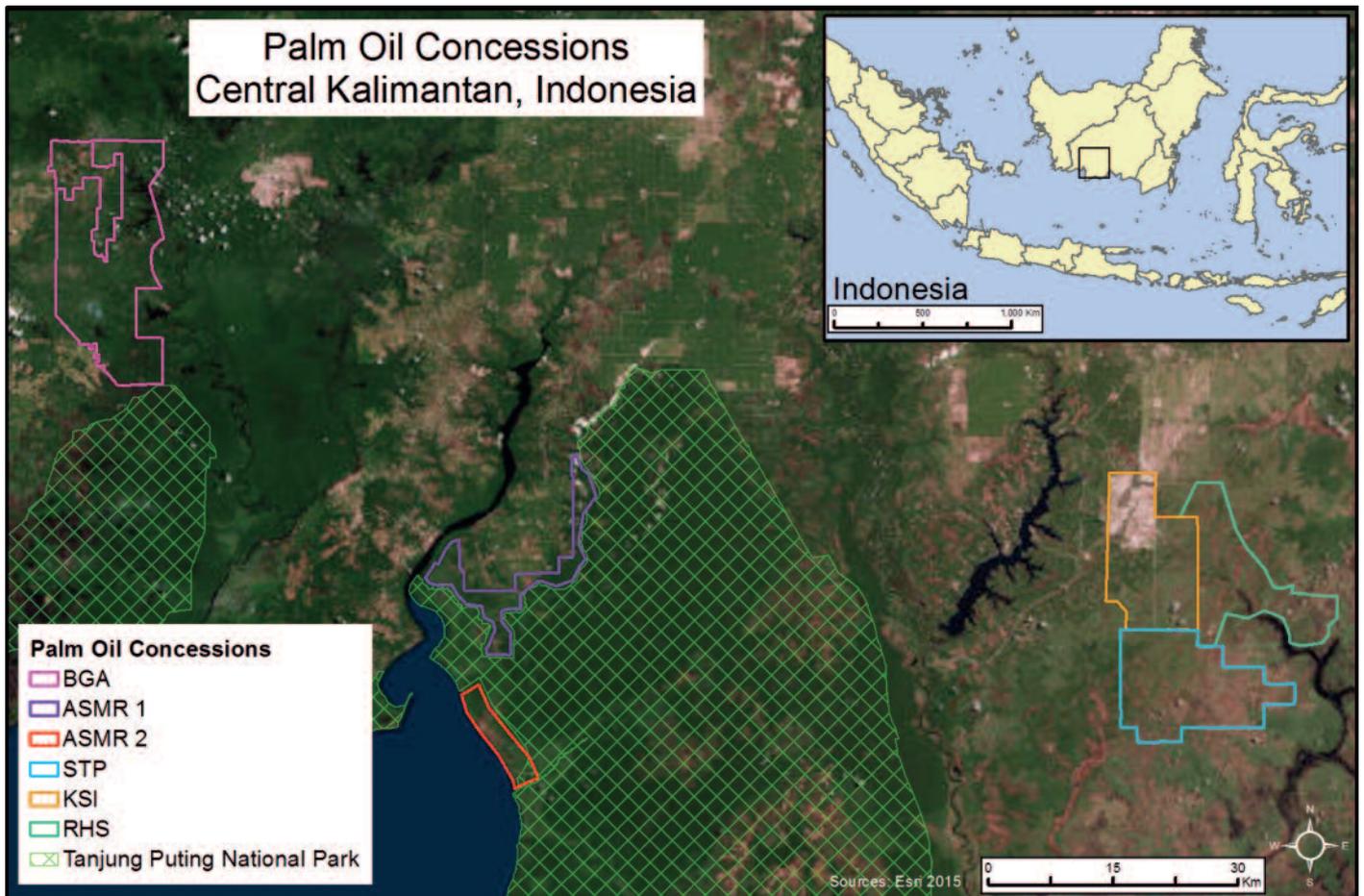
BURN, DEGRADE, DEVELOP, LEGALIZE CONTINUED

WILMAR PLANTATIONS

Friends of the Earth studied three Wilmar-owned plantations in Central Kalimantan in October 2015: Rimba Harapan Sakti, Sarana Titian Permata, and Kerry Sawit Indonesia (located to the right side of the map in Figure 1, below). The last two are members of the Roundtable on Sustainable Palm Oil; all three are subject to Wilmar's "No Deforestation, No Peat, No Exploitation" policy as well

as legal restrictions on land clearing through burning. In all three plantations, NASA fire data and ground checks confirmed numerous "hotspots", or fire locations. In some cases researchers witnessed freshly dug peat drainage canals, recently planted peat lands burning, and destruction of High Conservation Value (HCV) land.

FIGURE 01 | PALM OIL CONCESSIONS STUDY AREA IN CENTRAL KALIMANTAN, INDONESIA



THE GREEN CROSS-HATCHED AREA IS TANJUNG PUTING NATIONAL PARK.

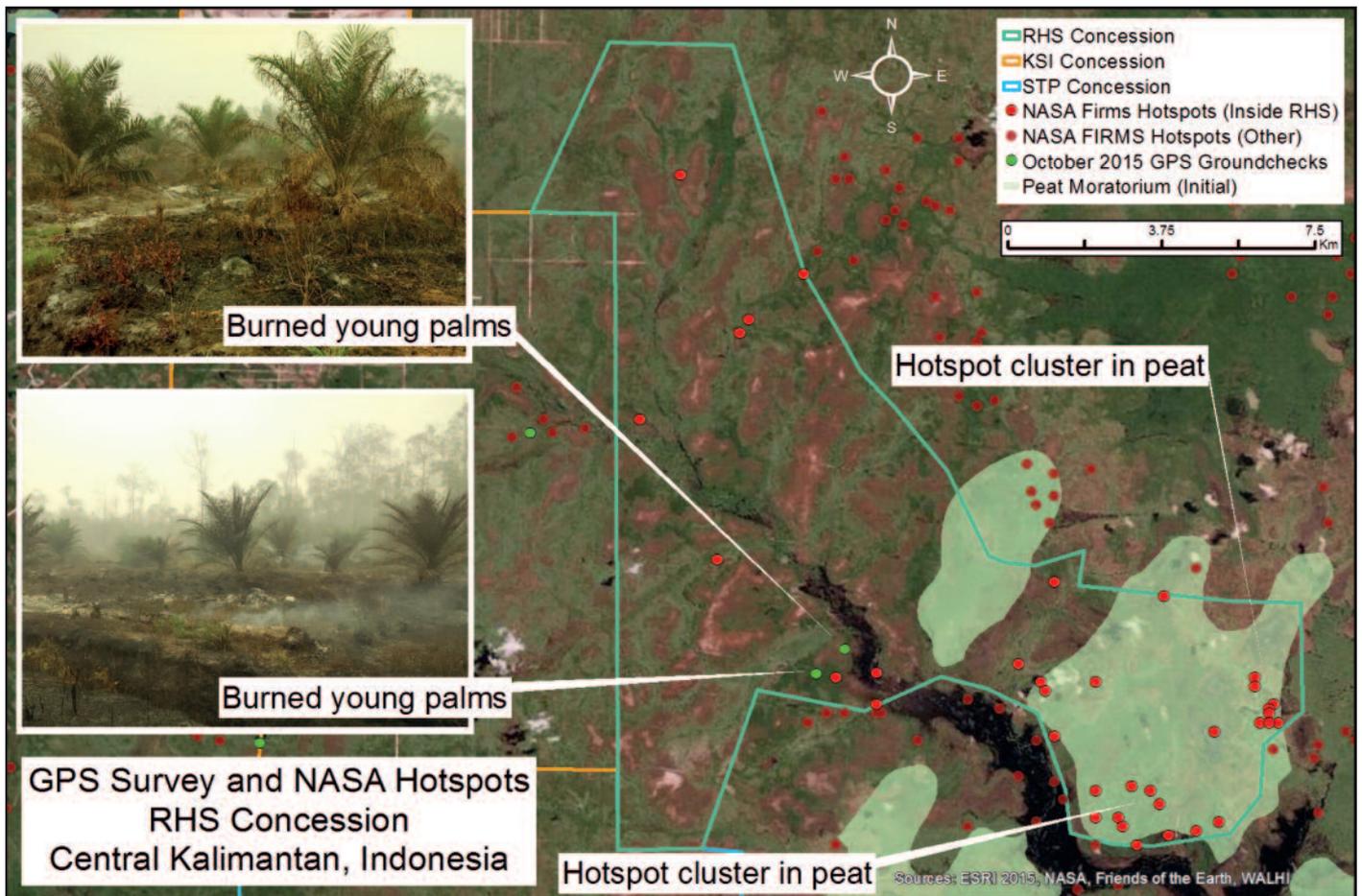


WILMAR PLANTATION RIMBA HARAPAN SAKTI (RHS)

