First Resources’ shadow hangs over the Dayak Agabag

**Key Points**

**Shadow Companies:** Evidence suggests that PT Karangjuang Hijau Lestari (PT KHL) and PT Bulungan Hijau Lestari (PT BHP) two subsidiaries of the palm oil group FAP Agri, are shadow companies of RSPO-member First Resources, a group controlled by the Fangiono family.

**Common Control:** Evidence suggests that FAP Agri and its subsidiaries are under the common control of First Resources, and therefore should be declared as related entities in a corporate group with First Resources for the purposes of RSPO membership.

**Land conflicts:** PT KHL and PT BHP have been embroiled in a long-standing land conflict with the Dayak Agabag since 2004 when they began to clear the Dayak Agabag’s ancestral lands to develop palm oil plantations.

**Criminalization:** PT KHL and PT BHP have brought nine separate criminalization cases against members of the Dayak Agabag community with weak evidence since 2010 in an apparent effort to deter community resistance to plantation expansion.

**Reputational Risk to RSPO:** RSPO certification scheme is undermined by the destructive operations of PT KHL and PT BHP, which continue to persist without consequences because the fact that the same beneficial owners of First Resources which ultimately control and benefit from those operations, are hidden through opaque corporate structures.

**Group-level responsibility:** RSPO should suspend First Resources certification until the harms caused by PT KHL and PT BHP are remedied and addressed, as the companies are all under common control.

**Demanding accountability:** Buyers are urged to stop sourcing from FAP Agri and First Resources and the other companies under their common control until the ongoing land conflict between PT KHL and PT BHP and the Dayak Agabag is resolved and rights violations have been remedied.

In the Palm Oil sector, it is increasingly common for corporate groups owned by an individual or family to conceal control of problematic assets. Concealed ownership helps shield corporations from accountability for operations they control. See short film [here](#).

This Briefing documents the situation of the Dayak Agabag of Indonesian Borneo in the Province of North Kalimantan, whose lands have been taken over by two palm oil companies, PT Karangjuang Hijau Lestari (PT KHL) and PT Bulungan Hijau Lestari (PT BHP). Both PT KHL and PT BHP are alleged shadow companies of First Resources, a member of the Roundtable for Sustainable Palm Oil (RSPO). PT KHL and PT BHP have not been acknowledged as part of First Resources even though they share the same controlling shareholders, members of the Fangiono family, and evidence suggests that First Resources ultimately controls their parent company, FAP Agri, and by extension, them.

For RSPO, this presents a dilemma. The certification scheme depends on a deterrent effect that is undermined when certified companies’ most destructive operations are able to persist with impunity because the certified company which ultimately controls and benefits from those operations is hidden. In this case, evidence suggests that First Resources’ control of PT BHP and PT KHL was concealed through offshore companies registered in secrecy jurisdictions, territories that do not publicly disclose company shareholders.

PT KHL and PT BHP’s concessions were awarded over Dayak Agabag ancestral lands without prior consultation with affected communities. These concessions were found to have been granted in violation of Indonesian law. Despite this, the Dayak Agabag have been coerced into surrendering large swathes of their territories through criminalization, intimidation and manipulation.

Intervention by RSPO is urgently needed to address the ongoing land conflicts between companies under common control of First Resources and the Dayak Agabag. Meanwhile, oil palm expansion into Dayak Agabag lands should be suspended to halt further human rights abuse and environmental destruction, and remedial actions undertaken to remedy these violations.
North Kalimantan: Home of the Dayak Agabag

Northeast Borneo has been a production zone for the Indonesian, Malaysian and Philippine regions since possibly as early as 1000 AD, trading in resins, timber and gems. Historically, the Sultanate of Bulungan (a dynasty of Indianised kings centred in Tanjung Selor, the current capital of North Kalimantan), dominated the coastal area of what is now Nunukan, Kota Tarakan, Bulungan and Tana Tidung districts.

From 1731, the Sultanate claimed control over the hinterland and interior, although much of its authority over the upstream areas existed in name alone. Bulungan built its wealth, like many other coastal sultanates, on controlling the trade routes between the interior and the coast, where international traders came looking for the island's forest products.

This was until 1850, when colonial Dutch authorities, seeking to expand their sphere of influence, set about attempting to establish their own control of Northeast Borneo. By the 1880s, Bulungan was incorporated into the colonial empire of the Dutch East Indies. The interior hinterland, however, remained relatively autonomous until 1933 when colonial officials were stationed for the first time in the area to administer the upstream regions.

In 1950, following Indonesian independence from Dutch colonial rule, the Sultanate of Bulungan entered the federation of East Kalimantan as an autonomous region (Daerah Swapraja). In 1955, after the federation joined the Republic of Indonesia, Bulungan's status was reduced to that of a special region (Daerah Istimewa).

In 1959 this status, and that of the sultan, were ended and Bulungan was given district (kabupaten) status within the province of East Kalimantan. Following regional autonomy, the district of Bulungan was divided into five new districts in 1999: Nunukan, Malinau, Tana Tidung, Kota Tarakan and Bulungan. These five administrative areas formed part of North Kalimantan province in 2012, when it was legally recognised as the 34th province of Indonesia, breaking away from East Kalimantan.

Nunukan district currently comprises of 19 sub-districts. The lands of the Dayak Agabag stretch across six of these sub-districts – Lumbis, Lumbis Ogong, Sembakung, Tulin Onsoi, Sembakung, and Sebuku. In Sebuku, the Agabag reside across five villages – Tetaban, Melasa Baru, Bebanas, Lulu and Sujau. Each village has customary lands (katanaan) which has been managed for generations through customary law (ukum akasala).

The Agabag are an upland indigenous people once affiliated to the Murut of North-eastern Borneo – an indigenous ethnic group comprised of 29 sub-ethnic groups (sub-suku) – who have inhabited the area between the Sembakung and Sebuku river basins since time immemorial.

Over the past two decades, however, there has been an ongoing tenurial conflict involving two palm oil companies PT Karangjuang Hijau Lestari (PT KHL) and PT Bulungan Hijau Perkasa (PT BHP) whose concessions stretch across Sebuku.

In 2004, PT KHL was awarded cultivation rights over 20,000 hectares (ha) across Sebuku which overlapped the customary forests (Tanah Nu Akion) of the villages of Bebenas (3,673 ha), Melasa Baru and Tetaban (10,341 ha) and Sujau (5,984 ha). PT BHP was also awarded cultivation rights by the National Government in 2004 over 6,061 ha across Nunukan district; however, it is their second concession awarded in 2019 of over 2,158 ha which impacts all five Agabag villages. PT BHP’s total concession area now encompasses 8,219 ha.

