

# Strengthening Indonesia's Readiness to Navigate the European Union Deforestation-Free Regulation through Improved Governance and Inclusive Partnership





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## Executive Summary

In June 2023, the European Union (EU) approved the EU Deforestation-Free Regulation (EUDR), impacting agricultural commodities entering and leaving its territory, including oil palm, wood, soya, cattle, rubber, cocoa, and coffee. The regulation requires a due diligence process, to ensure traceability to specific production plots, legality, and no forest conversion after December 31, 2020. These rules will have a significant impact on Indonesia's strategic commodity exports, particularly oil palm, wood, rubber, cocoa, and coffee. Some Indonesian oil palm plantations may encounter difficulties complying with the regulation because they conducted forest conversion after December 31, 2020.

A main challenge regarding legality is the presence of oil palm plantations within the forest zone (*kawasan hutan*), affecting around 20% of Indonesia's oil palm plantations. Challenges arise from companies operating without proper permits, smallholders lacking necessary registration letters (STD-B) and land titles, and around 69% of oil palm plantations lacking the mandatory Indonesian Sustainable Oil palm (ISPO) certificates. Non-compliance with taxes and human rights violations, including the rights of indigenous peoples and local communities (IPLCs), are also significant concerns.

Challenges with traceability arise from many unregistered and unmapped smallholders due to overlapping land claims, bureaucratic confusion, and unofficial fees. More fundamentally, smallholders have limited access to oil palm mills due to the absence of partnerships between companies and smallholders. A complex and opaque supply chain further complicates efforts to establish a traceability system that tracks products from where they are grown to where they are exported.

On benchmarking, instead of applying a uniform approach to assessing risks across Indonesia, it would be more effective to consider regional differences. Historically, Regions like Kalimantan and Sumatra have experienced high rates of natural forest deforestation, expansion of oil palm plantations, and conversion of natural forests into oil palm plantations. Notably, the Papua region shows the highest percentage of oil palm expansion resulting from forest conversion. Provinces with high percentages of oil palm expansion into natural forests include North Maluku and North Kalimantan. At the district level, Merauke (South Papua), Kubu Raya (West Kalimantan), Ketapang (West Kalimantan), West Kutai (East Kalimantan), and Berau (East Kalimantan) also demonstrate high percentage of oil palm expansion from deforestation, indicating a high likelihood of future oil palm expansion that involves forests clearance in these areas. The large presence of natural forests within existing oil palm permits is also a significant concern for future deforestation. There are approximately 2.6 million hectares of natural forests within oil palm permits in Indonesia, the largest is in Papua and Kalimantan Regions.

In addition to regional differences, it is also important to consider different commodities separately, as they have varying levels of expansion rate and impact on forests. Rubber, coffee, and cocoa have lower expansion rates compared to oil palm. These commodities are



often cultivated by communities through agroforestry or mixed cropping systems, which contribute positively to forest and land rehabilitation.

The partnership and cooperation mechanisms outlined in EUDR have the potential to drive governance improvements when implemented inclusively and with active participation of civil society. Key areas for governance improvement that could be supported by the Indonesia-EU partnership include strengthening regulatory frameworks to promote deforestation-free commodity production, expediting legality issues, developing traceability systems, improving data, enhancing transparency, and increasing accountability in permitting processes. Additionally, promoting multi-stakeholder participation and collaboration is crucial.

Strengthening regulations and policies to support deforestation-free commodity production may involve measures like: 1) Strengthening the Indonesian Sustainable Oil Palm (ISPO) and Timber Legality Verification System (SVLK) by adding specific deforestation cut-off dates; 2) Enhancing the implementation of Presidential Instruction No. 5/2019 to halt new permits in primary forests and peatland to include currently unprotected natural forests; 3) Identifying and protecting High Conservation (HCV), High Carbon Stock (HCS), and other Essential Ecosystem Areas within existing permits and regional spatial plans; 4) Accelerating the recognition of indigenous peoples and integrating their territories into Regional Spatial Plans (RTRW); 5) Conducting Environmental Carrying Capacity Assessments to determine the maximum oil palm plantation limit and reinstating the oil palm permit moratorium until the assessment is completed.