This case shows burning on previously designated moratorium peatland. RHS was called out by the local government for responsibility related to the fires inside its concession boundaries.³¹ Rimba Harapan Sakti (RHS) is a subsidiary of Wilmar International since 2010³² located in Seruyan district and covers 13,800 hectares.³³

The RHS plantation is one of the eleven companies in Central Kalimantan within whose concession boundaries the environmental agency of the provincial government has identified active fires in the summer of 2015. All eleven companies, including this Wilmar-owned company, were called to a special committee

FIGURE 02 GPS, PHOTO SURVEY & NASA HOTSPOT DATA IN RHS CONCESSION



HOTSPOTS DETECTED BY REMOTE SENSING SATELLITES BETWEEN JANUARY AND NOVEMBER OF 2015 SHOW TWO LARGE CLUSTERS OF FIRE ACTIVITY IN THE SOUTHERN PART OF THE RHS CONCESSION INCLUDING A LARGE CLUSTER THAT STRADDLES THE CONCESSION BOUNDARY, AND NUMEROUS HOTSPOTS WITHIN THE AREA FORMERLY PROTECTED UNDER THE PEAT MORATORIUM. THE RHS CONCESSION OVERLAPS THE INITIAL PEAT MORATORIUM AREA OF JUNE 2011 BY 3,394 HECTARES.

FOOTNOTES:

31 <http://ekuatorial.com/disaster/kabut-asap-enam-korporasi-pembakar-lahan-abaikan-panggilan-dewan#/story=post-11488>, visited 18 /11/2015

32 www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=12784447
33 374 / 2007, issued on 31 December 2007 by the head of district of Seruyan. And 151/2004, issued on 3 December 2004 by the head of district of Seruyan.

BURN, DEGRADE, DEVELOP, LEGALIZE

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of the parliament of Central Kalimantan (DPRD) to address the concern.³⁴ As of the date of publication of this report, no follow up action has been made public.

NASA fire data and ground checks by WALHI/Friends of the Earth Indonesia on 21 October 2015 have confirmed numerous and widespread fires within the RHS concession. The map in figure 2 shows where NASA satellites detected fire locations in 2015. There are 36 hotspots (fire locations) found within and on the border of the area legally defined by the company's Location Permit. The green dots show the locations where a ground check confirmed fires in the plantation on 21 October, 2015. The concession shows 3,394 hectares overlap with the initial peat moratorium decree of June 2011. However this overlap disappeared in later revisions of the moratorium.

The deep peat area within the concession shows a high concentration of fire hotspots.

In its response to FoE, Wilmar denies that there is peat in the RHS concession. However, the first government moratorium on primary forest and peat shows a 3394 hectare overlap with the concession of RHS, which was removed in later revisions of the moratorium.³⁵ Therefore it is surprising that Wilmar denies that there is peat in the area.

In its response to FoE, Wilmar admitted there were also fires in HCV areas in eight locations in the plantations. Wilmar has announced they are committed to restoring the HCV areas in line with their HCV management plan and that they will not plant palm oil on the burned HCV areas. They should not only restore it, but also ensure it is not burning next year.

In at least two ground-checked locations, young oil palm trees were observed within the burn area. While it would appear to be counter-productive for a producer of palm oil to set fire to recently planted areas within its boundaries, studies show that young oil palms are fire resistant, and that burning young trees can result in higher yields.³⁶

As in all of the case studies in this report, it is difficult to assign direct culpability for the fires within the RHS plantation; but the fact remains that regardless of who may have set the fires, the company is responsible for preventing and controlling them – and the company may profit from the land clearing occasioned by the fires.³⁷



RHS concession, Central Kalimantan, October 2015.
© Walhi

FOOTNOTES:

- 34 <http://ekuatorial.com/disaster/kabut-asap-enam-korporasi-pembakar-lahan-abaikan-panggilan-dewan#!/story=post-11488>, visited 18 /11/2015
- 35 See figure 2.
- 36 Bakoumé et al., 2010, Effects of Fires in Juvenile Oil Palm Fields on Yield and Oil Palm Breeding. *Journal of Agricultural Science* While the study concluded that fire needs to be prevented among oil palms of all ages it also shows there is a financial incentive to burn palms between 2 and 5 years old. These palms do not yet carry fruits and are fire resistant and

- will respond to the fire by growing more fruits when mature: "From two years after the fires onwards, burnt oil palms reacted by producing a high number of bunches, which compensated for the small average bunch weight. Fire damage to juvenile oil palms disrupted the selection of precocious progenies that helps procure for the plantations an early financial return on their investment" https://agritrop.cirad.fr/561051/1/document_561051.pdf
- 37 Indonesian forest law (NUMBER 41 YEAR 1999) Article 49: "Holders of rights or licenses shall be responsible for forest fires occurring in their working area." (unofficial English translation)

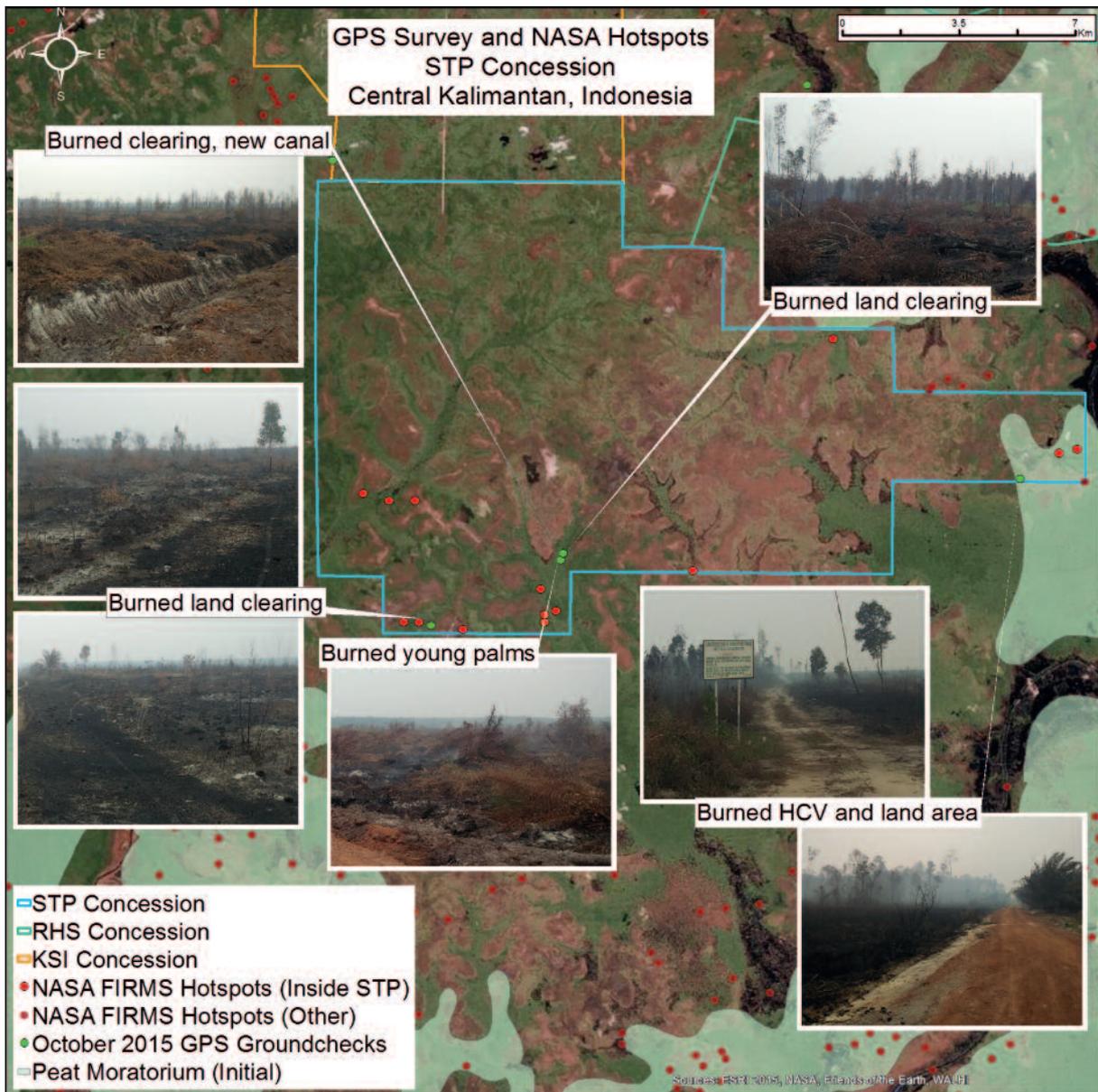


WILMAR PLANTATION SARANA TITIAN PERMATA (STP)

This case shows burning in recent land clearings and burning of a High Conservation Area with deep peat. Sarana Titian Permata (STP) is a

company owned by Wilmar International located in Seruyan district of Central Kalimantan and covering 19,266 hectares. STP obtained a Location Permit in November 2006³⁸ and a Plantation Business Permit (IUP) in March 2007.³⁹ The STP plantation has been certified by the Roundtable on Sustainable Palm Oil since November 2012.⁴⁰

FIGURE 03 GPS, PHOTO SURVEY & NASA HOTSPOT DATA IN STP CONCESSION
THE STP CONCESSION OVERLAPS THE INITIAL PEAT MORATORIUM AREA OF JUNE 2011 BY 406 HECTARES. IN REVISIONS OF THE MORATORIUM, THE OVERLAP WAS REMOVED.