Over the past twelve months, Agabag communities have mapped their lands and superimposed PT KHL’s concession data provided by Nusantara Atlas, a third party which monitors the environmental degradation caused by plantations. Based on this data, Bebenas’ customary territory stretches over 8,969 ha, however, over 60% of this land (5,529 ha) is now inside PT KHL (3,673 ha) and PT BHP’s (1,856 ha) palm oil concessions. Neither of these companies, however, have ever shared their concession data with the impacted Agabag communities, despite requests to do so.
PT KHL and PT BHP

The ownership history of PT KHL (founded in 1991) and PT BHP (founded in 1999), as shown in registry profiles, is partial prior to 2008, making precise histories before this difficult to determine. This said, court transcripts from a 2007 corruption trial relating to the acquisition of permit for 11 concessions in East Kalimantan during 2000 and 2001 revealed that both PT KHL and PT BHP were previously part of Surya Dumai Group (SDG).

SDG and Martias Fangiono: In 1998, the Governor of then-East Kalimantan (Indonesia), Suwarna Abdul Fatah, launched a development project which centred on the conversion of 1 million hectares of the province to palm oil plantations. As part of the project, to open up the forest area prior to the development of industrial scale oil palm plantations, timber concessions (Izin Pemanfaatan Kayu) over 147,000 hectares (ha) of land were issued to 11 companies in Berau and Nunukan district, on the condition these would then be converted into palm oil estates.

These 11 beneficiaries belonged to an informal group of companies known as Surya Dumai Group (SDG), the flagship company of Indonesian Chinese businessman Pung Kian Hwa, better known by his Indonesian alias Martias Fangiono, a major player in the Indonesian timber industry. In 2000, SDG companies, including PT KHL and PT BHP, began to extract prized timber from its concessions, but the actual plantation development did not take place - in any case much of the land was unsuitable for oil palms.

Governor Suwarna Fatah’s project far exceeded its initial scope. The Regional Government issued 186 Plantation Business Permits to 146 companies over 2.4 million hectares of forest. This led to allegations of corruption and prompted an investigation by the newly established Corruption Eradication Commission (KPK), a government body with the power to investigate and prosecute government officials and corporations for involvement in corruption. KPK’s investigation found several irregularities in SDG’s licensing process, including a slew of missing documents and required permits, and that Governor Suwarna Fatah had approved SDG’s extensive operations through a Governor’s Decree, in the process infringing upon the authority of the Ministry of Forestry. The ‘permit sale’ contravened the provincial land ceiling each corporation was allowed (20,000 ha) under Indonesian law on Plantation Business Licensing and was found to have cost the State an estimated US$ 24 million.

The results of KPK’s investigation culminated in 2007 with the imprisonment of Martias Fangiono, Governor Suwarna Fatah, and two representatives from the Ministry of Forestry and Plantations. Despite finding the licensing process of SDG’s concessions to have been in violation of Indonesian law, all 11 concessions continue to operate with the permission of the Regional Government on the basis that the permits had already been issued and are thus valid. Within three years, with the supply of timber exhausted, SDG did eventually shift its focus to palm oil. In 2004 both PT BHP and PT KHL were awarded oil palm cultivation rights (HGU) across Sebuku subdistrict, Nunukan District, North Kalimantan.
PT KHL: A history of conflict

On 4th July 2003, village representatives from the five Dayak Agabag villages in Sebuku were invited to Nunukan to meet with PT KHL’s director, Roman Simatupang. Villagers report that their representatives were supplied with alcohol, given bribes and coerced into signing an agreement letter to allow their respective villages to form enclaves within the company’s concession (see Annex 1).

The determination of the administrative boundaries of each village enclave was carried out by PT KHL. Crucially, this process did not involve the participation of the wider community. The respective village leaders, since deceased, had no idea of the ramifications of the documents they signed.

In 2004, Agabag community members report that PT KHL accompanied by personnel from the State security apparatus (TNI-POLRI) confiscated community lands, bulldozed their crops and evicted them from their orchards. Over the subsequent twelve months, aggressive land clearing began, as evidenced by the deforestation data. This occurred without the consent of the wider community who to this day feel they never relinquished their rights, but that their lands were deforested and used without their consent, and who have never been properly compensated for the land that has been forcibly taken from them.

In 2008, new lands were opened up. In this instance, PT KHL planted oil palms in riparian areas. PT KHL’s operations reportedly caused pollution of river water and depletion of fish stocks. Agabag villagers report that the agrochemical run off from fertilizers and pesticides has directly impacted their livelihoods and health. It was also the first time the wider community learnt their territories were within PT KHL’s palm oil concession, triggering widespread protests.

In 2010, in response to community demands to settle the land conflict, PT KHL proposed the Nucleus Estate and Smallholder (NES) scheme to four villages – Melasa Baru, Bebenas, Lulu and Sujau. One village, Tetaban, refused to participate in the scheme due to distrust of PT KHL’s motives. Under NES, villagers transfer a proportion of their land to the company in return for financial compensation and a promise of oil palm plots. In Indonesia, it is a legal requirement for companies to give a proportion of their plantation (minimum 20%) to impacted communities in the form of smallholdings, these plots are widely known as “plasma”. Under PT KHL’s scheme, each village would be provided plasma estates equivalent to 30% of the company’s concession. Villagers were to play no active role in the management of these estates. Instead, PT KHL used paid labour to tend the plasma, and the “smallholders” (the Dayak Agabag) were told they could sit back and let the profits roll into their bank accounts. The rationale being that PT KHL, with capital and know-how, could manage plantations more effectively than villagers.

A one-off payment of 1 billion rupiah (~$64,000) was divided up amongst the four villages, a financial inducement for villagers to approve the agreement. Villagers were unaware they were signing agreements which surrendered their lands in perpetuity, as the agreements were drawn up between a newly formed cooperative body (Koperasi Tikung Sejahtera) and PT KHL, not between community members and PT KHL.

The cooperative assumed the legal rights of community members which meant PT KHL no longer had any obligation to compensate individual villagers when their orchards were razed, as these now fell under the authority of the cooperative. This in turn, has sowed internal division because when community members want to make claim to their lands, PT KHL argues the villagers need to resolve the conflict with the cooperative not with them. The terms of the agreement also quickly changed. The plasma obligation reduced to 25% of PT KHL’s concession, as PT KHL argued the 1-billion-rupiah inducement accounted for a 5% deposit.

Today, nominal figures of 100,000-300,000 rupiah (~$6-19 USD) are distributed to the Heads of Households in each village on a monthly basis. The communities have no idea how this figure is calculated, nor of the extent of the company’s concession over their lands let alone the location of their plasma holdings from which these monthly payments are derived.

None of the Dayak Agabag communities relinquishing their lands understood how the plasma would be run by the company and that community members would be burdened by a substantial debt that they would need to pay off. The reason being cost of planting, land clearing and maintenance until the oil palms can bear fruit are taken from loans to Bank Central Asia (BCA). PT KHL retains plantation land certificates as collateral until the debts from plasma smallholdings are paid off.
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PT BHP: In 2019, PT BHP was awarded a second concession over 2,158 hectares, directly impacting all five Dayak Agabag villages. Rather than enter into negotiations with each village through community consultations, PT BHP has sought to make deals with individuals. In 2021, numerous villagers were approached to surrender their lands for nugatory amounts of 4 million rupiah per hectare (~$250 USD). Even where the Agabag had very clearly rejected PT BHP, they complained of being under heavy pressure from company staff to release lands and land brokers repeatedly approached individuals in the community to sell their lands, seeding community divisions and ill feeling. (See Annex 2).

