



FORESTS & FINANCE

BRIEFING

SIME DARBY URGED TO RESOLVE LONG-STANDING LAND RIGHTS CONFLICT BEFORE STOCK EXCHANGE LISTING OF ITS PLANTATION DIVISION

January 2017

Sime Darby is reported to be preparing to list a number of its divisions on Asian stock exchanges in early 2017. Expected to be among them is Sime Darby's plantation division – which generates more than a quarter of its revenues and more than a third of its profits.¹ One of Sime Darby's Indonesian palm oil plantation subsidiaries is locked in a long running and bitter dispute with several Indigenous communities, who claim a number of grievances against the company, including the grabbing of their traditional land and conversion to Sime Darby's palm oil plantation without their Free, Prior and Informed Consent (FPIC). Before any listing proceeds, affected communities and civil society are urging Sime Darby's banks and investors to require Sime Darby to resolve all outstanding community conflicts and ensure the communities' land rights are fully respected and protected.

Sime Darby is one of the world's largest palm oil companies and produces around 16% of all RSPO certified palm oil.² The company prides itself on its socially responsible practices and has been a member of the RSPO since 2004 as well as a signatory to the United Nations Global Compact and the New York Declaration on Forests.³ In September 2016 it launched its Responsible Agriculture Charter⁴ and announced its intention to join the Palm Oil Innovation Group (POIG).⁵ In December 2016, Sime Darby signed the High Carbon Stock Convergence Agreement, which outlines the fundamental elements of a single set of rules for implementing its commitment to “no deforestation” and robust Free, Prior and Informed Consent (FPIC) processes for the recognition of rights and interests of local communities.⁶

Despite these indications of commitment to responsible business practices, the company has yet to resolve serious violations of Indigenous land rights involving its subsidiary PT Mitra Austral Sejahtera (PT MAS), in Indonesia's West Kalimantan province. PT MAS has been operating on 1,462 ha of indigenous community lands without their Free, Prior and Informed Consent, since 1995. In 2012, the affected communities filed an RSPO complaint, which five years later remains unresolved. Recent efforts by communities and civil society in 2015 and 2016 to set out an action plan for participatory mapping and the return of customary lands are yet to be adequately addressed.⁷

Outstanding community grievances against Sime Darby's PT MAS include:

- Operating on indigenous lands in West Kalimantan since 1995, without obtaining Free Prior and Informed Consent (FPIC) from communities
- Lack of transparency on land status and partnership agreements
- Failure to follow up on promises of infrastructural development
- Lack of compliance to local regulations for plasma estates⁸
- Non-compliance with RSPO Principles & Criteria 2.2, which requires that “the right to use the land is demonstrated, and is not legitimately contested by local people who can demonstrate that they have legal, customary or user rights to”

A factsheet about the conflict published by TuK-Indonesia can be found [here](#) and a statement by Sime Darby responding to TuK-Indonesia's factsheet can be found [here](#). The RSPO complaint summary information can be found [here](#) and the status of dispute settlement negotiations can be found [here](#).

Sime Darby's major financiers and investors,⁹ listed below, are likely to be approached in the underwriting and/or shareholding of any listing of the company's plantations division. Some of these institutions (including HSBC, Standard Chartered, Citigroup, Norwegian Government Pension Fund and Pensioenfonds Zorg & Welzijn) have policies in place supposed to prevent them providing financial services to client companies in violation of key environmental and social standards, such as land rights violations.

RECOMMENDATIONS

Sime Darby should urgently resolve the outstanding grievances of communities affected by PT MAS to the satisfaction of the communities affected.

Banks and investors should require Sime Darby to resolve the outstanding grievances of communities affected by PT MAS, as a precondition for involvement in any listing or future financing agreements with the company.

Table 1: Loans and underwriting by financing type (US\$ MM, 2009-2016 September)

Financier	Country	Bond issuance	Corporate loan	Revolving credit facility	Share issuance	Total value (US\$ MM)
Malayan Banking	Malaysia	1,491	100		590	2,181
CIMB Group	Malaysia	376				376
Public Bank	Malaysia	326				326
OCBC	Singapore		220	80		300
Mizuho Financial	Japan		170	110		280
HSBC	United Kingdom	75	90	60		225
Mitsubishi UFJ Financial	Japan		120	80		200
Standard Chartered	United Kingdom	75	90	10		175
ANZ	Australia		130	10		140
Citigroup	United States	75				75
Hong Leong Company	Malaysia	50				50
Total		2,469	920	350	590	4,329

Table 2: Bond and shareholdings (US\$ MM, 2016 September most recent filing)

Investor Parent	Investor Parent Country	Total value (in US\$ MM)
Employees Provident Fund	Malaysia	1,305
KWAP Retirement Fund	Malaysia	366
Malaysian Hajj Pilgrims Fund	Malaysia	285
Public Mutual	Malaysia	242
Vanguard	United States	98
BlackRock	United States	95
GIC	Singapore	92
Prudential (UK)	United Kingdom	77
Oversea-Chinese Banking Corporation	Singapore	73
Norwegian Government Pension Fund - Global	Norway	48
Dimensional Fund Advisors	United States	26
Pensioenfonds Zorg & Welzijn	Netherlands	21
CIMB Group	Malaysia	20
JPMorgan Chase	United States	20
Deutsche Bank	Germany	15
Total		2,784

¹ Sime Darby (2016, October), *Innovating the Future: Annual Report 2016*, p. 7; Lee, L. (2016, November 25), "Malaysia's Sime Darby could list its plantations division", online: <http://www.reuters.com/article/sime-drby-results-idUSL4N1DQ2SB>, viewed in November 2016. Some analysts have also indicated that a demerger of its plantation division is a likely scenario.

² RSPO, 30 September 2016. "Certified Growers". Online: <http://www.rspo.org/certification/certified-growers>

³ Sime Darby website, (n.d), "Performance Highlights", online: www.simedarby.com/sustainability/performance-highlights/performance-highlights

⁴ Sime Darby, (21/09/2016), Press Release: "Sime Darby Plantation launches responsible agriculture charter", online: <http://www.simedarby.com/media/press-release/sime-darby-plantation-launches-responsible-agriculture-charter>

⁵ Sime Darby, (21/09/2016), Press Release: "Sime Darby Plantation launches responsible agriculture charter", online: <http://www.simedarby.com/media/press-release/sime-darby-plantation-launches-responsible-agriculture-charter>

⁶ See: <http://highcarbonstock.org/wp-content/uploads/2016/11/Final-HCS-Convergence-Agreement-pdf>

⁷ See: http://www.rspo.org/acop/2015/sime-darby-plantation-sdn-bhd/progress-report_pt-mas.pdf

⁸ Investigation Report on Conflict of PT Mitra Austral Sejahtera's Plantation Land In Sanggau District – Province of West Kalimantan, by Asep Yunan Firdaus 2012.

⁹ To explore the data, see: <http://forestsandfinance.org/?explore=AC0.YYYYKKB.KB.KKKKB.kkk1ke.E.KF.F.G#sthash.2QAjLEYI> and <http://forestsandfinance.org/?explore=ac1.YYYYYYYYYYKK1.KB.KKKKB.kkk1ke.E.KF.F.G>