FOOTNOTES:

38 Location permit no. 255/2006, issued 6 November 2006 by Bupati of Seruyan district. available upon request.

39 Plantation Business Permit no. 525/109/EK/2007. Issued 13 March 2007 by Bupati of Seruyan district. available upon request.

40 Certification code: MUTU-RSPO/022, www.rspo.org/uploads/default/pnc/STP_POM_RSPO_ASA-02_Summary_Report_of_PT_Sarana_Titian_Permata_POM_WILMAR_International_Ltd.pdf

BURN, DEGRADE, DEVELOP, LEGALIZE

CONTINUED

NASA satellites detected 14 fire locations within the borders of the STP plantation in the fire season of 2015. Ground checks in October 2015 confirmed that two of these locations, in the eastern side of the concession, are inside High Conservation Value (HCV) areas. This HCV area was marked as primary forest and deep peat in the original moratorium map of June 2011, with an overlap of 406

hectares (Figure 3). In revisions of the moratorium the overlap of 406 hectares was removed. Once the land is degraded, it will possibly no longer be classified as HCV, and may therefore be developed into plantation. In its response to FoE, Wilmar claims that they will restore the damaged HCV area and not plant it. They should not only restore it, but also ensure it is not burning next year.



FIGURE 04

STP concession, Central Kalimantan, October 2015. The sign in the photo gives the company name, PT STP, and explains that the area is marked as High Conservation Value area. © Walhi



FIGURE 05

STP concession, Central Kalimantan, October 2015. Note burning of cleared land on the left and that the older oil palms on the right are not on fire – a possible indication of intentional burning for the purpose of clearing the land (see map figure 3 for location). © Walhi

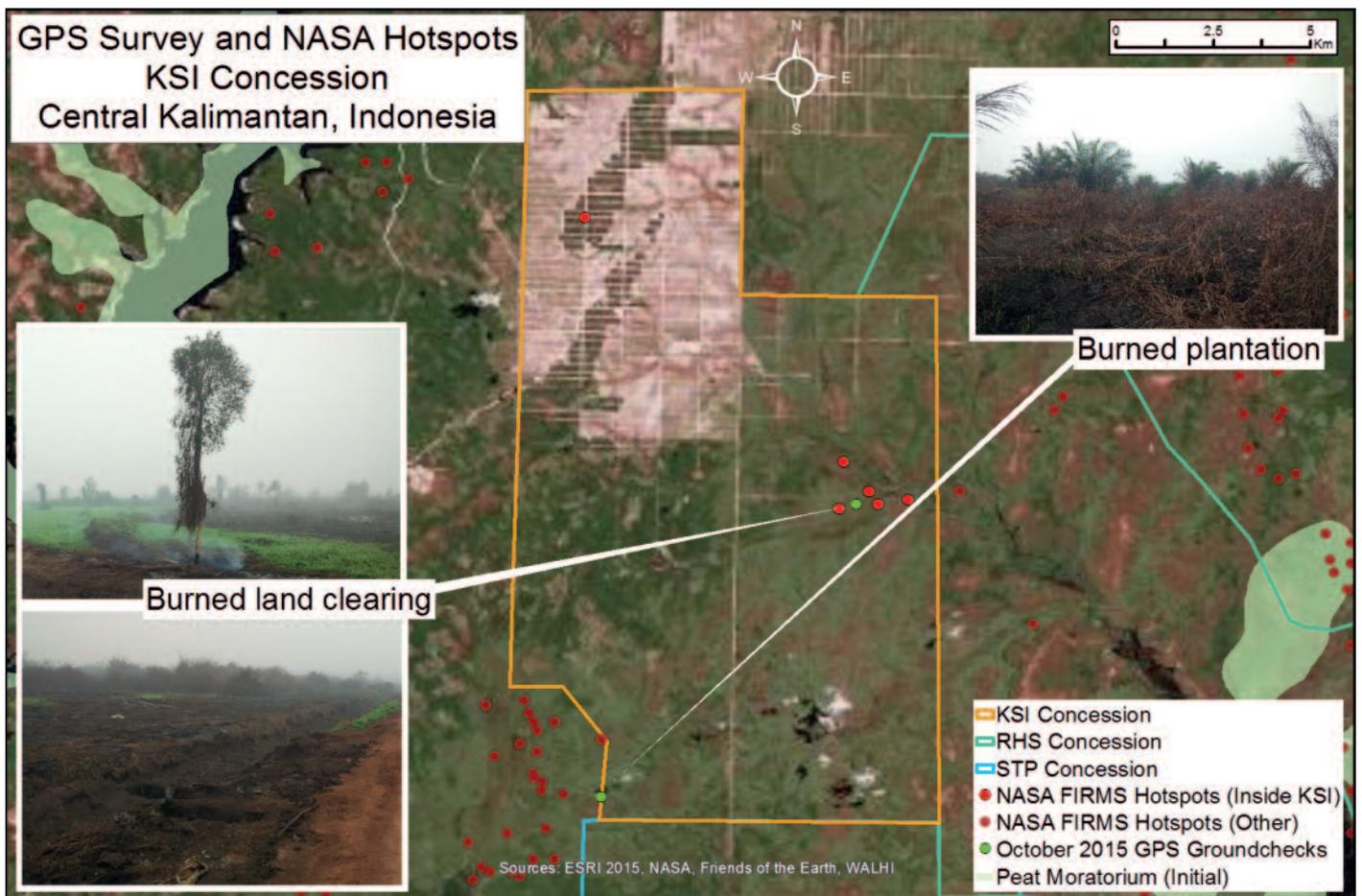


WILMAR PLANTATION
KERRY SAWIT INDONESIA (KSI)

Kerry Sawit Indonesia (KSI) is a company owned by Wilmar International located in East Kotawaringin, Central Kalimantan. The location permit of KSI covers 18,994 hectares⁴¹, and the plantation is certified by the Roundtable on Sustainable Palm Oil since 2010.⁴² This case also shows burning within concession boundaries. In its response, the company blames local communities for planting inside the concession boundaries.⁴³

During the 2015 dry season, six fire locations were recorded within the boundaries of the KSI concession. Ground checks in October 2015 confirmed burning in the eastern section of the concession, recent land clearing, and young oil palms burning in the southern section of the concession. In its response to FoE, Wilmar claims that young oil palms shown in the photo were planted by the local community and not by KSI management. Even if this is true, it is strange that the company did not address this activity within their concession; further, this does not relieve the company of its obligation to prevent fires within its concession boundaries.

FIGURE 06 GPS, PHOTO SURVEY AND NASA HOTSPOT DATA IN KSI CONCESSION



HOTSPOTS DETECTED BY REMOTE SENSING SATELLITES BETWEEN JANUARY AND NOVEMBER OF 2015 SHOW A CLUSTER OF FIRE ACTIVITY IN THE EASTERN SECTION.

FOOTNOTES:

41 Location permit no. 86/2003 issued on 22 December 2003 by Bupati of Seruyan district. Available upon request.

42 http://www.rspo.org/sites/default/files/PT%20Kerry%20Sawit%20RSP0%20Report_TUVR%2006072011.pdf

43 Indonesian forest law (NUMBER 41 YEAR 1999) Article 49: "Holders of rights or licenses shall be responsible for forest fires occurring in their working area." (unofficial English translation).

BURN, DEGRADE, DEVELOP, LEGALIZE

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KSI concession, Central Kalimantan, October 2015.
© FoE

STP concession, Central Kalimantan, October 2015.
© FoE



BUMITAMA PLANTATIONS

Beginning in September, 2015, Friends of the Earth conducted a study of two palm oil concessions, BGA and ASMR in West Kotawaringin district, Central Kalimantan, belonging to the Bumitama Gunajaya Agri (BGA) group. Bumitama Agri Ltd (Singapore: BAL) is a member of the Roundtable on Sustainable Palm Oil since 2007,⁴⁴ but has only 2 out of 10 plantations RSPO certified; its first plantation was certified in 2014.⁴⁵ Wilmar's "No Deforestation No Peat No Exploitation" policy also applies to its suppliers such as Bumitama Agri; as of August 2015, Bumitama has its own "No Deforestation, No Peat, No Exploitation" policy that closely resembles Wilmar's.⁴⁶ In Bumitama's sustainability report of 2014 Wilmar is identified as an important customer.⁴⁷

The study, which involved field research, boundary analysis, and analysis of fire data, showed that palm oil plantation operators have encroached on peat lands that are protected under Indonesia's peat moratorium or were formerly protected under earlier revisions of the moratorium area. The study also showed that fires occurred in summer, 2015, within concession boundaries.