Deforestation data suggests that PT KHL have operated on 1,429 ha beyond their 20,000 ha concession. PT KHL have never shared their concession data with impacted Agabag communities.

Deforestation data within one of PT BHP’s known concessions. PT BHP have never shared their concession data with impacted Agabag communities.

Deforestation by Year in Fangiongo Agro Plantations (FAP Agri) Subsidiary Concession

<table>
<thead>
<tr>
<th>Year</th>
<th>Mineral</th>
<th>Pest</th>
<th>Total</th>
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<tr>
<td>2005</td>
<td>2,165</td>
<td>55</td>
<td>2,220</td>
</tr>
<tr>
<td>2006</td>
<td>130</td>
<td>4</td>
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<td>2007</td>
<td>162</td>
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<td>164</td>
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<td>2009</td>
<td>6,323</td>
<td>8</td>
<td>6,331</td>
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<td>2010</td>
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<td>19</td>
<td>3,520</td>
</tr>
<tr>
<td>2011</td>
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</tr>
<tr>
<td>2019</td>
<td>80</td>
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<td>80</td>
</tr>
<tr>
<td>Total</td>
<td>21,326</td>
<td>103</td>
<td>21,429</td>
</tr>
</tbody>
</table>

Theoretically under NES, 4,000 ha of PT KHL’s 20,000 ha should be managed under the smallholder scheme. To this day, however, the location of these lands is unknown. Satellite imagery suggests that PT KHL has razed over 21,429 ha of forest, exceeding its concession boundaries. On 2nd March, Agabag representatives filed Freedom of Information requests to release the details of the concession data to the National Land Office (Badan Pertanahan Nasional - BPN). These requests went unanswered.

On 23rd May 2022, a different request under Law No.14/2008 on the disclosure of public information (Keterbukaan Informasi Publik) was registered in Tanjung Selor, the seat of the Provincial Government, to release the details of PT KHL and PT BHP’s concession boundaries, the latest NES data and partnership agreements. This request was withdrawn on 29th September 2022, because of internal fears within the Agabag villages that the pursuit of this information would lead to the criminalization of community members by PT KHL.
Aki Bangkangan: The construction of the Northern link of the Trans-Kalimantan road network, an infrastructure project that traverses the Indonesia-Malaysia border area, supported by Asian Development Bank\(^3\) has allowed greater access to Agabag lands since 2015. This has exacerbated already existing tensions with neighbouring transmigrant communities who benefited from Suharto’s Pirbun Trans program and have been gifted local smallholder estates (*plasma*) through mutual and sustained partnerships with PT KHL and PT BHP.\(^3\)

It was in this context that PT KHL’s continued encroachment into Tetaban village’s sacred lands (*Aki Bangkangan*) triggered a concerted community effort to engage with company representatives for fears of losing more land. On 4th December 2017, the customary head of Sebuku sent a letter to PT KHL and the Nunukan District government detailing the ongoing encroachment into *Aki Bangkangan*, an area they will not surrender due to its cultural significance to the Agabag.

Three months later, on 2nd February 2018, an agreement letter was drawn up in which PT KHL agreed to respect Tetaban village’s customary area and to seek resolution to the ongoing *Aki Bankangan* conflict through traditional means should no agreement be found through local government mediation. Both parties agreed to follow up on other points of the conflict through mediated discussions. These discussions, however, never took place because the relationship between the Agabag and PT KHL soured.
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Dayak Agabag: Criminalization and Intimidation

In response to community demands to settle the land conflict, PT KHL began to employ a strategy of criminalization and intimidation to coerce community members to drop their complaints. This plan benefitted from the pressures plantation estate expansion was imposing on traditional Agabag farming system. Small-scale subsistence farming was no longer meeting livelihood needs, and community members were increasingly turning to the oil palm cultivation as an additional source of income.

This in turn provided leverage to PT KHL to bring criminalization cases. The first instance emerged in 2010, in the wake of PT KHL opening land in Aki Bangkangan - sacred Dayak Agabag lands in the village of Tetaban's customary area – without the consent of the community. Following community protests, Mr. Karno was arrested on spurious allegations of theft of Fresh Fruit Bunches (FFBs) from PT KHL's concession. In 2018, a second criminalization case was brought by PT KHL against Mr. Mansur under the same auspices. He spent four months in police custody. Whilst both cases were eventually dropped by PT KHL, this did not prevent their ancestral plots being razed and taken over by the company.

In 2021, the same criminalization charges were levelled against four Agabag heads of household - Mr. Bapuli, Mr. Kual, Mr. Abetman and Mr. Siggung. The four were jailed for three months. On 24th June 2021, following mass demonstrations outside the courthouse, the Nunukan District Court cleared the charges against them on the grounds that they had been harvesting FFBs from their own customary lands, from oil palms that had been planted during a 2006/7 government development program. PT KHL, PT BHP and the public prosecutor filed an objection to the ruling and requested a follow-up process at the State Administrative Court (Pengadilan Tata Usaha Negara) but this was unsuccessful.

On 28th May 2022, the most recent criminalization cases were brought by PT KHL against four more Dayak Agabag men, namely, Mr. Nik Berdi; Mr. Jamri (Bebenas); Mr. Roni (Tetaban); and Mr. Acai (Sujau). Mr. Berdi, Roni and Acai were implicated on the same charges of alleged theft of FFBs from the company’s concession, whilst Mr. Jamri was summoned by Nunukan District Police for refusing to disclose Mr. Berdi’s personal data, thereby obstructing their investigation. These charges have since been dropped. Mr. Roni and Mr. Acai were both arrested and held in police custody for a week.

In all of these instances, it has been easy for PT KHL and PT BHP to make allegations of theft because the boundaries of the NES scheme have never been shared with affected communities. The Agabag do not know which lands fall under the partnership scheme. Community members may presume they are harvesting FFBs from their personal orchards where they have planted palm oil trees to meet livelihood needs, only to be summoned by District Police to answer claims of theft from the plantation company.

The geographical proximity of Agabag lands to the international border with Malaysia allows for a constant presence of state security forces in the area. Agabag community members report it is not uncommon to have military personnel patrolling PT KHL’s concession, with military checkpoints dotted across their concession. During a field visit to the plantation in November 2021, the author witnessed some of these checkpoints manned by Indonesian army (TNI) personnel.

Community members regularly report confrontations with Indonesian mobile police brigades (Brimob) and Indonesian Special Forces (Kopassus). A recent meeting held in Bebenas on 30th August 2021, for example, between Agabag representatives and management from PT KHL and PT BHP was attended by numerous State security personnel, an obvious show of force to the Agabag.

