



Decision to exclude from investment

1 June 2015

Introduction

KLP and the KLP Funds (KLP) have decided to exclude the company Noble Group Limited from its investment portfolios with effect from 1 June 2015.

Noble Group Limited (Noble Group) is a conglomerate headquartered in Hong Kong and with operations on six continents.¹ Noble Group specialises in the transport and processing of raw materials from low-cost countries, including Indonesia.²

As of 31 December 2014, KLP and the KLP Funds held shares in Noble Group worth approx. NOK. 6,720,000.³

The incident and the company's involvement

KLP has considered the exclusion of Noble Group on the basis of *Recommendation 26 June 2013 to exclude Noble Group Ltd*, in which the Council on Ethics of the Norwegian Government Pension Fund Global (GPF) recommends exclusion “due to an unacceptable risk that the company is responsible for severe environmental damage as a result of its conversion of tropical forest into oil palm plantations”.⁴ The recommendation was announced in connection with publication of the Council on Ethics’ 2014 annual report. The Ministry of Finance took no decision with respect to this matter, since the GPF had no investments in Noble Group as of 1 January 2015.

¹ Noble Group, "Assets and Office Map", *About Noble*, URL: <http://www.thisisnoble.com/asset-and-office-map.html> (last visited 18 May 2015).

² Noble Group, "Who We Are", URL: <http://www.thisisnoble.com/about-us.html> (last visited 18 May 2015).

³ Based on the share price and exchange rate in effect on 9 February 2015.

⁴ Council on Ethics (26 June 2013), *Recommendation to exclude Noble Group Ltd*, p. 1. URL: <http://etikkradet.no/files/2015/01/Tilr%C3%A5dning-Noble-260613.pdf>



The recommendation relates to two concessions in, respectively, Papua and West Papua in Indonesia. The two provinces are located on the western side of the island New Guinea, which has the world's third-largest rainforest, after the Amazon and Congo.⁵ The island covers 0.5 per cent of the world's land mass, but is home to 5 per cent of the world's animal species, two-thirds of which are found nowhere else on Earth.⁶ One of the concessions was to be operated by Noble Group alone, through its subsidiary PT Pusaka Agro Lestari, while the other area was to be operated by PT Henrison Inti Persada, a joint venture with Wilmar International Ltd.⁷

In total, these concessions encompass approx. 680 km² – a little larger than the area covered by the municipality of Halden, Norway. The Council on Ethics' criticism relates primarily to failings in Noble Group's assessment of which sections of the concessions should be protected. The assessment of these areas, known as *High Conservation Value (HCV)* assessments, looks at the biodiversity of the concession and the importance of the forest to the local population. Noble Group is a member of the Roundtable on Sustainable Palm Oil (RSPO) and has thus made its HCV assessments in accordance with the RSPO's requirements. Nevertheless, the Council on Ethics concludes as follows:

*In the Council's opinion, neither of the two HCV assessments provides well-founded answers to the question of whether intact forest will be converted into plantations or the question of what biodiversity will be lost as a result of conversion. The Council finds that the lack of such data, the scale of conversion and the fact that both concessions are located in areas of unusually rich and unique biodiversity present an unacceptable risk that conversion will result in complete, irreversible change to ecosystems and vegetation. The measures proposed by the company will, in the Council's view, be insufficient to reduce the risk of severe environmental damage connected to current and future conversion of forest into oil palm plantations.*⁸

A detailed description of the incident and the entire analysis may be found in the Council on Ethics' recommendation.⁹

⁵ WWF, *New Guinea*, http://wwf.panda.org/what_we_do/where_we_work/new_guinea_forests/ (last visited 5 June 2015).

⁶ Ibid.

⁷ *Recommendation to exclude* (2013), p. 1.

⁸ Ibid., p. 14.

⁹ Ibid.



Follow-up by KLP

Since the recommendation was issued a year and a half before it was made public, it has been crucial to KLP's assessment to verify whether the factual circumstances described in the recommendation are still in effect.

PT Henrison Inti Persada

PT Henrison Inti Persada, a planned joint venture with Wilmar, was never realised, so it was not necessary to include an assessment of Wilmar in connection with this case.¹⁰ In a conversation with KLP, Wilmar confirmed that the plans for a joint venture have now been abandoned.¹¹

PT Pusaka Agro Lestari

The licence granted to PT Pusaka Agro Lestari was withdrawn by the local authorities at the end of 2014.¹² However, it is unclear, based on the information obtained from publicly available news sources, whether the status of the concession has subsequently changed. As discussed below, KLP has received confirmation from Noble Group that the licence is still in effect.