FIGURE 08

Excavation in BGA concession, Central Kalimantan, September 2015.
© Victor Barro/FoE

FOOTNOTES:

- 44 www.rspo.org/members/2551/BUMITAMA-AGRI-LTD visited 18 November 2015
- 45 ACOP Progress Report 2014.
www.rspo.org/file/acop2014b/submissions/bumitama%20agri%20ltd-ACOP2014b.pdf
- 46 http://files.shareholder.com/downloads/AMDA-WWON6/2944084857x0x846020/77847980-62D3-4B91-BAE4-E498CE53FFB0/Bumitama_-_Sustainability_Policy.pdf
- 47 Bumitama's sustainability report 2014, p.24, http://files.shareholder.com/downloads/AMDA-WWON6/1001166519x0x846019/1958E25E-1E74-4B62-ASA6-7D735C476C3C/Bumitama_-_Sustainability_Report_2014.pdf

BURN, DEGRADE, DEVELOP, LEGALIZE CONTINUED

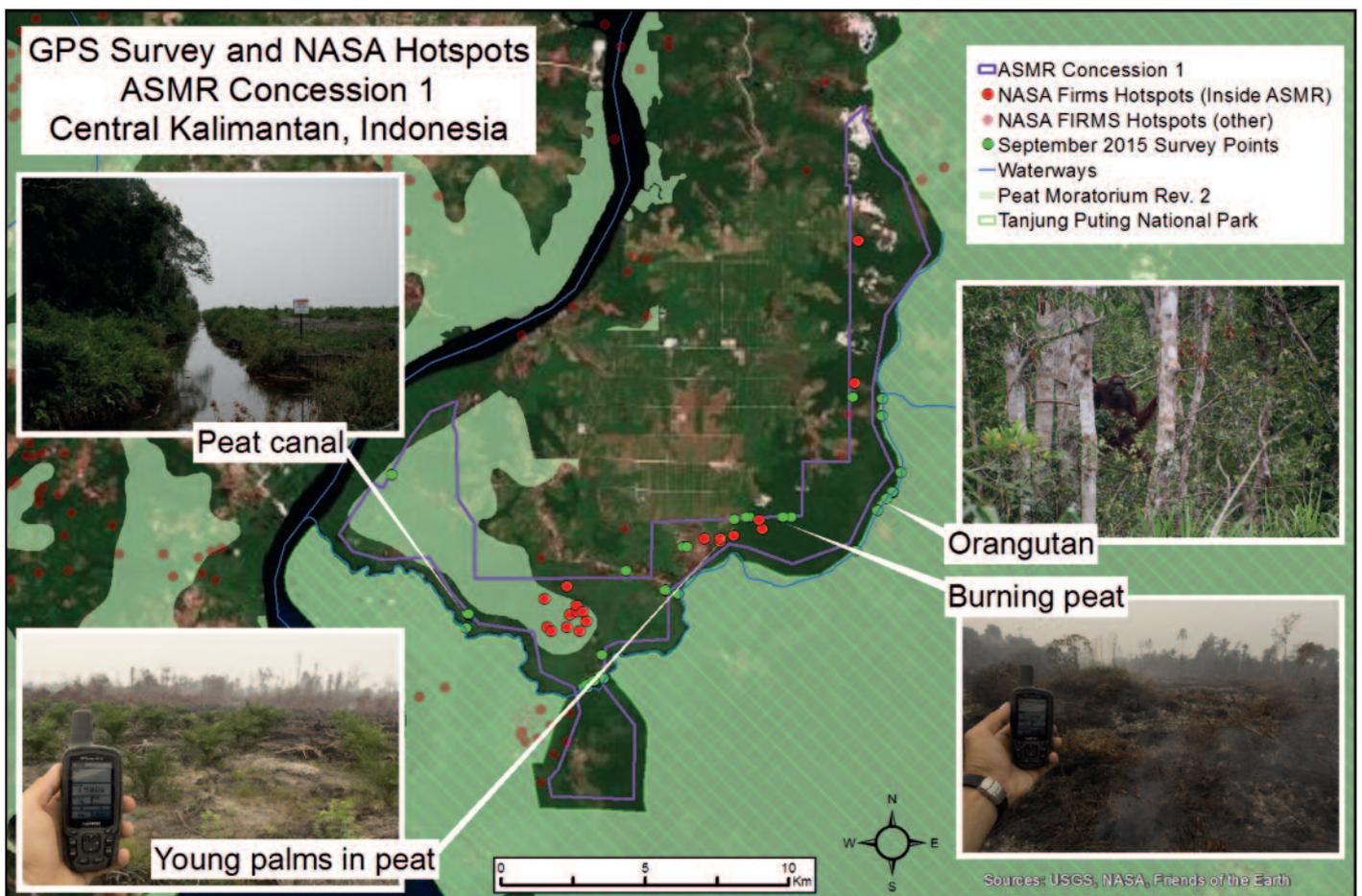
BUMITAMA PLANTATION ASMR PLANTATION

PT. Andalan Sukses Makmur (ASMR) is a palm oil subsidiary of Bumitama Agri Ltd. PT. ASMR holds a location permit to develop palm oil plantations on 9,276.5 hectares in West Kotawaringin district, Central Kalimantan.⁴⁸ This case shows how the peat moratorium was revised after the location permit was released, against government policy (see box, Moratorium on primary forest and peat land development). It also shows fire on deep peat lands, including land that was previously included in the peat moratorium.

Forest and peat land fires within the borders of ASMR concession

In both 2014 and 2015, burning was observed within the borders of ASMR's location permit. A ground check by WALHI/Friends of the Earth Indonesia on September 28 and 29, 2014 revealed fires originating in the ASMR concession area. Fire data from NASA revealed 35 fire locations ("hot spots") within the ASMR concession in summer, 2015, several of which are backed up by photographic evidence and a GPS ground check. NASA data also showed four fire hotspots on the border between the ASMR concession and the adjacent Tanjung Puting National Park.

FIGURE 07 | GPS SURVEY POINTS AND NASA HOTSPOT IN ASMR CONCESSION 1



REMOTE SENSING SATELLITE IMAGERY ANALYSIS BY NASA DETECTED 35 FIRES BETWEEN JANUARY AND NOVEMBER OF 2015. SITE SURVEY USING GPS ALLOWED GEOLOCATION OF ORANGUTANS AND NESTING SITES ALONG WITH CURRENT AND RECENT FIRES AND DRAINAGE CANALS. THE ASMR CONCESSION OVERLAPS THE INITIAL PEAT MORATORIUM AREA BY 3,167 HECTARES.⁴⁹

FOOTNOTES:

- 48 Location permit ASMR No. 590/105/Pem-XI/2012, dated 21 November 2012. : Available upon request.
- 49 Teaby, Urness, 2015. Boundary Extent Change, Peat Moratorium Encroachment and Fire Location Analysis of Palm Oil Concessions in Central Kalimantan Province, Indonesia.



Where ground checks on September 28 and 29, 2014 revealed fires within the ASMR concession area, a ground check by WALHI and international FoE staff in September 2015 revealed recently redug drainage canals and ongoing clearance of land through the presence of excavators. Drainage of peat through the construction of canals for the purpose of drying out the soil is a significant pre-condition that enables the peat to burn.