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8
The criminalization of Pak Suande:

On 19th January 2021, PT KHL submitted a report to Nunukan District Police which detailed allegations of the illegal harvesting of Fresh Fruit Bunches (FFB) from PT KHL’s palm oil concession, and implicated seventeen Dayak Agabag men from Tetaban, Bebenas, Sujau and Lulu village, five of whom are listed as suspects. The timing of the submission is significant, exactly one week after Bebenas village refused to sign an agreement letter with PT KHL regarding the settlement of land claims inside of the company’s concession (dated 12th January 2021). Following PT KHL’s allegations, a mediation was held whereby the company handed over letters to the villagers for them to sign, in which they were encouraged to admit wrongdoing. The seventeen Agabag men refused to sign because they felt that an admission of wrongdoing would have implications on their land claims, essentially as it would require admitting that their lands were not theirs.

A member of the District Legislature, Andi Krislina, who managed the mediation, asked PT KHL to withdraw the charges and bring the case to the Ministry of Environment and Forestry. Instead, on 4th March, PT KHL escalated the case. This time, Nunukan District Police summoned three different men from Tetaban village – Mattius, Sion and Suande – to answer charges brought by the Criminal Investigation Unit (Kasat Reskrim), with the threat of being convicted should the case go to court.

Suande was the only one to travel to attend the summons, he was also the only one employed by PT KHL, where he worked as a security guard. Suande was dismissed from his job while he was undergoing legal proceedings when prior to his departure PT KHL staff told him: “This is going to be the last time you’re helping the company, just go to the police. We won’t do anything to you.”

On his arrival at Nunukan police station on 10th March, Suande was interrogated and later arrested. His detention period in police custody was swiftly extended to 9th May. His family were not notified of his arrest until a week later when activists supporting Suande’s case provided information to his wife who had been forced to relocate to her parents’ home in another village. The family depends on Suande’s income to meet their subsistence needs. The longer he remained in custody, the more precarious their position became.

After thirty days in police custody, demonstrations were held outside PT KHL and PT BHP offices and mill in Sebuku demanding Suande’s release. Over the subsequent weeks, however, Suande’s family were pressured to persuade him to terminate the relationship with his legal team citing fears of heavier punishment which would have grave implications for the family’s livelihood.

On 27th April, seven weeks after his arrest and two weeks prior to his mandatory release, Suande heeded his family’s pressures and cut ties with his legal team. In return, PT KHL agreed to his release from police custody and that resolution could instead be sought through the Customary Dayak Agabag Council at the sub-district level (Sebuku). Suande’s detention served its purpose – a reminder to the Agabag not to fight for their rights.

What is a Shadow Company?

A shadow company is a company that is under common control with a self-identified group, or under the control of a group, but which has not been publicly acknowledged as part of the group. A group refers to the totality of companies under common control.

Common control refers to control by the same controlling entity. A controlling entity may be (1) a company, natural person (or persons acting together, such as a family) that controls a company and is not itself controlled by another company, or natural person’s or (2) a legal person with no single control. For example, a public company with many shareholders, none of whom is a controlling shareholder.

Control in respect of a controlling entity is the power to ensure that a company acts in accordance with the entity’s wishes, or the ability to exert effective influence over a company, whether by ownership or by any other means – direct or indirect, formal or informal.

It is increasingly common for corporate groups in the natural resource sector which are owned by an individual or a family to not have formal parent-subsidiary relationships, but to opt instead for structures which inherently conceal the actual beneficial owners of some of their assets, such as shadow companies.

A beneficial owner is a natural person i.e. an individual, rather than a ‘legal person’ such as a company, who ultimately owns and controls a company, securities or other assets or is the beneficiary of those assets.

Two principal techniques typically used in these structures are: a) offshore companies in tax havens and secrecy jurisdictions, and b) nominee shareholders and/or directors who have a contract or set of contracts with the beneficial owners which transfer substantially all the rights over the companies to the latter.

Secrecy Jurisdictions are jurisdictions where legal arrangements have been put in place to enable individuals and companies to avoid disclosure of information relating to assets held in the jurisdiction, such as the ownership and control of companies registered there. Such arrangements enable users to avoid complying with the regulations of other jurisdictions and maintain secrecy around their assets.
FAP Agri and First Resources: Born out of the ashes of Surya Dumai Group

In the wake of the 2007 high-profile corruption case, Surya Dumai Group (SDG) broke-up its operations. Six of the eleven SDG companies referred to in Martias Fangiono’s corruption trial, including PT KHL and PT BHP, became subsidiaries of PT Fangiono Agro Plantation. Whilst First Resources, a Singaporean listed company, was the other principal beneficiary of SDG’s demise.

PT Fangiono Agro Plantation (now FAP Agri) was founded in 1994, while SDG was still the principal trading name of the Fangiono family, at which time the shareholders were Martias Fangiono, Irawaty (Martias’ wife) and their six children - Cik Sigh (also known as Fang Zhixiang), Ciliandra, Ciliandrew, Wirashery, Wirasneny and Wirastuty.

FAP Agri is majority owned by Prinsep Management Ltd, an offshore company registered in the British Virgin Islands. In 2021, floating 15% of its shares on the Indonesian Stock Exchange, FAP Agri’s prospectus revealed Wirastuty to be the sole shareholder of Prinsep Management, and thus FAP Agri’s ultimate owner. FAP Agri’s minority interests are held by Fangionoperkasa Sejati (see PT FPS), a holding company once owned by Martias Fangiono and Irawaty’s six children.

First Resources was listed on the Singapore Exchange in December 2007, the same month that Martias Fangiono was sentenced to 18 months’ imprisonment for corruption. Martias Fangiono’s six children (listed above) are First Resources “controlling shareholders” via Eight Capital Inc, a discretionary family trust. First Resources’ defines a controlling shareholder as “a person who: (a) holds directly or indirectly 15% or more of the total number of issued shares in the company (b) in fact exercises control over the company.”

Since its inception, First Resources has been keen to distance itself from Martias Fangiono who, to this day, has no official role in the group. Before the public listing, however, First Resources acquired many former SDG companies via a series of complex transactions, some of which are partly described in its Initial Public Offering (IPO) prospectus. These transactions involved the same offshore company, Prinsep Management Ltd., which now owns FAP Agri.

FAP Agri’s minority shareholder, PT FPS: Wirastuty and Ciliandrew Fangiono held joint controlling interests (40% shares respectively) in PT FPS (2010-2019). In 2019, their stakes were transferred offshore to Success Quest International (SQI), via two Indonesian shell companies, PT Puspita Abadi Sejati and PT Swastika Sejati Abadi. The current beneficial owners of PT FPS are unknown. PT FPS also holds minority shares in 18 First Resources subsidiaries.

PT BHP and PT KHL’s minority shareholder: Martias Fangiono was listed as a minority shareholder of both PT BHP (2008-2019) and PT KHL (2008-2020) before his interests were taken over by PT Maha Tjipta Sejati Raya, an Indonesian shell company owned by Vector Vision International Limited (VVI) whose beneficial owners are unknown.

