# Sime Darby and land grabs in Liberia

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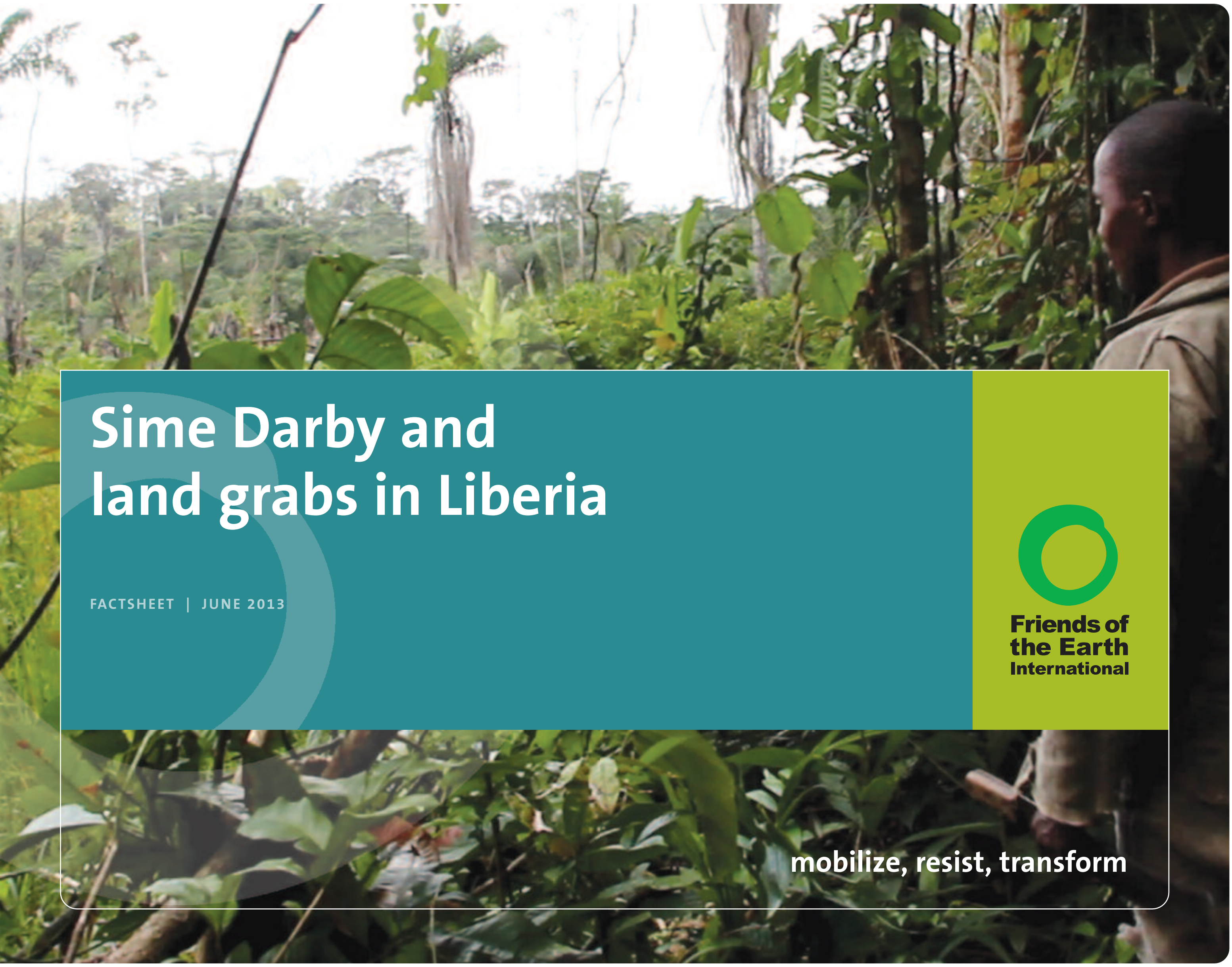


### The case

**Malaysia-based Sime Darby, one of the world's largest producers of palm oil is developing palm oil plantations in Liberia, swallowing up farmlands and forests used by local communities to sustain their livelihoods.**

**The contracts for land concessions signed by Sime Darby and the Liberian government violate several Liberian laws and regulations as exposed by a government agency report released this month.[1] They also violate several human rights principles in conventions ratified by the Liberian government as well as principles enshrined in Liberian Law.[2]**