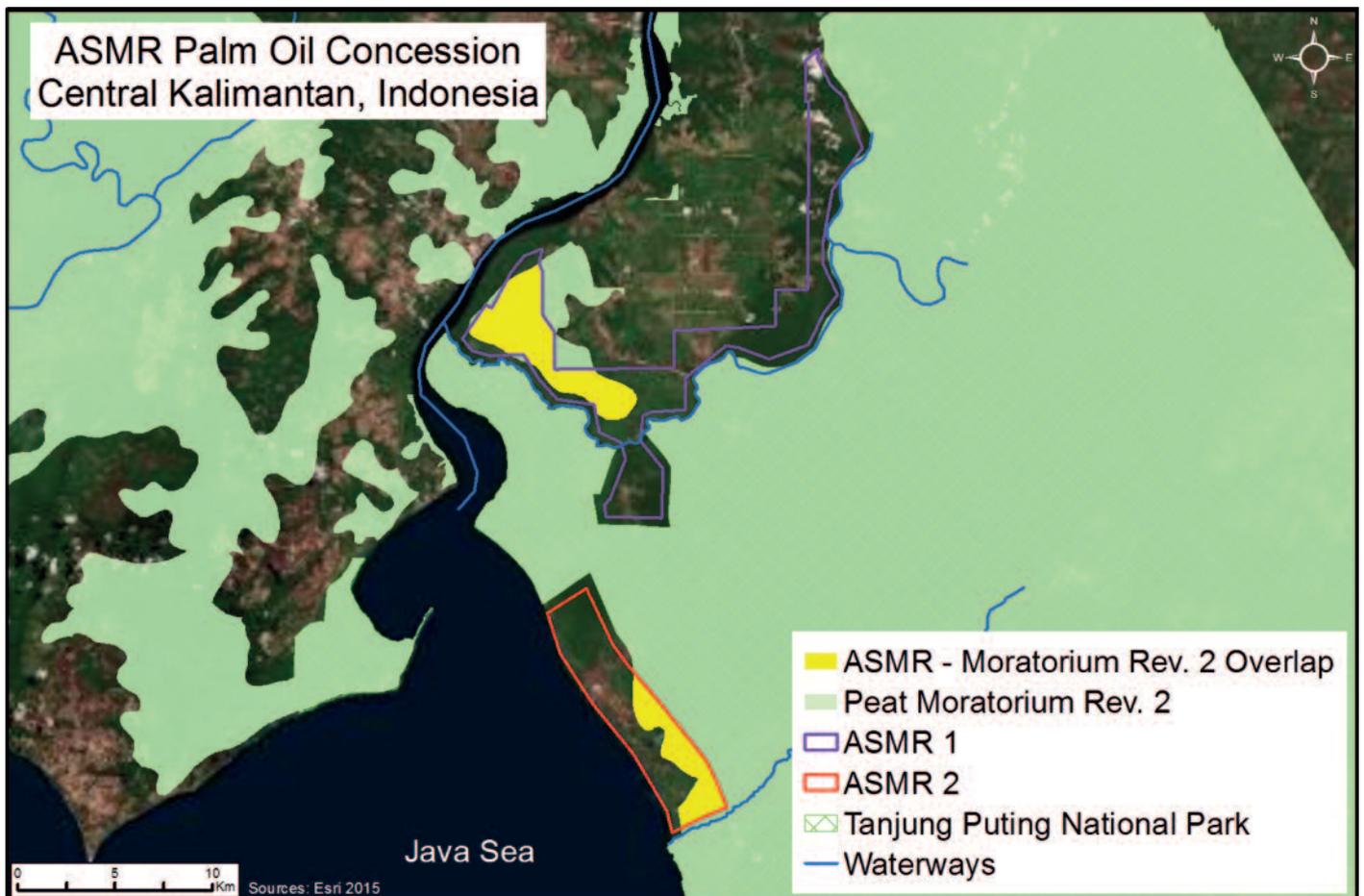
Development on peat land in violation of the peat moratorium and destruction of high carbon stock areas The ASMR concession encroaches by as much as 3,167 hectares⁵⁰ on lands that were formerly protected under a previous revision of the moratorium (second revision, May 2012, figure 9). The second revision of the moratorium was valid when ASMR's Location Permit was issued. This

means that the government has illegally released the location permit because it overlapped with the actual moratorium of that time.

At the fifth revision of the moratorium the overlap of 3,167 hectares diminished substantially; at the time of this publication, based on the Location Permit boundaries (revision of November 2013, just before Wilmar's policy was released), the ASMR concession area overlaps with the peat moratorium area by 685 hectares⁵¹ (see figure 10).

The frequent redrawing of the borders of the peat moratorium has clearly accommodated ASMR's concession. Consequently, both the company and the government are in violation of the presidential decree and the agreement between Indonesia and Norway to protect the high carbon stock peat lands. (See box, Moratorium on primary forest and peat land development.)

FIGURE 09 | PEAT MORATORIUM REVISION 2 (IMPLEMENTED MAY 6, 2012) OVERLAPS BY 3,167 HECTARES WITH BOTH ASMR CONCESSION 1 AND 2.



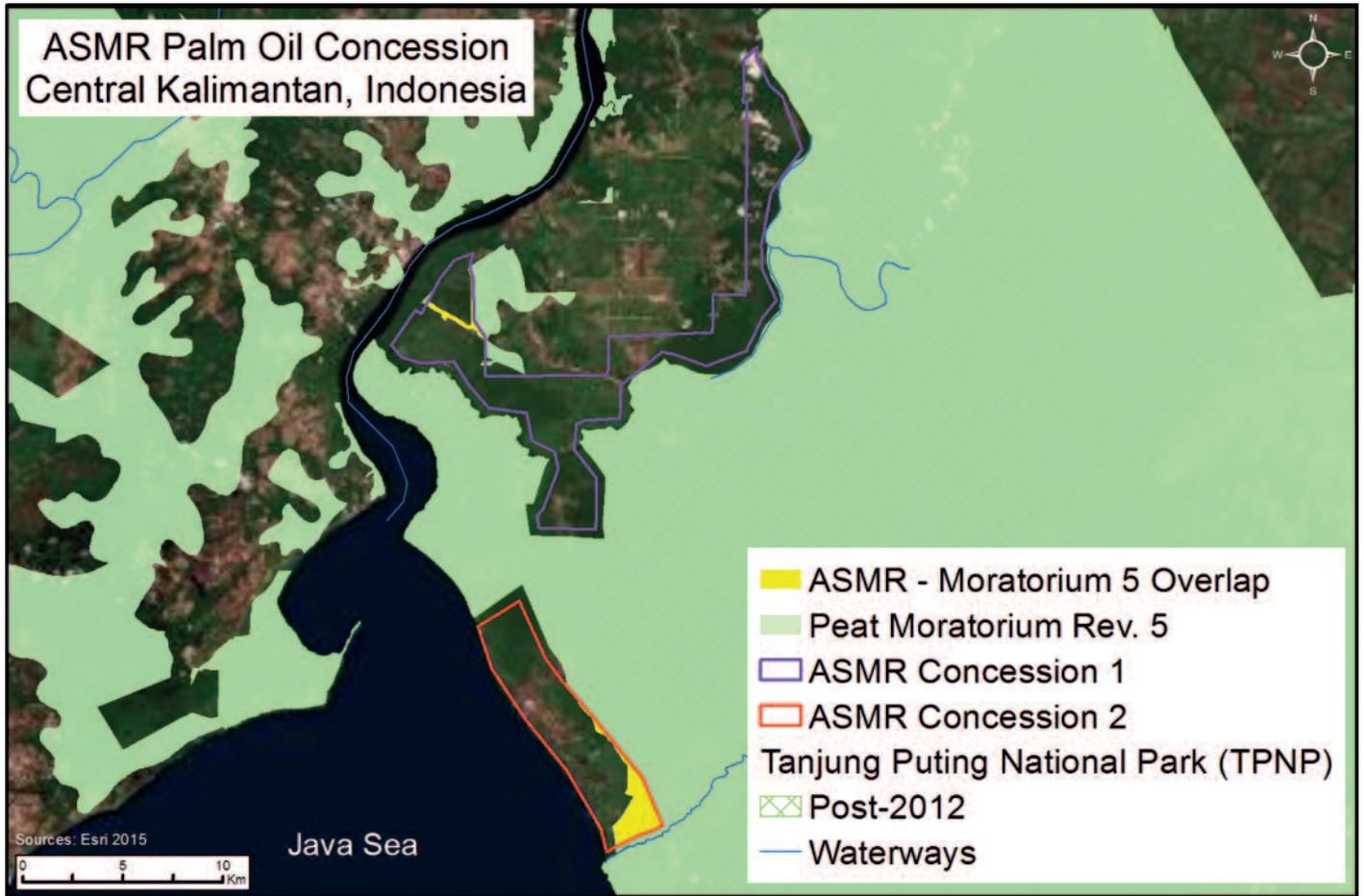
FOOTNOTES:

50 Teaby, Urness, 2015. Boundary Extent Change, Peat Moratorium Encroachment and Fire Location Analysis of Palm Oil Concessions in Central Kalimantan Province, Indonesia <https://milieudedefensie.nl/publicaties/rapporten/peat-moratorium-encroachment-and-fire-location-analysis-central-kalimantan>

51 Teaby, Urness, 2015. Boundary Extent Change, Peat Moratorium Encroachment and Fire Location Analysis of Palm Oil Concessions in Central Kalimantan Province, Indonesia <https://milieudedefensie.nl/publicaties/rapporten/peat-moratorium-encroachment-and-fire-location-analysis-central-kalimantan>

BURN, DEGRADE, DEVELOP, LEGALIZE CONTINUED

FIGURE 10 | PEAT MORATORIUM REVISION 5



(IMPLEMENTED NOVEMBER 13, 2013) OVERLAPS BY 685 HECTARES WITH BOTH ASMR CONCESSION 1 AND 2.