To address legality issues, the Indonesia-EU partnership can support in the: 1) Strengthening ISPO by incorporating protections for human rights under international law; 2) Resolving overlaps between smallholder plantations, business permits, and the forest zone through mapping and data collection; 3) Enhancing institutional capacity at the subnational level for the issuance of cultivation certificates; 4) Enforcing the obligation for oil palm plantation companies to partner with smallholder farmers; 5) Developing partnership frameworks between companies, intermediaries, and smallholder farmers to ensure involvement in traceability systems.

Transparency is crucial for effective public oversight, particularly in monitoring deforestation associated with commodities affected by the EUDR. The Indonesia-EU partnership can facilitate increased transparency in forestry, plantation, and land-use permits by reassessing regulations that restrict public access to permitting data. Inclusivity within the partnership's implementation of EUDR can be fostered through the creation of Multi-Stakeholder Communication Forums at the national, provincial, and district levels. These forums can serve as platforms for dialogue and advisory councils, building upon existing forums and adhering to inclusive multi-stakeholder engagement procedures and guidelines.

# Strengthening Indonesia's Readiness to Navigate the European Union Deforestation-Free Regulation through Improved Governance and Inclusive Partnership

## A. Introduction

In June 2023, the European Union enacted the EU Deforestation-Free Regulation (EUDR), requiring that agricultural products entering and leaving its territory be free from deforestation.<sup>1</sup> The regulations apply to seven commodities: oil palm, soya, wood, cattle, cocoa, coffee, and rubber. For Indonesia, this regulation will significantly impact the export of strategic commodities such as oil palm, wood, rubber, coffee, and cocoa.<sup>2</sup>

To access the European Union market, these commodities and related products must undergo a due diligence process. They must be traceable to the land where they were produced, proven legal, and not the result of deforestation after December 31, 2020. The due diligence requirements **will take effect on January 1, 2025**, and will be carried out by Operators, the first entities to place the products on the European Union market or export them from the EU territory.<sup>3</sup>

The stringency of the due diligence process will be determined by the risk status of the country or part of the country producing these commodities. This classification, resulting in high, low, or standard-risk statuses, will be determined by the European Commission through a benchmarking process.<sup>4</sup> Indonesia or regions producing these commodities can become more competitive if they achieve a low-risk status, which can be accomplished through improving plantation governance at both national and subnational levels.

As of the writing of this report, the Indonesian government and several other commodity-producing countries still oppose the EUDR. They are making diplomatic efforts to convince the European Union to accept domestic sustainability standards, namely the Indonesian Sustainable Oil Palm (ISPO) for oil palm and the Timber Legality Verification System (SVLK) for timber. The government also seeks concessions and support for smallholders to prevent their exclusion from the supply chain. A Joint Task Force, formed by the governments of Indonesia and Malaysia along with the European Commission, discusses crucial issues related to the EUDR implementation.

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<sup>1</sup> This regulation also applies to commodities and agricultural products produced in the EU and exported outside the EU.

<sup>2</sup> Government Regulation No.26 of 2021 on the Implementation of the Agricultural Sector.

<sup>3</sup> For large operators/importers and exporters, EU SMEs are granted exemptions until mid-2025.

<sup>4</sup> When EUDR is enforced, all commodity-producing countries are assigned standard risk status, while the new risk status will be granted no later than the end of 2024.



Some agreed-upon issues for discussion include the inclusion of smallholders in the supply chain, relevant national certification schemes, traceability systems from producers to end consumers, deforestation and forest degradation data, and data privacy protection.<sup>5</sup> However, civil society and smallholders have not been involved in this Joint Task Force, even though their participation is crucial to minimize risks to smallholders and enhance plantation governance in Indonesia.