**Affected communities and civil society have organised to demand from the company and Liberian government that communities' rights are recognised and the contract between Sime Darby and the government is renegotiated to ensure that it is compliant with these human rights principles and laws.**

**Sime Darby Plantation is the agri-business division of the Sime Darby Group, a Malaysian industrial conglomerate, and is one of the world's largest palm oil producers with an annual output of 2.4 million tons or 6% of the world's annual crude palm oil output.**

### What is Sime Darby doing in Liberia?

- On July 23, 2009 Sime Darby signed a 63-year lease agreement with the government of Liberia, for 311,187 hectares (about 760,000 acres) of land which is referred to as the Gross Concession Area;
- The government agreed to allocate land 'free of encumbrances' to Sime Darby, with the understanding that the company would cultivate 220,000 hectares within twenty years of signing the agreement;
- The company agreed that it would pay US$5 per hectare per year for land it cultivates for oil palm and provide employment for more than 30,000 Liberians;
- In 2010, Sime Darby started operations in western Liberia, cultivating land to set up an oil palm nursery;
- In 2011 the company began planting its first oil palm plantation, in Garwula District, Grand Cape Mount County;
- There has been strong opposition from local communities to Sime Darby plantations. In November 2012 communities from concession areas wrote an open declaration stating that they had not been consulted before their lands were taken, and reaffirming their status as owners of the land. This has meant only a fraction of the planned area has been planted;[3]

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- In 2013, Sime Darby is expanding into new areas which are granted to them in the contract between Sime Darby and the Liberian government;
- Despite commitments from Sime Darby in early 2013, it has not engaged in free prior and informed consent (FPIC) negotiations in several concession areas. In March 2013 Sime Darby began clearing land in Golidee Town, the Gorbli clan traditional area in Bomi County without negotiating with communities, despite their requests to do so. Communities had to stop Sime Darby's machinery from clearing their land;
- In Gbarpolu, a field visit in March 2013 by local civil society revealed widespread and entrenched local opposition to the project. Representatives of community-based organisations in Gbama District told field researchers that after seeing the trouble in Grand Cape Mount County, Sime Darby's first operational area, they were prepared to engage in direct actions to keep the company from entering the district.

## How have local communities been affected by Sime Darby's activities in Liberia?

In August 2012, Friends of the Earth Liberia, also known as the Sustainable Development Institute (SDI)[4], published a report on the impacts of Sime Darby on the livelihoods of communities in Garwula District. The main findings of the report are:

- Farms and farmlands which provide livelihoods and food for the local communities are being swallowed up by the Sime Darby plantation, with very few alternative livelihood options available to those not incorporated into the company workforce;
- No compensation has been paid to communities for land taken over by the company;
- Forest areas used for various cultural practices had also been destroyed and planted with oil palm.

The University of Reading has undertaken an independent Environmental and Social Impact Assessment of 20,000 hectare of land targeted for clearance in Bopolu District, Gbarpolu County. The report finds[6]:

- Sime Darby operations could lead to a loss of biodiversity, particularly the Upper Guinean Forest Ecosystem, which includes globally endangered and vulnerable bird species;
- There could be land clearance of substantial areas of closed forest (more than 40 per cent tree cover) resulting in reductions in carbon storage and sequestration capacity;
- There are risks of loss of livelihoods, food insecurity and the potential for chronic poverty;
- Increased risk of conflict and rural to urban migration;
- Increase in gender inequalities;
- According to Sime Darby's own High Conservation Value Assessment report, one of the concession areas (Garwula District, Grand Cape Mount County) is comprised of wetlands, agricultural lands, and mainly intact natural forested areas. It houses a variety of animal species including Water Chevrotain and African Buffalo, both of which are protected under Liberian laws. Various species of forest and lowland birds, as well as reptiles including crocodiles are found in the area. Another concession area (Bopolu District, Gbarpolu County) also has significant forest cover, including large blocks of primary and secondary forests[6].

While Sime Darby has promised to avoid High Conservation Value forests, it is difficult to see how they can move into these concession areas without the deforestation of primary and secondary forests.

## How do the contracts of Sime Darby violate Liberian regulations?

The Liberia Extractive Industries Transparency Initiative (LEITI) has found that contract award process between Sime Darby and the Liberian government did not comply with local land laws, failed to conduct public consultations or produce due diligence reports as required by Liberian rules. Some examples are listed below:

- An area of 100,000 hectares was awarded to Sime Darby without undergoing a competitive bidding process.
- The concession was signed without a Certificate for Concession which seeks to ensure that the proposed Concessions are in line with the national economic objectives and to address any barriers or bottlenecks which could impede the procurement process.