Development of palm oil on peat after announcement of Wilmar’s “No Deforestation, Not Peat, No Exploitation” policy In December 2012 ASMR was granted a location permit by West Kotawaringin’s head of district (Central Kalimantan province).⁵² At the time, the peat moratorium was in effect, and should have significantly

reduced the concession area and prevented development on peatlands within the concession boundaries. However, even after December 2013, when Wilmar announced its No Deforestation, No Peat, No Exploitation policy that also applies to its suppliers, ASMR continued to develop oil palm plantation on peat land forest.

FOOTNOTE:

52 As a first step, the head of regency issued an Initial Agreement Letter on a location indication (No. 590/105/Pem-XI/2012) on 21 November, 2012. Available upon request. In a second step, on 19 December 2012, he issued location permit No. 525/68/XII/2012 covering 9.276,5 hectares and including the villages Sekonyer, Kumai Seberang and Teluk Pulai.



The photo in figure 11 shows land clearance observed in September 2014 using a drone over the ASMR concession.

All evidence thus points to the fact that ASMR ignored the peat moratorium and developed drainage canals to lower the water table, thus making the peat land susceptible to fire.

Field visits in September 2015 also revealed several recently redug peat drainage canals, burning peat, and palm trees that appeared to be less than two years old growing in peat. Notably, the field visit also revealed several orangutans and orangutan nests located within the ASMR concession along the Sekonyer River, immediately

adjacent to but across the river from Tanjung Puting National Park (TPNP). (Figure 7 shows points where FoE identified orangutans, orangutan nests, peat drainage canals, young palms in peat and burning of peat in September 2015, within and near the ASMR Concession and the TPNP.)

In its response to these allegations, Bumitama stated a commitment to protect 1756 hectares within their plantation business permit, and affirmed that this area overlaps with the area where the orangutans and orangutan nests were sighted.⁵³



FIGURE 11

Drone footage.
ASMR concession,
September 28, 2014.
© FoE

FOOTNOTE:

53 Report Bumitama on ASMR, 26th of November 2015.
http://files.shareholder.com/downloads/AMDA-WWON6/1077649644x0x863665/E2F01CF8-D2B2-4B44-A0A3-5A494F0DD9EE/ASMR_Report_261115.pdf

BURN, DEGRADE, DEVELOP, LEGALIZE

CONTINUED



Above: Excavator witnessed near drainage canal in ASMR concession, September 15, 2015.
© Anouk van Baalen/FoE

Right: Orangutan sighted in ASMR plantation, Central Kalimantan, September 2015.
© Anouk van Baalen/FoE

Left: Proboscis monkey in ASMR concession, September 15, 2015.
© Victor Barro/FoE



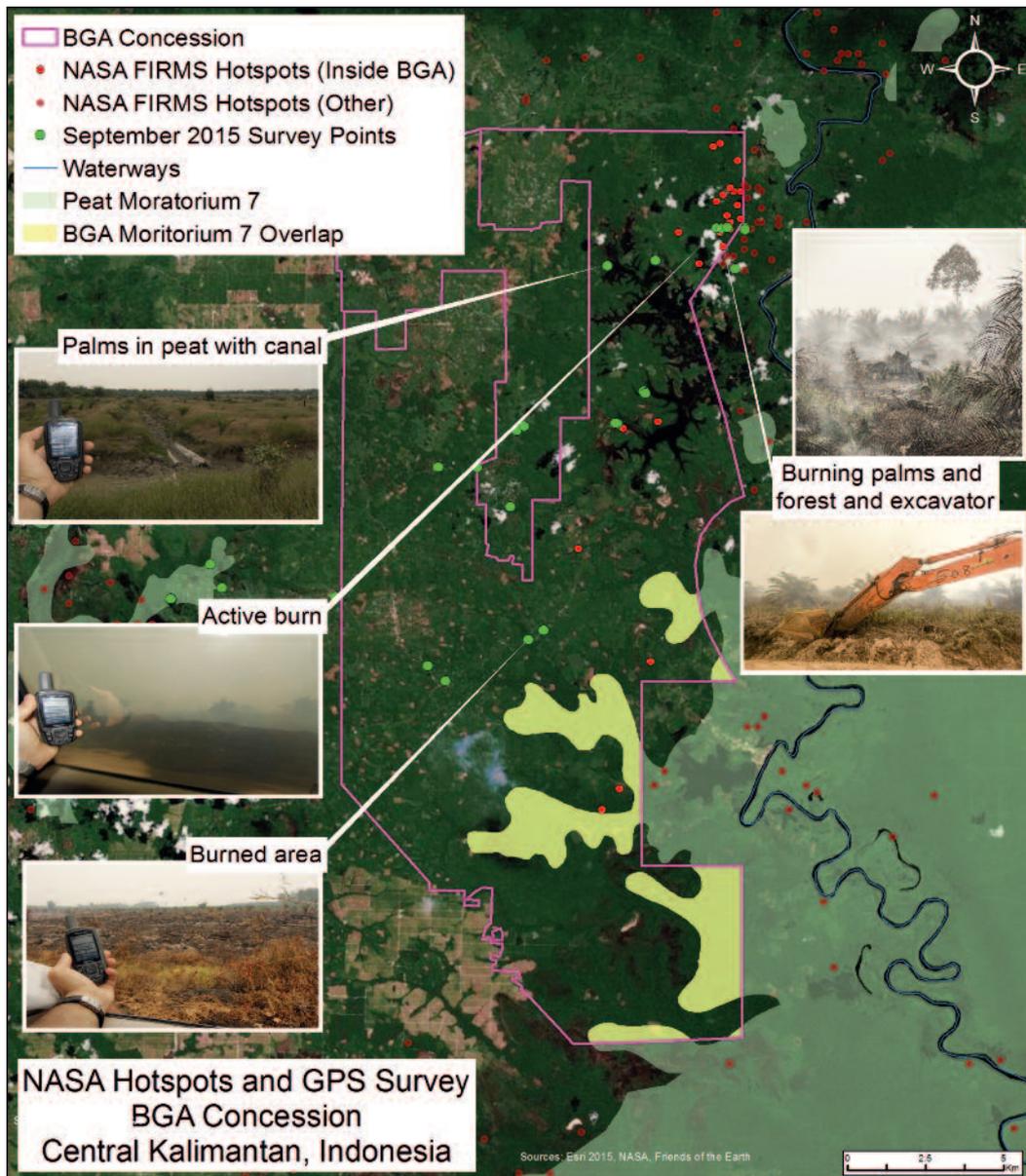
**BUMITAMA PLANTATION
BGA PLANTATION**

PT. Bumitama Gunajaya Abadi (BGA) plantation is also a subsidiary of Bumitama Agri Ltd.⁵⁴ PT. BGA possesses a location permit for 30,000 hectares issued 21 August 2004.⁵⁵ The permit expired after two years and in 2008 a new permit was issued for 26,900 hectares

in Kotawaringin Hulu village of the sub-district Kotawaringin Lama in West Kotawaringin regency in Central Kalimantan.⁵⁶

Field visits as recent as September 2015, one month after the publication of Bumitama's "No Deforestation, No Peat, No Exploitation" policy,⁵⁷ revealed burning and ongoing excavation within peat land areas. NASA fire data confirmed fire hotspots.

FIGURE 12 GPS, PHOTO SURVEY AND NASA HOTSPOT DATA FROM JANUARY TO NOVEMBER 2015 IN BGA CONCESSION



MULTIPLE GPS SITES WERE SURVEYED WHERE FIRES WERE PRESENT OR HAD RECENTLY OCCURRED, ESPECIALLY IN THE NORTHEAST CORNER OF THE CONCESSION. THE SURVEY FOUND EVIDENCE OF DRAINAGE CANALS, PEAT BURNING, EXCAVATION OF PEAT AND YOUNG PALMS GROWING IN PEAT IN AND AROUND THE BGA CONCESSION. THE BGA CONCESSION OVERLAPS THE CURRENT PEAT MORATORIUM AREA (REVISION 7) BY 2,731 HECTARES.

FOOTNOTES:

- 54 www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=34677008
- 55 Location Permit BGA no. 579.480.42/BPN/VIII/2004, dated 21 August 2004, available on request.
- 56 Second Location permit BGA no. 590/803/PEM, dated 22 December 2008. Available on request.
- 57 http://files.shareholder.com/downloads/AMDA-WWON6/2944084857x0x846020/77847980-62D3-4B91-BAE4-E49BCE53FB0/Bumitama_-_Sustainability_Policy.pdf

BURN, DEGRADE, DEVELOP, LEGALIZE CONTINUED

Figure 12 shows that the BGA concession overlaps the current peat moratorium area (revision 7) by 2,731 hectares. The map also shows numerous fires in and around the BGA concession, ground-checked by photographs and GPS, and fires within the nearby peat moratorium area.