Dialogue

KLP has been in contact with Noble Group to discuss the contents of the Council on Ethics' recommendation and confirm the status of the two concessions. Contact with the company occurred through two teleconferences and through email correspondence in the period February to April 2015.

PT Henrison Inti Persada

Noble Group confirmed to KLP that since the collaboration with Wilmar was not realised, Noble Group has operated the concession in West Papua alone, through its subsidiary PT Henrison Inti Persada. Noble Group has not performed any new HCV assessment of the concession. The company believes that a new HCV assessment is unnecessary, since the assessment performed in

¹⁰ Reuters, "Wilmar and Noble palm joint venture in Indonesia's Papua stalls", *Reuters* (23 July 2013). URL: <http://in.reuters.com/article/2013/07/23/noble-wilmar-jv-idINL4N0FT1CW20130723> (siste besøk 18 mai 2015).

¹¹ Teleconference with Wilmar, 9 April 2015.

¹² See, for example, Admin, "Timika: Local Leader Revokes PT Pusaka Agro Lestari's Plantation Permit", *awasMiffee!* (21 December 2014). URL: <https://awasmiffee.potager.org/?p=1113> (contains a translation of an Indonesian news article).



2010 met the requirements of the Roundtable on Sustainable Palm Oil (RSPO). Noble Group has been a member of the RSPO since 2011.¹³

The concession covers approx. 32,000 hectares, around 10,000 hectares of which Noble Group estimates will be set aside for conservation. This is an estimate, since the company says that keeping the local population out of the protected zone is challenging. Around 12,000 hectares have already been converted.

PT Pusaka Agro Lestari

Despite reports that PT Pusaka Agro Lestari's licence has been revoked, Noble Group confirms that it is now in order. The concession covers approx. 38,000 hectares, of which Noble Group estimates some 12,000 hectares will be protected. Around 4,000 hectares have already been converted.

Overall comments on the recommendation

The company rejects the Council on Ethics' criticism, and points to the fact that Noble Group is a member of the RSPO and fulfils all the obligations this entails. Noble Group underlines that the RSPO has a complaints mechanism which interested parties may use if they feel the company is not fulfilling the RSPO's requirements, and that no complaints against Noble Group have so far been upheld.

The company feels that the Council on Ethics' criticism of its HCV assessments is unfounded, since the assessments were carried out by RSPO-certified experts and were certified by third parties in accordance with the RSPO's requirements. Noble Group has, furthermore, carried out additional studies, which build on the HCV assessments and go further than the RSPO requirements, and which are used in-house. Noble Group has sent KLP copies of confirmations from independent third parties that the HCV assessments carried out for PT Henrison Inti Persada and PT Pusaka Agro Lestari meet RSPO requirements.

Guidelines and KLP's assessment

One of the grounds for exclusion stipulated in KLP's guidelines for responsible investment is that there is an "unacceptable risk that the company is complicit in or itself responsible for [...] severe environmental damage."¹⁴ As a general rule, KLP follows exclusions made by the GPF on the

¹³ "Noble Plantations Pte Ltd", *RSPO: Roundtable on Sustainable Palm Oil*, <http://www.rspo.org/members/830/Noble-Plantations-Pte-Ltd> (siste besøk 21 mai 2015).

¹⁴ KLP's guidelines for responsible investment (last updated in 2014).



recommendation of the Council on Ethics. In this case, however, the Norwegian Ministry of Finance has made no decision with respect to the recommendation, since the GPFG was no longer invested in the company as of 1 January 2015.

The two concessions mentioned in the recommendation are, as of today's date, operated by Noble Group alone, through subsidiaries. The company has not undertaken any new HCV assessments and has no plans to do so. Nor does it plan to carry out a 'peer review' of the existing assessments. Noble Group's ongoing and future conversion of rainforest to oil palm plantations therefore rests on the same HCV assessments. The company points to the fact that the assessments were carried out in line with the RSPO's requirements, and underline that no complaints against Noble Group pursued through the RSPO's complaints mechanism have so far been upheld.