- Liberian law states that "a Concession Entity shall undertake public stakeholder consultations with respect to each proposed Concession prior to the finalisation of the bid documents to be included in the invitation to bid." Yet there was no evidence found that the Sime Darby concession held stakeholder forums.
- Sime Darby's contract for 63 years violates the Liberia public lands law which states "The term of any such lease shall not exceed fifty years."

## How do the contracts with Sime Darby violate human rights?

An analysis of the contract between Sime Darby and the Liberian government reveals that it violates several aspects of internationally recognised human rights. Liberia is a signatory of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) as well as a number of other human rights agreements. The contracts violate provisions in all these conventions. For example:

- By having no protection for communities' rights in respect of customary land and natural resources;
- By not guaranteeing the principle of Free, Prior and Informed Consent (FPIC);
- By allowing involuntary resettlement of communities if they are deemed to impede the companies' activities;
- By allowing the degradation of food security by not mandating that the company find alternative nutrition sources for community members who lose farmland to the plantations.

Local communities accuse Sime Darby of violating especially the FPIC process by[7]:

- Providing inadequate information about the concession areas;
- Not providing communities copies of the concession agreement;
- Giving little or no time to consider their response;
- Providing inadequate or no compensation;
- By not giving communities the opportunity to say 'no'.

## EU financers

European banks, pension funds and private equity funds have given out loans to Sime Darby with a total value of 280 million euro and assisted with issuing new bonds with a total value of 250 million euro[8]. Almost all European investors have adopted a policy that requires the companies they invest in to uphold certain criteria, such as the RSPO criteria or the UN Global Compact Principles. Several European investors including pension funds and banks were approached by Friends of the Earth In January 2013 regarding how the operations of Sime Darby violate these criteria and urged the investors to take action towards Sime Darby.

The largest European shareholders of Sime Darby are the Norwegian Government Pension Fund - Global, the British asset manager Schroder Investment Management, the Dutch pension fund Pensioenfonds Zorg en Welzijn (PfZW) and the German Deutsche Bank. Deutsche Bank is also the largest European bondholder together with AXA Group (France). HSBC and Standard Chartered (both from the United Kingdom) are the only European financial institutions that have assisted Sime Darby to issue new bonds.

### Norway

The Government Pension Fund Global announced in March 2013 that in 2012 it had withdrawn from 23 of the world's largest palm oil companies, because their long-term business model was deemed unsustainable. At the same time it became clear that the Pension Fund quadrupled its investment in Sime Darby. Despite requests from Friends of the Earth the fund has not revealed its reasons for doing so, nor has it responded to specific questions from Friends of the Earth on the Sime Darby case. The Pension Fund has shares worth 97 million euro in Sime Darby.

*Community representatives from affected communities across Liberia gather for a final-day photo at the conclusion of conference held in Bopolu City in November 2012.*

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## Netherlands

**Pension fund PfZW** looks for investments in companies that take environmental, social and governance factors into account. PfZW uses the UN Global Compact principles to screen companies it might invest in. In PfZW's brochure on responsible investment, the pension fund mentions that it wants companies to take into account people and the environment. After being contacted by Friends of the Earth, PfZW indicated concern about the operations of Sime Darby and stated that they are in continuous dialogue with the company. PfZW has shares worth 25 million euros in Sime Darby.

**Pension fund ABP** ABP's sustainable investment policy is based on the OECD Guidelines for Multinational Enterprises. The starting point is that all companies ABP invests in should respect the principles as defined by the UN Global Compact. ABP has communicated to Friends of the Earth that it is in dialogue with Sime Darby about its sustainability approach and practices. ABP has shares worth 13 million euro in Sime Darby.

**ING** has a specific social and environmental policy on companies that are active in the forestry and agricultural commodities sectors. ING requires companies they invest in to demonstrate that they respect social and environmental regulations, that they strive to implement RSPO criteria and that they apply the Free, Prior and Informed Consent (FPIC) principles. Despite having being contacted by Friends of the Earth several times, ING has not responded. ING is a bondholder with a total value of 1 million euro in Sime Darby.