In facing the implementation of the EUDR, Indonesia's commodity governance encounters several fundamental challenges, including land overlaps, unconsolidated plantation data from upstream to downstream, limited transparency in permitting, lack of legal compliance and enforcement, high conflicts in the plantation and forestry sector, and price injustices faced by smallholders, as well as ongoing deforestation, both legal and illegal. Strengthening land and commodity governance is urgently needed, not only to address the EUDR but also to realize just and sustainable natural resource management mandated by the 1945 Constitution.

This report aims to contribute to the strengthening of Indonesia's land and commodity governance in the momentum of the EUDR implementation, acting as a catalyst for improvement. It also seeks to stimulate dialogue among the public and policymakers by reviewing relevant data on affected commodities, legality, and deforestation trends related to the due diligence and benchmarking processes within the EUDR. Additionally, the report provides input to strengthen regulatory frameworks and other governance elements based on the analysis of gaps with EUDR requirements and aims to foster an inclusive Indonesia-EU partnership based on existing multi-stakeholder collaboration initiatives.

The report is divided into six main sections. **The first section** provides a brief overview of Indonesian export commodities and products affected by the EUDR based on the HS Code coverage included in Annex I of the EUDR. **The second section** discusses due diligence requirements imposed on Operators and risk rating (benchmarking) applied to countries or regions producing commodities, along with related data. **The third section** explores the regulatory and policy framework at the national level, which can serve as a basis for Indonesia in facing EUDR implementation. **The fourth section** delves into the regulatory, policy, and sustainable initiatives at the subnational level. **The fifth section** addresses the specific challenges faced by independent smallholders in meeting legality and traceability aspects, as well as the support needed. Finally, **the sixth section** presents recommendations for improving governance and fostering an inclusive partnership based on existing multi-stakeholder collaborations. Due to data availability and the authors' focus, the majority of discussions in this report are centered around oil palm.

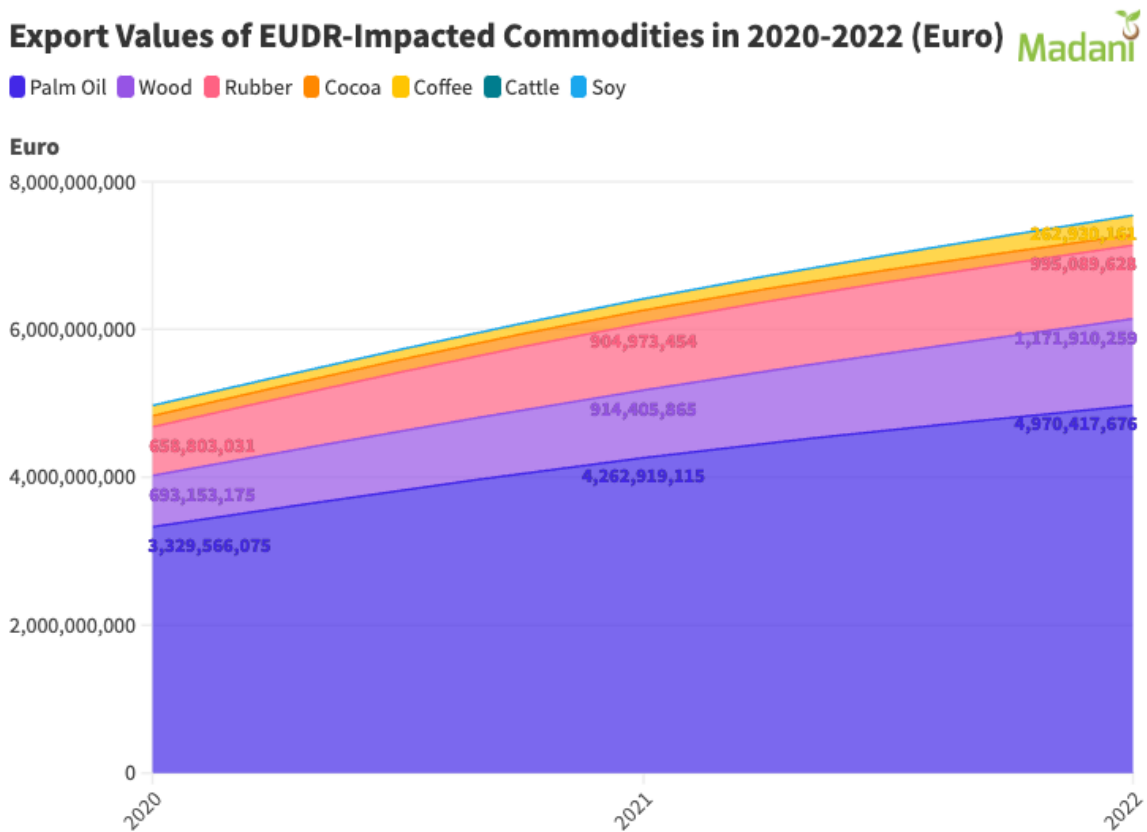
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<sup>5</sup> European Commission, Regulation on deforestation- and forest degradation-free supply chains, presented at a seminar organized by Kaoem Telapak on November 8, 2023.