Based on the information obtained by FoE, it is not possible to prove who started the fires within the BGA concession; however,

in the absence of evidence to the contrary, it should be assumed that the company is responsible, and by law, the company is “responsible for forest fires occurring in their working area”.⁵⁸

Bumitama has not clarified how it will address the cluster of hotspots in the Northeast corner of the concession (see figure 12); neither has the company argued that they are not responsible for these fires.



Above: BGA is a member of the RSPO. BGA concession, September 2015.

© Victor Barro/FoE

Far Left: Peat drainage canal in BGA concession.

© Victor Barro/FoE

Left: BGA concession, September 2015.

© Victor Barro/FoE

FOOTNOTE:

58 Forestry law number 41/1999 article 49. Reference document in files.



Above: Burning palms and peat in BGA plantation, September 15, 2015.
© Victor Barro/FoE

Right: Young palms in peat, BGA concession, September 2015.
© Victor Barro/FoE

Left: Burning in ASMR plantation, September 15, 2015.
© Victor Barro/FoE

THE ROLE OF EUROPEAN & US FINANCIERS

04



© Victor Barro/Fo

Shareholders and banks are the most important financial stakeholders of Wilmar International. Currently, shareholders finance 35.6 percent of Wilmar's assets; at the end of 2014, bank loans financed 50.4 percent of Wilmar's assets, largely through short-term trading loans. The main providers of loans to Wilmar International in the past five years are HSBC, Mitsubishi UFJ Financial, Sumitomo Mitsui Financial, Overseas-Chinese Banking Corporation (OCBC) and BNP Paribas.⁵⁹

Bumitama Agri Ltd. is a young and fast-growing producer of palm oil and palm kernel oil, with significant areas under oil palm cultivation in Indonesia. The company was established in 1996 and is listed on the Singapore Stock Exchange. Shareholders are the most important financial stakeholders of Bumitama Agri, financing 47 percent of its total assets. Bondholders finance 26 percent of the total assets and therefore also play an important role. Bank loans are less important, financing only five percent of Bumitama's assets. In Europe, HSBC and Rabobank are the most important financiers of Bumitama.⁶⁰

Combating climate change is one of the stated priorities for major European financiers of Wilmar and Bumitama. Through sectoral policies related to investment in palm oil projects, a number of banks (HSBC⁶¹, Rabobank⁶², BNP Paribas⁶³) have explicitly required their customers to adopt a no-burn policy. BNP Paribas and Crédit Agricole explicitly forbid new plantation developments on peatlands. BNP Paribas⁶⁴, Rabobank⁶⁵, HSBC⁶⁶, ABN Amro⁶⁷ and Crédit Agricole⁶⁸ have a public position on palmoil. Other financial institutions such as the pension funds ABP⁶⁹ or PGGM⁷⁰ refer to palm oil in their responsible investment reports and both APG (ABP's asset manager) and PGGM (PFZW's asset manager) are both active members of the palm oil working group of the Principles for Responsible Investment (PRI)⁷¹.

The Environmental, Social, and Governance (ESG) policies of US investors are in general very weak, with most large asset managers lacking any publicly available environmental and social criteria to manage climate risk in their investments. Among US financiers, only

FOOTNOTES:

59 Profundo, 2015, Financing of Wilmar International, <https://milieudedefensie.nl/publicaties/rapporten/financing-of-wilmar>
 60 Profundo, 2015, Financing of Bumitama Agri Ltd., <https://milieudedefensie.nl/publicaties/rapporten/financing-of-bumitama>
 61 www.hsbc.com/~/_media/hsbc-com/citizenship/sustainability/pdf/hsbc-agricultural-commodities-policy-march-2014
 62 www.rabobank.com/en/images/Palm%20Oil.pdf
 63 www.bnpparibas.com/sites/default/files/ckeditor-upload/files/PDF/RSE/CSR%20-%20Sector%20policy%20-%20Palm%20Oil.pdf

64 www.bnpparibas.com/sites/default/files/ckeditor-upload/files/PDF/RSE/CSR%20-%20Sector%20policy%20-%20Palm%20Oil.pdf
 65 www.rabobank.com/en/images/Palm%20Oil.pdf
 66 www.hsbc.com/~/_media/HSBC-com/citizenship/sustainability/pdf/hsbc-statement-on-forestry-and-palm-oil-march-2014
 67 www.abnamro.com/en/images/040_Sustainability/040_Risk_Management/Attachments/Agri_Commodities_Policy.pdf
 68 <http://mediacommun.ca-cib.com/sitegenetic/medias/DOC/13870/2015-12-csr-sector-policy-forestry-palm-oil.pdf>
 69 www.abp.nl/images/responsible-investment-report.pdf
 70 www.pggm.nl/english/what-we-do/Pages/Responsible-investment.aspx
 71 www.rspo.org/file/acop/generation-investment-management/F-Lending-Policy.pdf



JPMorgan Chase,⁷² Citigroup⁷³ and Goldman Sachs⁷⁴ have public positions on palm oil and its related risks to the climate, and only Goldman Sachs and JP Morgan Chase⁷⁵, through its recently announced environmental policy framework explicitly commits to not knowingly finance companies that utilize illegal or uncontrolled fire.

Friends of the Earth sent a draft version of this report to the major financiers of Wilmar and Bumitama, and received answers from seven of them, which fall into four categories:

The first category of answers (Rabobank, HSBC) is that the financial institutions recommend that FoE file a complaint through Wilmar's transparency dashboard or with the Roundtable on Sustainable Palm Oil (RSPO) – a multi-stakeholder a body with a notorious lag-time in addressing complaints.⁷⁶ Friends of the Earth finds this recommendation to be in clear contradiction with the policies of banks as they are refraining from their own responsibility to uphold their ESG criteria.

The second category of answers (ABN AMRO) is very neutral, claiming that if there is reason to assume that their clients act in breach of their sustainability policies, the financier will enter into an engagement trajectory with their client. French financier Axa mentions that they are already in an engagement with Wilmar. This answer is a clear indication that financiers' voluntary policies lack reasonable enforcement mechanisms, given both the urgency and the chronic nature of the concerns, and the lack of clarity regarding due diligence procedures, next steps with the companies, and communication with the complainants.

The third category of answers (Rabobank, PGGM, ING) gives a detailed response to the problems outlined in this report. Though it is positive that these financiers are in consultation with Wilmar, it also reveals the structural problems in the relationship between

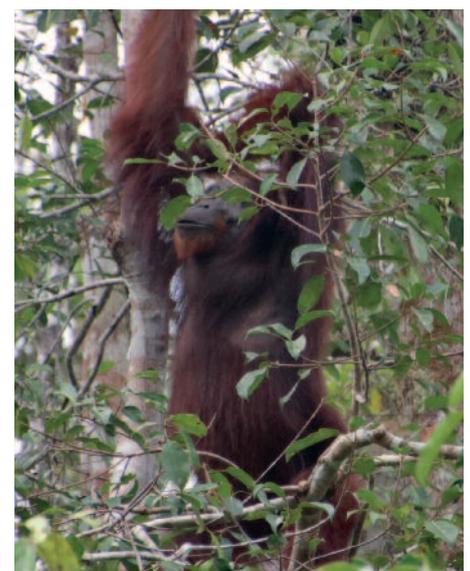
financiers and industry, where financiers are merely depending on information from the companies to judge if these same companies have breached the ESG policies of the financiers. This structural problem demonstrates the need for both monitoring systems that are independent from companies involved in palm oil and binding ESG regulation of the financiers by the EU and US governments, so companies can be held liable if they are involved in illegal activities and environmental destruction.

A fourth category of responses is represented by the US asset manager Blackrock. The firm points out that its holdings are in passive index funds, which "reflect client desire for exposure to specific markets or investment strategies" – thereby removing itself from any accountability for the environmental and social impacts of these investments. This particular problem applies to many financiers, as index funds channel significant financing to the palm oil sector, and essentially represent a way for investors to evade accountability. Investors should take full responsibility for the full range of their financial activities and should exclude companies which violate their ESG policies, even if it is through an index fund.

Despite the promises that Wilmar made when signing the New York Declaration on Forests, and despite the adoption of its own policy to ban palm oil development on peat land, this report finds that at least two plantations owned by Wilmar as well as plantations owned by one of its major suppliers, Bumitama Agri Ltd., are involved in forest and peat fires and development of palm oil on peat and within High Conservation Value areas. That means that EU and US financiers are linked to financing the fires in Indonesia – thereby contributing to one of the most dramatic releases of climate pollution the world is currently witnessing.