## Sweden

**Skandinaviska Enskilda Banken (SEB)** has signed the UN Global Compact principles. SEB uses the UN Global Compact as well as the OECD Guidelines as the basis for standards for corporations they invest in. These guidelines are also part of the framework SEB uses when assessing companies. SEB responded to our inquiries by stating that SEB will discuss appropriate points of action on Sime Darby with their research provider. SEB has shares in Sime Darby with a value of 3 million euro.

**Första AP-Fonden/AP1.** Swedish pension Fund AP1 expects all businesses it invests in to live up to the ten principles of corporate responsibility as defined by the UN Global Compact and include sustainability issues in business. More specifically, AP 1 states that if a company that they invest in can be associated with violation of any of the conventions which Sweden has ratified or recently endorsed, the fund will try to influence the company to bring ensure that future violations can be avoided. Businesses should also, where possible, compensate the victims and repair environmental damage'. AP1 responded to Friends of the Earth inquiries by stating that they will continue to monitor the development as part of their on-going processes. AP1 has shares with a value of 3.9 million euro.

**Svenska Handelsbanken** has signed the UN Global Compact principles. Handelsbanken responded to Friends of the Earth enquiries by stating that they had met Sime Darby last year. Handelsbanken stated that they would use our information in their continuing analysis of Sime Darby and that they would raise it when they would meet the company, but that a meeting was not scheduled. Svenska Handelsbanken has shares in Sime Darby with a value of 3 million euro.

**AP7.** In terms of corporate governance, the Seventh AP Fund has chosen to take the OECD Principles of Corporate Governance as a basis for action in ownership issues. It also states that the companies in which the fund invests in are reviewed at least twice a year according to these principles. Despite the fact that AP 7 has been approached three times regarding concerns about Sime Darby operations, they have not responded to Friends of the Earth enquiries. Swedish pension fund AP7 has shares in Sime Darby with a total value of 3 million euro.

## UK

**Schroder Investment Management** wants the companies they invest in to have awareness of environmental, social and governance issues, because it 'enables companies to potentially mitigate risks and liabilities that could arise from these issues as well as realise opportunities'. Schroder is a signatory to the United Nations principles on Responsible Investment (UN PRI) through which investors commit to incorporating environmental and social governance (ESG) into their investment analysis and decision making. UN PRI signatories also commit to being active owners and to seek appropriate disclosure from companies on ESG issues. As an initial response to Friends of the Earth inquiries, Schroder stated that they had engaged with Sime Darby, but have failed to respond to further issues raised regarding Sime Darby operations. Schroder investment has shares in Sime Darby worth 33 million euro.

**HSBC** is a signatory of the UN Global Compact which pledges to combat corruption in all its forms, supports a precautionary approach to environmental challenges, promote greater environmental responsibility and respects human and indigenous rights. They sign up to and promote the Equator principles which aim to manage environmental and social risk in corporate loans and finance. HSBC also have a sectoral policy on Forest Land and Forest Products, which demands that activities they finance must "minimize harm to ecosystems, maintain forest productivity, ensure ecosystem health and vitality, safe guard traditional and customary rights of forest dwelling communities." It also prohibits planting in high nature value forest areas, and mandate that clients must obey local laws and regulations. HSBC underwrote bonds worth 125 million euro in Sime Darby, issued in January 2013. Friends of the Earth has recently contacted HSBC about its involvement in Sime Darby.

**Standard Chartered Bank** has detailed policies on forestry and palm oil and is a signatory to the Equator principles which aim to manage environmental and social risk in corporate loans and finance. They require palm oil plantations to implement the principles of the Round Table on Responsible Palm oil and claim to only finance plantation projects on previously cleared forest land, only after five years have passed and only if no direct link to the original deforestation can be demonstrated. Standard Chartered Bank also underwrote bonds worth 125 million euro in Sime Darby, issued in January 2013. Friends of the Earth has recently contacted Standard Chartered bank about their involvement in Sime Darby.

### Demands to Sime Darby:

- The concession agreements or contracts must be renegotiated in order to enshrine the responsibility to conduct FPIC negotiations, to invalidate the resettlement clause, and acknowledge customary community land rights regarding the concession land;
- Only after the communities have given their free, prior and informed consent can the company operate on their land;
- Communities should not be displaced against their will by the activities of Sime Darby;
- All community members should benefit from the plantations and the benefits shall be laid out clearly to the communities before they enter into any agreement;
- Employment rights must be respected;
- Compensation rates must be agreed with the communities before entering into any contractual agreement;
- No further deforestation and other environmental degradation should take place by Sime Darby in any of the concession areas.