Following Martias Fangiono’s sentence, which included 346.8-billion-rupiah (~38.5 million USD) compensation for the value of illegal timber extracted, KPK announced it would seize and auction 19 properties it identified as part of SDG’s portfolio to pay the fine. These included three companies owned by First Resources, namely, PT Ciliandra Perkasa, PT Pancasurya Agrindo and PT Perdana Intisawit Perkasa. Shortly after KPK’s threat, which caused First Resources’ share value to crash, Martias Fangiono’s fine was paid in cash, and the question of whether their companies could be considered part of SDG was never tested in court.

Today, SDG no longer functions as an entity except as PT Surya Dumai Industri (PT SDI), where Martias Fangiono continues to be Chief Commissioner and largest shareholder, while Martias’ daughter Wirastuty, who previously managed PT SDI, is a minority shareholder. Meanwhile, the three First Resources’ companies threatened with seizure now either rent office space or have as their registered address at the Surya Dumai building in Pekanbaru, Riau, which is owned by PT SDI.
**Fangiono-family crossover: First Resources and FAP Agri’s PT KHL/PT BHP**

- **Martias Fangiono**: Minority shareholder in PT KHL (2008-2020) and PT BHP (2008-2019). Largest shareholder of PT SDI (36%) which is listed as an Associate of Ciliandra and Fang Zhixiang in First Resources’ 2021 annual report.

- **Wirastuty Fangiono**: Previously First Resources non-executive director (2007-2009). Deemed “controlling shareholder of First Resources”.

- **Cik Sigih (Fang Zhixiang)**: Deputy-CEO of First Resources. “Controlling shareholder of First Resources”. Prinsep Management (PT KHL/PT BHP ultimate owner) listed as his ‘associate’ in First Resources’ 2021 annual report.

- **Ciliandra Fangiono**: CEO of First Resources. “Controlling shareholder of First Resources”. Prinsep Management listed as his ‘associate’ in First Resources’ 2021 annual report.

- **Ciliandrew Fangiono**: “Controlling shareholder of First Resources”. Minority shareholder (23%) in PT SDI (via PT FPS) during the same time period, including PT Ciliandra Perkasa.

**NB**: Critical stake is defined as the threshold for the minimum stake which needs to be legally or beneficially owned in a company in order for the ultimate owner of that stake to be treated as the company’s controlling entity (See Shadow Companies).
First Resources refutes allegations that it has common control over FAP Agri, noting “both groups have distinct and independent managements.”75 Listed below, however, are some examples of how senior management roles reveal significant crossover between First Resources and FAP Agri subsidiaries PT KHL and PT BHP:

**Azaria Yoga Prasetyanto** was director of PT KHL and PT BHP (2008-2015) and five other FAP Agri subsidiaries, during which time he was also listed as director of First Resources subsidiary, PT Ketapang Agro Lestari, and five other First Resources subsidiaries.77

**Ricky Tjandra** is PT BHP’s current President Director since September 2021. He is the current President Director of FAP Agri since July 2021 and previously worked at First Resources as Vice President of Human Resources (2011-2016).78

**Lau Cong Kiong** held various roles in PT BHP and PT KHL top management (2008-2017) and seven other FAP Agri subsidiaries. Mr Kiong previously held high level management positions in ten First Resources’ subsidiaries, including their holding company PT Ciliandra Perkasa.79 Mr Kiong was noted as the accountant for PT BHP and PT KHL at the time Martias Fangiono’s corruption took place.80

**Citra Gunawan** held top management positions in PT BHP and PT KHL (2008-2010) and six other FAP Agri subsidiaries. During that time, Citra held similar roles in various First Resources subsidiaries.81

**Lion Sanjaya** current director of six First Resources companies (2015-present).82 He was Commissioner in PT BHP and PT KHL (2012-2015). He was also First Resources’ Internal Audit Director (2007-2009) and later Commissioner in First Resources’ holding company, PT Ciliandra Perkasa (2008-2012).

**Donny** held top management positions in PT BHP (2015 and 2017). He’s the current director of PT KHL (2020-), having previously been Commissioner in 2015. Listed as First Resources’ ‘Deputy Managing Director Kalimantan Timur’ in a First Resources document (November 2016).83

**Tony Chandra** was director of PT KHL (2008) whilst being listed as First Resources Director of General Affairs (2007-2009).84

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First Resources’ shadow hangs over the Dayak Agabag

PT BHP’s palm oil concession, Sebuku, Nunukan, North Kalimantan. Credit: Jamie Wolfe
The Indonesian Human Rights Commission Report

In 2015, the Indonesian Human Rights Commission (KomNas HAM) investigated the land conflict between PT BHP and the Dayak Agabag. KomNas HAM investigators interviewed First Resources representatives (FR), perceiving First Resources to be in common control of PT BHP. FR did not attempt to deny control, but remained unwilling to make a public statement for fear of the effect on the group’s share price and RSPO membership. The anonymous “high-level” First Resources’ informant (named ‘Y’ in the report), when questioned on the history of PT BHP and First Resources’ purchase of SDG companies responded: ‘First Resources does not consider the presence or absence of social conflicts in the locations of the companies it acquires.’

Another anonymous informant, this time from Nunukan District’s Representative Council (Dewan Perwakilan Rakyat Daerah Kabupaten Nunukan), noted “the company is very close to Nunukan’s Bupati [head of district government], his costs are often financed by PT BHP.” As a result, PT BHP has privileged access to information derived from their “personal closeness to government officials.”

Public access to information on PT BHP, on the other hand, has been concealed. KomNas HAM investigators, for example, requested access to PT BHP’s concession data (Hak Guna Usaha - HGU) but the head of the Regional Land Office (Kanwil BPN) and Nunukan’s Land Affair’s Office (Kantor Pertanahan Nunukan) refused to provide a copy to investigators; instead, PT BHP offered “to write down the important parts”.

Recent efforts to release PT BHP’s concession data have gone unanswered, despite the Supreme Court’s 2017 ruling that all plantation data and maps must be made publicly available. That Supreme Court decision was reaffirmed by the State Administrative Court in 2021. To date this information has not been shared with impacted communities, despite National Land Agency (BPN) assurances.

Investigators from Indonesia’s Human Rights Commission noted on the land conflict between PT BHP and the Agabag that “the existence of RSPO should encourage First Resources, or especially PT BHP, to be more transparent to the public.”
Common Control: RSPO Membership Rules

In March 2008, First Resources became a member of the Roundtable on Sustainable Palm Oil (RSPO). First Resources’ shadow companies PT KHL and PT BHP are not transparent to the public, precisely because they are not members of RSPO.

First Resources’ RSPO membership has helped the group to distance itself from other Fangiono-family operations’ alleged to have carried out human rights violations and been complicit in environmental destruction, even though those are also under the common control of the groups’ beneficial owners.

The lack of RSPO oversight has allowed PT KHL and BHP concession to expand into Agabag lands with relative impunity, through the alleged use of illegal and violent means to acquire land and suppress dissent.

First Resources’ RSPO membership has allowed the group to portray itself as a beacon of sustainable oil palm production. Since 2015 First Resources has committed to a NDPE policy – No Deforestation, No planting on Pear, No Exploitation. It has also made commitments to uphold FPIC and protect customary tenure rights. No practical operational policies or procedures on respecting tenure and FPIC, however, are publicly available, though the topic is briefly noted in the Groups 2019 Sustainability Report.