## B. Indonesian Export Commodities Affected by EUDR

Currently, EUDR is applied to seven commodities, namely oil palm, soya, wood, rubber, coffee, cocoa, and cattle. EUDR also extends to products made from or fed with these commodities. Specifically, this regulation will impact 72 HS Codes of these seven commodities.<sup>6</sup> Indonesia exports all the commodities affected by EUDR. However, the most significant export values and quantities are contributed by oil palm, wood, and rubber commodities. (Figure 1 and 2).

Figure 1. Export Value of EUDR-Affected Commodities from Indonesia Year 2020 to 2022



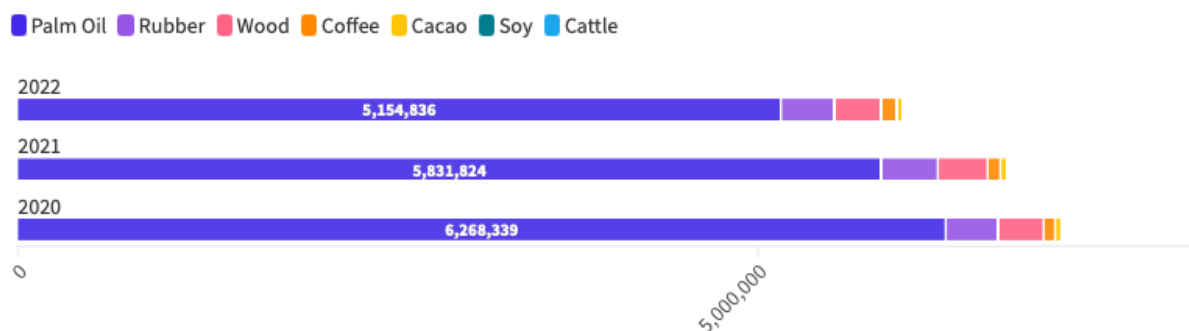
Source: trade.ec.europa.eu

<sup>6</sup> Annex I of the EUDR includes 6 HS codes for cocoa, 1 HS code for coffee, 11 HS codes for oil palm, 12 HS codes for rubber, 28 HS codes for wood, 10 HS codes for cattle, and 4 HS codes for soya.



Figure 2. Export Quantity of EUDR-Affected Commodities from Indonesia Year 2020 to 2022