Young oil palms with burning forest behind in BGA concession.
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Orangutan in ASMR concession, September 15, 2015.
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FOOTNOTES:

72 www.jpmorganchase.com/corporate/Corporate-Responsibility/document/jpmc-environmental-and-social-policy-framework.pdf

73 www.citigroup.com/citi/environment/data/937986_Env_Policy_FrameWk_WPaper_v2.pdf

74 www.goldmansachs.com/citizenship/environmental-stewardship/epf.pdf page 12

75 www.jpmorganchase.com/corporate/Corporate-Responsibility/document/jpmc-environmental-and-social-policy-framework.pdf

76 Environmental Investigation Agency and Grassroots. Who Watches the Watchmen: Auditors and the breakdown of oversight in the RSPO. November 2015. <https://eia-international.org/wp-content/uploads/EIA-Who-Watches-the-Watchmen-FINAL.pdf>

CONCLUSION & RECOMMENDATIONS

05



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It is clear that there is little evidence that corporate ‘No Deforestation’ commitments are having any effect on the ground, as was also concluded by Greenpeace in November 2015.⁷⁷ Despite the promises that are made by the companies and their financiers – and even despite the positive intentions that may be behind these commitments and the individuals that promote them – these commitments are continuously and systematically broken. Perhaps more to the point, weak governance and a systematic lack of implementation of conservation measures, combined with the industry pressure to continue to expand operations, create a policy environment that virtually guarantees the failure of industry-led voluntary sustainability initiatives.

Indonesian President Joko Widodo has launched an ambitious plan to ban exploitation of peatlands and planting in burned areas and to demand restoration of lands and criminal investigations into the fires. However, experiences from the peat moratorium introduced by presidential decree in 2011 shows that such efforts are no guarantee that reforms will be duly implemented. The frequent and apparently arbitrary changes to the peat moratorium area and the virtual absence of enforcement by local government bodies should suffice to show international financiers that the Indonesian palm oil sector continues to be a high risk environment, as voluntary corporate commitments all-too-easily go up in smoke. Given this state of affairs, Friends of the Earth makes the following demands:

Of the companies:

- Wilmar and/or Bumitama must be required to obey regulations issued by the Ministry of Environment and Forestry No. S.494/MENLHK-PHPL/2015 regarding Prohibition to Open Up Peatlands (dated November 3, 2015); and regulation No. S.661/Menlhk-Setjen/Rokum/2015 regarding Instruction in Relation to Peatlands (dated November 5, 2015);

FOOTNOTE:

⁷⁷ Greenpeace International. Indonesia's Forests Under Fire: Indonesia's fire crisis is a test of corporate commitment to forest protection. November 2015. www.greenpeace.org/international/Global/international/publications/forests/2015/Under-Fire-Eng.pdf



- The palm oil companies should ensure rehabilitation of forests and peatlands burned within their concessions, and take responsibility for damages to the people and lands impacted by the fires and haze in the burned areas;

Of the financiers:

- Financiers linked to Wilmar and Bumitama, as well as to other companies in the palm oil sector found in breach of environmental commitments, should withdraw their financial services from these companies to make clear that there will be zero tolerance for breaches of the companies' and their financiers' environmental and social commitments;
- Financiers should not rely on company-led reporting to ensure them that sustainability policies are being implemented, but should seek monitoring that is completely independent from companies involved in palm oil, and should be prepared to suspend financing when these policies are breached by palm oil companies;
- Financiers in the palm oil sector should include in their contracts with investee companies a clause that allows them to cancel their financial services in the event of breaches of the financiers' ESG policy.

Of the Indonesian government:

- Local governments and the national government should monitor and strengthen the implementation of regulations issued by the Ministry of Environment and Forestry No. S.494/MENLHK-PHPL/2015 regarding Prohibition to Open Up Peatlands (dated November 3, 2015); and regulation No. S.661/Menlhk-Setjen/Rokum/2015 regarding Instruction in Relation to Peatlands (dated November 5, 2015);
- The Indonesian government must review all permits given to palm oil developers, and must take appropriate sanctions against companies and plantations with fires, except in cases where clear evidence shows that others were responsible for the fires. We note that the government has initiated this review, and we urge that is important they continue;
- The Indonesian government must ensure the responsibility of companies and company groups for the rehabilitation of forests and peatlands burned within their concessions, and demand that these companies take responsibility for damages to the people and lands impacted by the fires and haze in the burned areas;

- The Indonesian government must publish land tenure and forest maps and make it obligatory for companies to publish concession maps;
- The Indonesian government must require that High Carbon Stock and High Conservation Value areas be managed by local communities in cooperation with competent conservation authorities – not by private-sector companies or the agribusiness industry;
- The Indonesian government must not open the opportunity for companies linked with the fires and haze to attain more land, either for their business-related expansion or for ecosystem restoration;
- The Indonesian government should give back the access and control to manage the forest and lands that have been released from companies to local/indigenous communities and facilitate them to be able to manage it sustainably.

Of the EU and US governments:

- The EU and US governments should regulate financiers, including providers of index funds and other passive finance vehicles, to prevent them providing services to companies that violate national and international human rights and environmental laws;
- New and binding rules on transnational corporations and financiers are needed; to this end, Friends of the Earth calls on all governments, specifically the US and the European Commission and its Member States, to support binding international laws on human rights and business in the debate at the UN Human Rights Council;
- Mechanisms to prevent corporate actors from capturing, dominating and controlling UN or government processes, including the UNFCCC. We need the UNFCCC plus bottom-up people driven solutions to drive a just transition to people-centered economies – not corporate-led false solutions that benefit big polluters. There should be no concession to corporations for 'conservation' purposes, or making it a 'restoration' project.

APPENDIX

MAJOR EUROPEAN & US FINANCIERS OF WILMAR INTERNATIONAL

FINANCIERS	COUNTRY	SHARE VALUE IN MILLIONS EURO AND (IN MILLIONS USD) AS OF NOVEMBER 2015	LOANS IN MILLIONS EURO AND (IN MILLIONS USD) AS OF NOVEMBER 2015
HSBC	United-Kingdom	3.45 (3.86)	170 (230)
BNP Paribas	France		144 (200)
Rabobank	Netherlands		144 (200)
Crédit Agricole	France	4.97 (5.58)	108 (151)
ABN Amro	Netherlands		91 (125)
Groupe BPCE	France	0.70 (0.85)	43 (60)
Fifth Third Bancorp	United-States		36 (50)
KBC Group	Belgium		21 (29)
Apple Financial Holdings	United-States		14 (20)
DZ Bank	Germany		14 (20)
BlackRock	United States	65.25 (71.84)	
Vanguard	United States	53.25 (59.73)	
JPMorgan Chase	United States	38.25 (42.05)	
T. Rowe Price	United States	35.11 (39.38)	
Bessemer Group	United States	25.68 (28.19)	
State Street	United States	18.86 (21.15)	
CalPERS	United States	14.22 (19.43)	
Dimensional Fund Advisors	United States	14.50 (16.26)	
Van Eck Global	United States	14.48 (15.94)	
ABP	Netherlands	13.00 (14.54)	
Bank of New York Mellon	United States	11.78 (12.97)	
Northern Trust	United States	10.64 (11.94)	
Pensioenfond's Zorg & Welzijn	Netherlands	10.00 (10,58)	
TIAA-CREF	United States	9.44 (10.59)	
Prudential Financial (US)	United States	9.01 (9.89)	
Old Mutual	United Kingdom	6.09 (6.83)	
Anima	Italy	5.98 (6.67)	
Sumitomo Mitsui Trust	Japan	5.85 (6.54)	
Deutsche Bank	Germany	5.44 (6.09)	
Geode Capital Management	United States	5.30 (5.95)	
Credit Suisse	Switzerland	5.03 (5.62)	
LSV Asset Management	United States	4.40 (4.94)	
UBS	Switzerland	4.28 (4.80)	
AXA	France	4.07 (4.47)	
Aviva	United Kingdom	3.52 (3.95)	
Goldman Sachs	United States	3.48 (3.90)	
RAM Active Investments	Switzerland	3.44 (3.85)	



MAJOR EUROPEAN & US FINANCIERS OF BUMITAMA AGRI

FINANCIERS	COUNTRY	SHARE VALUE IN MILLIONS EURO AND (IN MILLIONS USD) AS OF NOVEMBER 2015	LOANS IN MILLIONS EURO AND (IN MILLIONS USD) AS OF NOVEMBER 2015
HSBC	United-Kingdom		42.59 (45.08)
Rabobank	Netherlands		32.66 (34.57)
Crédit Agricole	France	2.00 (2.12)	
Vanguard	United States	1.63 (1.72)	
Lewis Trust Group	United Kingdom	0.65 (0.69)	
Petercam	Belgium	0.67 (0.71)	
BlackRock	United States	0.57 (0.60)	
Bank of New York Mellon	United States	0.56 (0.59)	
JPMorgan Chase	United States	0.56 (0.59)	

FINANCIAL SERVICES TO BUMITAMA =>
 EXCHANGE RATE : 1EUR=1.0586 USD (AS OF 26 NOVEMBER 2015)



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