Changes to RSPO membership rules in June 2020 may expose First Resources and FAP Agri (and therefore PT KHL and PT BHP) share the same beneficial owners, but other evidence suggests that First Resources also in fact exercises operational and management control over FAP Agri and therefore its subsidiaries.

In determining control, the RSPO may consider whether First Resources has (1) “the ability to exert influence over the management and/or activity of an entity through: (a) ownership of proportionately significant shareholdings...(b) representation on the board of directors” [and] (2) “the ability to control, direct and manage the activities of a non-related entity.”

First Resources has publicly stated “the controlling shareholders of First Resources [are] Mr. Ciliandra and his siblings”, this includes Wirastuty Fangiono, the current majority owner of FAP Agri. By their own definitions provided at their Annual General Meeting, a controlling shareholder “exercises control over the company” and “holds directly or indirectly at least 15% or more of the total number of issued shares in the company”. Despite this, First Resources continue to claim that “although there are overlaps in shareholdings, we have different controlling shareholders.”

Evidence against RSPO indicator 5.2

The evidence is clear that at a minimum, First Resources and FAP Agri (and therefore PT KHL and PT BHP) share the same beneficial owners, but other evidence suggests that First Resources also in fact exercises operational and management control over FAP Agri and therefore its subsidiaries.

This includes evidence that FAP Agri employees list First Resources as their employer; that FAP Agri’s minority owner PT FPS brands itself as FAP Agri and uses First Resources’ contact information as its own; that First Resources operational manual (2016) lists a “Nunukan” Plantation Director and Manager in their Operations Steering Committee when First Resources have no known subsidiaries in Nunukan District, only FAP Agri have subsidiaries operating there (See Annex 3); Indonesian State officials deal with the same representatives from First Resources and FAP Agri when they meet to discuss matters relating to their permits and investments; that FAP Agri and First Resources subsidiaries share the same addresses and contact information; and that First Resources did not deny control of FAP Agri subsidiary when interviewed by KomNas HAM.
Demanding Accountability: The responsibility of downstream companies and financiers

PT KHL and PT BHP supply mainstream and downstream buyers which include major brands, consumer goods manufacturers and retailers who have adopted NDPE (No Deforestation, No Peat and No Exploitation) policies including AAK, Avon, Danone, General Mills, Johnson & Johnson, Kellogg’s, L’Oreal, Nishin-OilliO, PepsiCo, Procter and Gamble (P&G), PZ Cussons, Reckitt Benckiser, Upfield and Vandemoortele. Other brands such as Olam, Colgate-Palmolive, Hershey, Nestle, and Mondalez report purchasing Crude Palm Oil (CPO), Palm Kernel Oil (PKO) and its derivatives for the use in their production processes indirectly through traders SimeDarby, Wilmar, Fuji Oil, Bunge Loders Croklaan, ADM and Cargill who source directly from PT KHL’s mill in Sebuku.

Unilever is the only known buyer to have stopped sourcing from PT KHL and PT BHP. In 2019, Unilever reported that it does not have any business relationship with First Resources or FAP Agri due to noncompliance against Unilever’s Responsible Sourcing Policy, which includes commitments to indigenous peoples’ land rights “through the application of the Free, Prior and Informed Consent (FPIC) process” and other grievances brought to their attention. Unilever, however, to the best of the author’s knowledge did not engage with First Resources to seek remedy from the harms associated with their operations.

Several European, UK and US financiers are connected with First Resources including Deutsche Bank, Credit Agricole, Credit Suisse, Prudential, JP Morgan Chase, Legal & General, Blackrock, State Street and Vanguard, providing access to loans and underwriting services despite the groups’ growing list of land conflicts and community grievances.

Despite some banks requiring commitment to RSPO certification, the lack of enforcement of the standard have led to serious allegations against First Resources of serious human rights abuses and violations. These cases are clearly contrary to RSPO standards, and yet these grievances have not deterred unchecked investment flowing to the group.

The author of this paper reached out to First Resources for comment but did not receive a response at the time of publication.
Recommendations

First Resources

1. Declare the true nature of First Resources relationship with FAP Agri and be transparent about First Resources relationship with PT KHL and PT BHP.

2. Remedy the human rights violations inflicted on the Dayak Agabag by PT KHL and PT BHP.

RSPO

1. Suspend and review all First Resources certificates until it addresses the ongoing tenurial conflict between FAP Agri subsidiaries and the Dayak Agabag.

2. Urge First Resources to carry out remedy of environmental and social harms caused by PT KHL and PT BHP in the customary territory of the Dayak Agabag in Teteban, Melasu Baru, Bebenas, Lulu and Sujau.

Buyers and Financiers

1. Buyers are obliged to identify, address and remedy impacts in their supply chains and portfolios. For this reason, buyers should stop sourcing Crude Palm Oil, Palm Kernel Oil and its derivatives from PT KHL’s mill in Sebuku, Nunukan until such time that the ongoing tenurial conflict between the Dayak Agabag and PT KHL/PT BHP and related community grievances are addressed and remedied.

2. Publicly disclose due diligence actions planned to address the ongoing tenurial conflict.

3. Engage with First Resources and FAP Agri to seek remedy for the harms associated with PT KHL and PT BHP’s operations, and establish robust monitoring, verification and enforcement mechanisms to support compliance.

4. Urge FAP Agri and PT KHL to stop criminalizing and intimidating the Dayak Agabag of Teteban, Melasu Baru, Bebenas, Lulu and Sujau.

5. Urge FAP Agri and PT KHL to support the land rights recognition process of the Dayak Agabag Customary Community (Masyarakat Hukum Adat).

Government of Indonesia

1. Request the Ministry of Agrarian Affairs and Spatial Planning to order the National Land Agency Regional and District level chapters in North Kalimantan and Nunukan District to (1) Review the permit issuance process of PT KHL and PT BHP’s cultivation rights (HGU) that have been granted over the customary territories of the Dayak Agabag; and (2) release the details of PT KHL and PT BHP’s concession boundaries, the latest Plasma data and partnership agreements, and if it finds the permit issuance inadequate, suspend those permits.

North Kalimantan Provincial Government and Nunukan District Government

1. Expedite Agabag community proposals (Teteban and Melasa Baru) for customary forest recognition which have already been submitted to the head of Forest Management Units (Kesatuan Pengelolaan Hutan) and Community Empowerment Office (Pemberdayaan Masyarakat Desa) at the district level (Nunukan); the Bupati of Nunukan District, Asmin Laura Hafidz; and the Deputy director of customary forest and local wisdom of the Ministry of Forestry and Environment in Jakarta.