The objective of an HCV assessment is to examine whether there are areas that are particularly worth protecting and that should not be converted into oil palm plantations. Such areas may contain threatened animal species or be of major importance to the local community, e.g. burial grounds. The assessment begins with a desktop study to plan which sections of the concession the fieldwork should encompass. The fieldwork can take up to several weeks, depending on the area's geography, flora and fauna, and proximity to the local population – including indigenous peoples.

The results of the assessment are used as a starting point for the company's implementation of conservation plans and mitigating measures, if necessary. In other words, if the HCV assessment is not adequate, the company risks causing irreversible and severe damage to the environment and the local population's cultural heritage. The assessment is extremely contextual, and should cover not only the concession itself, but also land use outside its boundaries.¹⁵ For example, it may be appropriate to protect a 'green corridor' if the concession borders nature reserves, so that animal species can continue to pass through.

Noble Group underlines that it has carried out its HCV assessments in accordance with the RSPO requirements in effect in 2010 and 2011, when the assessments were performed. Since then, the RSPO requirements have been strengthened. From 1 January 2015, the RSPO requires its

¹⁵ For a detailed review of the HCV process, see HCV Consortium for Indonesia, *Guidelines for the Identification of High Conservation Values in Indonesia. English version* (2009). URL: https://www.hcvnetwork.org/resources/national-hcv-interpretations/Toolkit%20HCVF%20English%20version_final-26Jan10.pdf (last visited 5 June 2015).



members to use consultants certified by HCV Resource Network¹⁶ to carry out HCV assessments.¹⁷ The RSPO itself describes this as an initiative to ‘increase the quality of HCV assessments’.¹⁸ In addition, the process for performing HCV assessments has been further standardised since 2010 and 2011.¹⁹ The assessments carried out in 2010 and 2011 were therefore subject to less stringent requirements than those in effect today.

The fact that Noble Group is a member of the RSPO is positive, and such industry initiatives play an important role in promoting sustainable operations in the sector. KLP does not contest that Noble Group has fulfilled the RSPO’s requirements with respect to the assessments that were carried out. However, the strengthening of the RSPO’s requirements in recent years can be seen as a response to criticism of a lack of standardised procedures and a standardised system for authorising HCV consultants.²⁰ The fact that the RSPO is continually improving its members’ practices is unambiguously positive. There are, however, no grounds for concluding that membership automatically eliminates the risk that a company may cause severe environmental damage

In this case, the Council on Ethics has commissioned experts in the field to evaluate the extent to which Noble Group’s HCV assessments and planned initiatives are sufficient to avoid severe and irreversible environmental damage to an area of outstanding biodiversity. The Council on Ethics raises serious questions about the adequacy of Noble Group’s HCV assessments in an area with unique flora and fauna. Given that the assessments were performed under a less stringent RSPO system than is currently in place, and the company has no plans to perform new HCV

¹⁶ HCV Resource Network: <https://www.hcvnetwork.org/> (last visited 1 June 2015).

¹⁷ RSPO, "HCV assessor licensing scheme is now open for applications", (4 November 2014). URL: <http://www.rspo.org/news-and-events/announcements/hcv-assessor-licensing-scheme-is-now-open-for-applications> (last visited 1 June 2015).

¹⁸ Ibid.

¹⁹ RSPO, "RSPO new planting procedure documents". URL: <http://www.rspo.org/resources/key-documents/certification/rspo-new-planting-procedure> (last visited 1 June 2015).

²⁰ See, for example, a study commissioned by the RSPO, Paoli, Gary D. and Rahayu Harjanthi et al., *Overcoming Barriers to Effective Implementation of HCV in RSPO: Final Report* (17 November 2011). URL: [http://www.rspo.org/file/Overcoming%20Barriers%20to%20Effective%20Implementation%20of%20HCV%20in%20RSPO_FINAL_Daemeter%20\(web%20version\).pdf](http://www.rspo.org/file/Overcoming%20Barriers%20to%20Effective%20Implementation%20of%20HCV%20in%20RSPO_FINAL_Daemeter%20(web%20version).pdf) (last visited 5 June 2015).



assessments or to subject the assessments from 2010 and 2011 to peer review, this constitutes, in KLP's opinion, an unacceptable risk that Noble Group's current and future conversion of rainforest to oil palm plantations in these two concessions will cause severe environmental damage.

Decision

Noble Group Limited is excluded from KLP and the KLP Funds' investment portfolios with effect from 1 June 2015.