## Export Quantity of EUDR-Impacted Commodities from Indonesia 2020-2022 (Tons)



Source: trade.ec.europa.eu

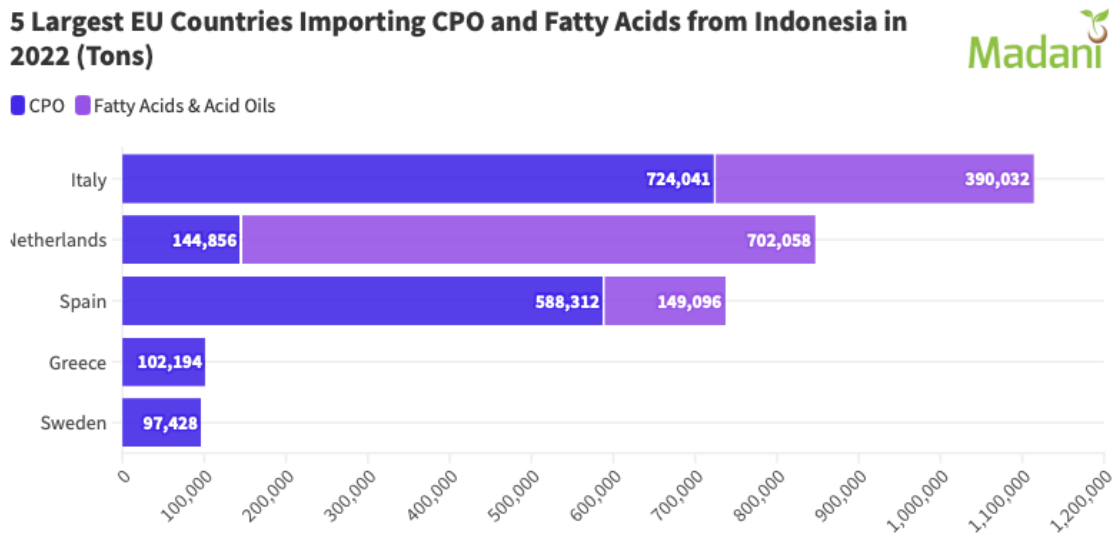
## Oil Palm

In 2022, the export value of 11 Indonesian oil palm products affected by EUDR reached nearly 5 billion Euros with a total of 5.2 million tons.<sup>7</sup> The export value of Indonesian oil palm products has been consistently rising from 2020 to 2022, even though the quantity tends to decrease. Two oil palm products are highly significant as they contribute to 76% of the export value to the EU: oil palm and its fractions, whether processed or not but not chemically modified (HS Code 1511), and industrial monocarboxylic fatty acids and acid oils from refining (HS Code 3823 19). In 2022, the primary export destinations for these two products were Italy, the Netherlands, and Spain (Figure 3). It is worth noting that the high export value of oil palm is due to its large export volume, while the price per kilogram is relatively low compared to other affected commodities (Figure 8). The average price of Indonesian oil palm products is also 30% lower than Malaysian oil palm products.<sup>8</sup>

<sup>7</sup> Derived from data from trade.ec.europa.eu, it encompasses all HS codes that fall within the list of the EUDR as listed in Annex I of the EU Deforestation Regulation.

<sup>8</sup> Even though the total value of Indonesia's oil palm exports to the EU is 1.7 times greater than Malaysia's, the average value per kilogram is 30% lower compared to Malaysian oil palm products. This data is derived from trade.ec.europa.eu and is based on the 11 HS codes for the year of 2022.

Figure 3. Five Largest EU Countries Importing CPO and Fatty Acids from Indonesia in 2022 (Tons)



Source: trade.ec.europa.eu

## Wood

In addition to oil palm, the export value of Indonesian wood products to the European Union is also significant, reaching nearly 1.2 billion Euros in 2022. Among the 28 affected wood products, five contribute to 79% of the export value. These include wooden chairs<sup>9</sup> (HS Code 9401), wooden furniture and its parts (HS Code 9403 60), wooden building and carpentry products (HS Code 4418), wood, including boards and friezes for parquet flooring not assembled (HS Code 4409), and plywood and laminated wood (HS Code 4412). The top five export destinations for these products in 2022 were the Netherlands, Germany, Belgium, France, and Italy.

<sup>9</sup> In addition to those included in HS Code 9402, both convertible into beds and non-convertible, and their parts.