2. Issue a decree recognising the territorial and customary rights of the Dayak Agabag across the five villages of Teteban, Melasu Baru, Bebenas, Lulu and Sujau.
First Resources’ shadow hangs over the Dayak Agabag

Annex 1 – 2003 Agreement Letter between PT KHL and Dayak Agabag representatives
Annex 2 – Example of Agreement Letter drawn up by PT KHL (2021)
Annex 3 – First Resources Manual (2016) lists staff operating in Nunukan an area where FAP Agri operates but First Resources does not.
Endnotes


6. 25th October 2012, Law No.20/2012 on the establishment of North Nunukan District became a new autonomous region as referred to in Portal Resmi Kalimantan Utara, 2022

7. The Dayak Agabag have also been referred to as the Dayak Abai or T estimonies provided during field work in November, 2021 (transcripts available upon request), Forest Peoples Programme

8. The Indonesian Murut (Agabag and Tinggalan) of North Kalimantan are part of a large cluster of groups speaking Muritic languages, most of which live in Sabah. In Indonesia, the Agabag are linguistically related to the Tahol (or Tagal) and Kolor (Okolod), as well as to the coastal Muslim Tidung and Bulungan. The Agabag live upstream from the Tidung of Sembakung and Sebuku rivers.


10. This figure appears to conflate the customary territories of Melasa Baru (4,675.43 ha) and Tetalban (5,554.42 ha). The combined area of these two customary areas is 10,229.85 ha.

11. The project incorporated much of modern-day North Kalimantan which was not recognised as a separate province until 2013.

12. Governor Suwarna issued a Temporary Right Approval in Forest Plantation Business (Hak Pengusahaan Hutan Tanaman Perkebunan - HPHTP) alongside the Timber Utilization Licence (IPK). These were issued without the Permit to Release Forest Area from the Ministry of Forestry. See p.56, https://unafei.or.jp/publications/publication/GG11_11_GG11_VE_Suprapdiono.pdf

13. The family controlling First Resources and its related companies are referred to as ‘the Fangiono family’. This is a matter of convenience because not all members of the family use ‘Fangiono’ in their name. Martias appears in official sources with one name only, while his Chinese name ‘Peng Kian Hwa’ (or ‘Pung Kian Hwa’) appears in some sources as an alias. His wives always appear as ‘Irawaty’ (occasionally spelt ‘Irawati’) and ‘Silvia Caroline’ only. All of his children use ‘Fangiono’ in their names, as do apparent grandchildren (e.g. Matthew Fangiono). Other members of the family (in-laws, Martias’ siblings and their children) do not use Fangiono.


15. The Ministry of Agriculture acknowledged that over 90 percent of the immediate border area was unsuitable for oil palm plantations. See E. Wakker, The Kalimantan Border Oil Palm Mega-project, AID Environment & SSNC, The Netherlands, April 2006.


17. See endnote (3), Komnas HAM 2015

18. Decree of the Governor of East Kalimantan No. 522/332/Proda./2.2/ EK


20. Anti-Corruption Resource Centre, 2020

21. ILEA, 2009 https://www2.cifor.org/ilea_ref/indicators/cases/decision/suwarna_AF.html

22. Oil palm plantations have penetrated almost the entire area of Nunukan district, industrial-scale plantations now cover 192,708 ha.

23. Testimonies provided during field work in November, 2021 (transcripts available upon request), Forest Peoples Programme


25. During the same period (2008-2012), PT BHP razed Agabag community lands in Sembakung Atulai sub-district (Nunukan) prompting similar concerns (loss of livelihoods and pollution of water sources) with the Indonesian Human Rights Commission which prompted an investigation in 2015.

26. The “plasma obligation” was first provided for in Regulation of the Indonesian Minister of Agriculture No. 26/Permentan/OT.I/40/2/2007 concerning Plantation Business License Guidelines, as replaced by Regulation of the Indonesian Minister of Agriculture No. 98/Permentan/OT.I/40/9/2013 concerning Plantation Business License Guidelines (“Permentan No. 98/2013”). Article 15 paragraph (1) of Permentan No.98/2013 states that a company applying for a plantation business license (Izin Usaha Perkebunan or “IUP”) for an area of 250 hectares or more must facilitate the local community’s development by providing the local community with a the plantation area of at least 20% (twenty percent) of the total area given to the company as stated in the IUP.


29. These amounts were detailed in an unaigned agreement letter between PT KHL and eight members of Bebenas village (Balitan, Daniel, Frengki, Yunus, Batung, Buyin, Kusing and Sadau) dated 12th January 2021.


34. Pressures from plantation estate expansion in Sebuku have led to changes in traditional Agabag farming systems, from shifting cultivation (jakate) to sedentary farming. See Suba, R.B et al, Rapid Expansion of Oil Palm is Leading to Human-Elephant Conflicts in North Kalimantan Province of Indonesia. https://doi.org/10.1177/1940082917703508

35. In general, the Agabag refuse to work for PT KHL and very few are currently employed in some capacity the group. First Resources informants acknowledged as much in the 2015 Indonesian Human Rights Commission report. This said, many Agabag still have smallholdings in their orchards and do use the crop as a supplementary form of income.


37. Full names of the accused: Abetman Bin Sundang, Bapuli Bin Tinipuan, Kompas, April 2022

38. Full names of the accused: Abetman Bin Sundang, Bapuli Bin Tinipuan, Kompas, April 2022

39. In 2021, PT KHL was ISPO-certified (Indonesian Sustainable Palm Oil Standard) and SQI (Sustainable Palm Oil Indonesia) are hidden behind secrecy jurisdictions and cannot be determined. The transfer of Martias Fangiono’s shares to VVI, and Witastuty and Umekah Saripratama.


42. Seven people from Bebasan village, five of whom have been charged as suspects under Article 107 (a) and (d) of Law Number 39/2014 on Plantations and two of whom are charged as witnesses. A further five people from Sujau and Lulu respectively have been charged as witnesses. The status of witnesses can change at any time, from witness to suspect, depending on how they assist security forces.


44. B/58/III/2021/RESKRIM; B/59/III/2021/RESKRIM and; B/60/III/2021/RESKRIM

45. 29th April, Mongabay, Indigenous Dayak man jailed after Indonesian palm oil firm alleges theft https://news.mongabay.com/2021/04/indigenous-dayak-jailed-palm-oil-north-kalimantan/


47. A company refers to any business entity, regardless of legal status and whether private or state-owned, that could form part of a corporate group. Such entities may include (among others) corporations, partnerships, co-operatives, foundations, syndicates, trusts, associations and funds.

48. Control of a company may belong to more than one controlling entity (joint control), for example via a joint venture, or where one group operates a plantation owned by another group.

49. See https://www.fat-gafi.org/media/fat/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf


51. According to registry profiles, in 2008 both PT KHL and PT BHP came under the formal ownership of FAP Agri. PT KHL acted as FAP Agri’s holding company (2008-2017), where it owned a controlling interest in the group’s nine subsidiaries, including PT BHP where it was a majority shareholder. In 2017, these interests were wholly taken over by FAP Agri.