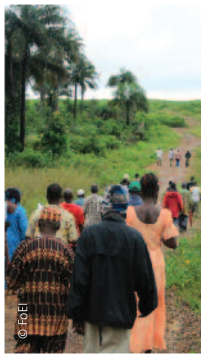
### Demands to European banks and pension funds:

### Investors financing Sime Darby should:

1. Use their influence on the company to solve the problems in Sime Darby operations and consider divesting if this is not done;
2. Ensure they are not investing in land grabs by applying due diligence prior to land investments;
3. Develop and implement policies to ensure that investments in land do not contribute to conflicts with communities, deforestation or violations of the law in host or home countries;
4. Factor in the long term, wider impacts of their investments on shareholders and society and move towards more sustainable models of investment;
5. Ensure that their investments are in line with established human rights and Environmental principles ratified in their home as well as host countries e.g. as outlined in the FAO Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests;
6. Move away from financing companies involved in huge monoculture projects which often lead to land grabbing and deforestation and re-direct their investments into renewable energy or projects that are promoting sustainable food production and food sovereignty.

*Communities from Grand Cape Mount and Gbarpolu Counties gather with Liberian civil society activists to discuss the effects of oil palm plantations on their livelihoods. Grand Cape Mount County, 2012.*

1 Liberia Extractive Industries Transparency Initiative (leiti) post award process audit final report http://www.leiti.org.lr/doc/LEITI%20Post%20Award%20Process%20Audit%20Final%20Report.pdf
2 Human rights-based analysis of the agricultural concession agreements between Sime Darby and Golden Veroleum and the Government of Liberia Tom Lomax, Forest Peoples Programme, December 2012 available at foei.org/simedarby
3 Statement and Declaration by Affected Community Members from Sime Darby and Golden Veroleum Concessions Bopolu City, Gbarpolu County, November 29, 2012 available at foei.org/simedarby
4 Uncertain Futures: The impacts of Sime Darby on communities in Liberia available at foei.org/simedarby
5 Evans, R. and Griffiths, G. (2013) 'Palm oil, land rights and ecosystems services in Gbarpolu county, Liberia', Research Note 2, Walker Institute for Climate System Research, University of Reading
6 HCV Assessment for Sime darby plantation (liberia) inc Golakonneh and Garwula districts, Grand cape mount county (15,000 ha) http://www.rspo.org/_v2/file/Summary%20Report%20for%20HCV%2015K.pdf
7 Forest Peoples Programme (2012), Sime Darby oil palm and rubber plantation in Grand Cape Mount county, Liberia, pp. 20-21. http://www.forestpeoples.org/sites/fpp/files/publication/2012/11/liberia-sime-darby-document-fpp-website.pdf
8 Friends of the Earth has commissioned a report by financial research agency Profundo on the investors of Sime Darby, issued 14th of June 2013




*Right: Communities from Grand Cape Mount walk into the plantation with communities from Gbarpolu County, which had 51 percent of its land mass allocated to the Sime Darby concession. Grand Cape Mount County, 2012.*

*Below: Sime Darby's first nursery, planted in April 2011 in Grand Cape Mount County.*


*Left: Communties from Gbarpolu County discuss amongst themselves how they feel about oil palm plantations in an affected community conference held in Bopolu City in November 2012.*

*Right: Kenemah, a town in Grand Cape Mount that was encircled by a palm oil plantation, 2012.*



This is a joint publication of Friends of the Earth Europe (FoEE), Friends of the Earth International (FoEI), and the Sustainable Development Institute (SDI), Liberia.

**Friends of the Earth International** is an international federation of 75 grassroots-based environmental organizations with over 2 million members and supporters around the world. We challenge the current model of economic and corporate globalization, and promote solutions that will help to create environmentally sustainable and socially just societies.

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**Cover image:** The town chief of Momblitaa, a town that falls directly inside Sime Darby's concession area, surveys his crops as he discusses his concerns over the arrival of the company. Momblitaa, Bopolu District, Gbarpolu County, 2012. **Images availabe for download at (except Sophie Chapelle image):** www.foei.org/en/media/resources-for-journalists/sime-darby-and-landgrabs-in-liberia