Figure 4. Five Largest EU Countries Importing Wood from Indonesia in 2022 (Tons)



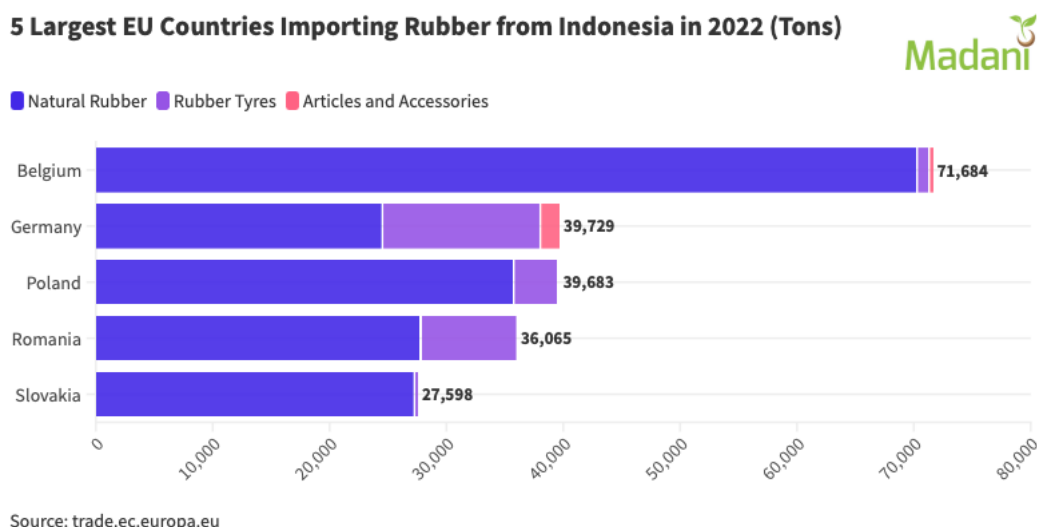
Source: trade.ec.europa.eu

## Rubber

The next significant commodity affected by EUDR is rubber, with nearly 1 billion Euros in export value in 2022. Among the 12 affected rubber products, three products contribute to 97% of the export value. These are natural rubber (HS Code 4001), new pneumatic tires of rubber (HS Code 4011), and articles and accessories for clothing (HS Code 4015). The top importing countries in the European Union for these three major products are Belgium, Germany, Poland, Romania, and Slovakia (Figure 5). With the due diligence requirements set to be enforced at the beginning of January 2025, the Indonesian rubber industry has

already started to feel the impact. One bicycle tire factory in Cikarang, which supplies bicycle tires to European companies, has announced its closure due to a decline in demand.<sup>10</sup>

Figure 5. Five Largest EU Countries Importing Rubber from Indonesia in 2022 (Tons)



## Coffee

Indonesia's coffee production is the fourth largest in the world, following Brazil, Vietnam, and Colombia.<sup>11</sup> The export value of Indonesian coffee to the European Union reached 263 million Euros in 2022, steadily increasing from the previous two years. The top European Union countries serving as primary export destinations for Indonesian coffee are Germany, Italy, Spain, Belgium, and France (Figure 6).