52. The company name changed to FAP Agri in February 2020.


54. Registry profile of PT Fangionoperkasa Sejati


58. PT Adhiyti Serayorkorita, PT Borneopersada Prima Jaya, PT Borneosurya Mining Jaya, PT Cilindara Perkasa, PT Citra Palma Kencana, PT Indo Manis Lestari, PT Indogreen Jaya Abadi, PT Kalimantan Green Persada, PT Limpah Sejahtera, PT Maha Karya Bersama, PT Meridan Sejatiusura Plantation, PT Mitra Karya Sentosa, PT Pulau Tiga Lestari Jaya, PT Setia Agindo Jaya, PT Setia Agindo Lestari, PT Setia Agindo Mandiri, PT Surya Dumai Agindo, PT Umekah Saripratama.

59. The transfer of Martias Fangiono’s shares to VVI, and Witastuty and Cilindare’s shares in PT FPS to SQI may have been an attempt to tidy up ownership of FAP Agri subsidiaries before the 2020 stock market floatation as the transfer obscures links to Martias Fangiono and First Resources (via PT FPS). In both cases, the beneficial owners of VVI and SQI are hidden behind secrecy jurisdictions and cannot be determined. In 2021, PT KHL was ISPO-certified (Indonesian Sustainable Palm Oil (ISPO) see FAP Agri Annual Report 2021 https://idnfinancials.s3-ap-southeast-1.amazonaws.com/prospectus/IPO-Stock/2021_IPO_FAPA.pdf) amid a long-standing tenurial conflict with the Dayak Agabag.
As of the first recorded shareholder information (April 2006), PT FPS was owned by all six of Martias and Irawaty’s six children. From 2010 to 2019, two of these children Wirastuty and Ciliandrew held a majority stake (80%) in PT FPS. During this period, PT FPS was a minority shareholder of FAP Agri. PT FPS was also a minority shareholder in PT SDF (2008-2016).


64. Prinsen Management has also held a significant proportion of SDG’s debt, through the subsidiary PT Surya Dumai Industri, since 2022.


66. Wirastuty was also a previous minority shareholder in First Resources subsidiary, PT Borneo Surya Mining Jaya, until 2010.


68. First Resources, Notice of Annual General Meeting, 2022, p.27 https://www.first-resources.com/generalmeetings/2022agmdocuments


70. The Singapore Exchange (SGX) Rulebook [904 (4)] defines an ‘interested person’ as (a) a director, chief executive officer (CEO) or controlling shareholder of the issuer [in this case First Resources]; or (b) an associate of any such director, CEO, or controlling shareholder. SGX may deem any person or entity to be an interested person if they have entered into (a) a transaction with an “entity at risk”, i.e. a transaction with an associated company of the issuer [First Resources] that is not listed on the Exchange that is has control over and (b) an agreement or arrangement with an interested person in connection with the transaction. See https://rulebook.sgx.com/rulebook/904


74. PT Adhitya Serayokorita, PT Borneopersada Prima Jaya, PT Borneosurya Mining Jaya, PT Ciliandra Perkasa, PT Citra Palma Kencana, PT Indo Manis Lestari, PT Indogreen Jaya Abadi, PT Kalimantan Green Persada, PT Limpah Sejahtera, PT Maha Karya Bersama, PT Meridian Sejasitrus Plantation, PT Mitra Karya Sentosa, PT Palau Tiga Lestari Jaya, PT Setia Agrindo Jaya, PT Setia Agrindo Lestari, PT Setia Agrindo Mandiri, PT Surya Dumai Agrindo, PT Umekah Saripratama.

75. First Resources, 2021

76. RSPO, NPP Report of Planning and Management, 2012

77. Based on Notary Acts, Azaria Yoga Prasetyananto has been director of the following First Resources subsidiaries (2008-2016): PT Borneo Damai Lestari Raya; PT Borneopersada Prima Jaya; PT Borneosurya Mining Jaya; PT Kalimantan Green Persada; and PT Maha Karya Bersama.

78. Machines, A., Hiding in the Shadows, Forest Peoples Programme 2021

79. Based on Notary Acts, Lau Cong Kiong has held various top management positions in the following First Resources subsidiaries: PT Borneo Damai Lestari Raya; PT Borneopersada Prima Jaya; PT Borneosurya Mining Jaya; PT Ciliandra Perkasa; PT Indo Manis Lestari; PT Indogreen


81. Based on Notary Acts, Citra Gunawan held various top management positions in the following First Resources subsidiaries: PT Borneosurya Mining Jaya; PT Citra Palm Kencana; PT Kalimantan Green Persada; PT Palau Tiga Lestari Jaya; PT Setia Agrindo Lestari; and PT Umekah Saripratama.


84. First Resources Annual Report 2007 p.17; 2008 p20; 2009 p22


86. Ibid, p.6

87. These allegations have since been strengthened by revelations in FAP Agri’s 2021 Prospectus which detailed how PT KHL received an award in 2019 from Nunukan’s Bupati due the efficacy of its Corporate Social Responsibility programs. At a time when the company was embroiled in a long-standing land conflict with numerous Agabag communities. See https://fap-agi.com/wp-content/uploads/2021/06/Annual-Report-PT-FAP-Agi-Tbk-2020.pdf

88. Ibid, p.6

89. Ibid, p.6


First Resources’ shadow hangs over the Dayak Agabag

RSPO Membership Rules 5.2.2 (ii) (a) control means having management control which includes the ability to direct, instruct or manage business activity or administration of an Entity whether by having the ability to influence the board, management of an Entity through shareholding, stock ownership or by contractual or operational arrangement. Illustrations for control: Where there exists a contractual or operational agreement or arrangement, whether formal or informal, between Parent and another Entity.

RSPO Membership Rules 5.2.2 (ii) (b) control means in accordance with whose directions, instructions or wishes an Entity is accustomed or is under an obligation, whether formal or informal, to act in relation to a Parent’s direction, instructions or wishes. Illustrations for control: Where an Entity or its directors are accustomed, or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the Parent.

RSPO Membership Rules 5.2.2 (ii) (a) Illustration for control Where the Parent has a controlling interest in another Entity.


MacInnes, A., Hiding in the Shadows, Forest Peoples Programme 2021

These include: AAK, ADM, Avon, Bunge, Cargill, COFCO International, Colgate-Palmolive, Danone, Friesland Campina, Fuji Oil, General Mills, Hershey, HSA Group/Pacific Inter-Link, Johnson & Johnson, Kellogg’s, KLK, LDC, L’Oreal, Mondalez, Neste Oil, Nestle, Nisshin, P&G, PepsiCo, PZ, Cuoss, Reckitt Benckiser, Upfield and Vandemoortele.


General Mills, January 2022, List of Supplying Mills

Johnson and Johnson, 2022 https://www.jnj.com/list-of-potential-mills

Kelloggs, 2020 https://filecache.mediacron.com/mr5mr_kelloggs/cr/180814/KellogCo/PalmOil_SupplierMills.pdf


Ibid


Unilever, August 2022 https://www.unilever.com/files/c212b768-98bc-427d-9b23-c7a0619d77/ul-suspended-or-no-buy-list-of-palm-oil-suppliers.pdf


This is the local government institution that facilitates indigenous peoples’ proposals for rights recognition.

These proposals were submitted on 28th June 2022, 9th July 2022 and 25th July 2022 respectively.