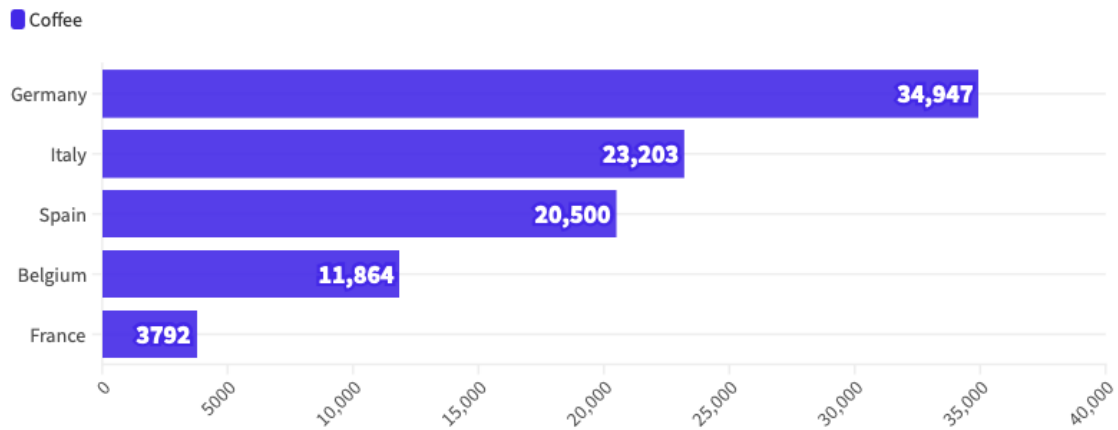
<sup>10</sup> Utami, S., & Rahmatika, G. (2024, Januari 18). *Pabrik Ban di Cikarang Tutup, Pengusaha: Permintaan Turun karena Aturan Eropa*. kumparan.com. <https://kumparan.com/kumparanbisnis/pabrik-ban-di-cikarang-tutup-pengusaha-permintaan-turun-karena-aturan-eropa-21zLyiffemO/full>

<sup>11</sup> Pusat Data dan Sistem Informasi Pertanian. (2022). *Outlook Komoditas Perkebunan Kopi* ([https://satudata.pertanian.go.id/assets/docs/publikasi/Buku\\_Outlook\\_Kopi\\_2022\\_compressed.pdf](https://satudata.pertanian.go.id/assets/docs/publikasi/Buku_Outlook_Kopi_2022_compressed.pdf)). Ministry of Agriculture of the Republic of Indonesia



Figure 6. Five Largest EU Countries Importing Coffee from Indonesia in 2022 (Tons)

### 5 Largest EU Countries Importing Coffee from Indonesia in 2022 (Tons)



Source: trade.ec.europa.eu

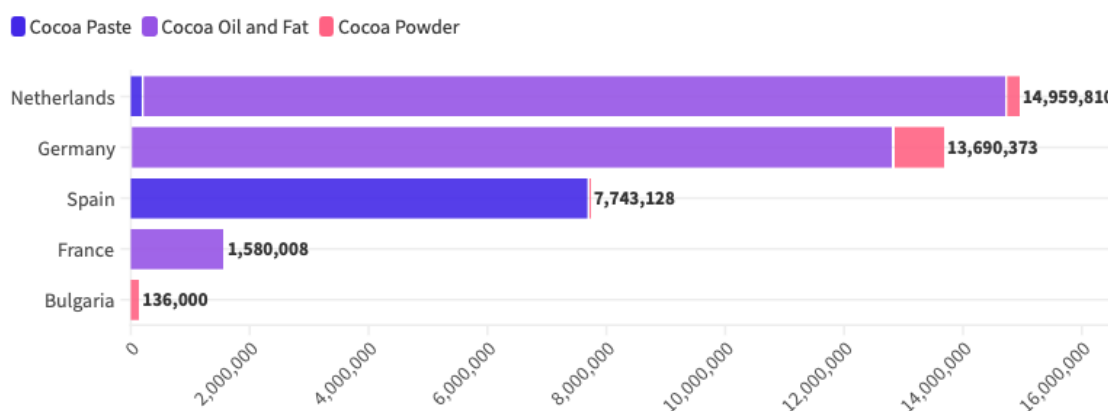
## Cocoa

Indonesia is the world's third-largest cocoa producer, following Ivory Coast and Ghana.<sup>12</sup> The export value of Indonesian cocoa products to the European Union in 2022 reached 141 million Euros. Three types of cocoa products contribute to 99% of the export value to the EU, namely cocoa paste (HS Code 1803), cocoa oil and fat (HS Code 1804), and cocoa powder (HS Code 1805). The primary export destinations for these three products are the Netherlands, Germany, Spain, France, and Bulgaria (Figure 7).

<sup>12</sup> Setyaningrum, P. (2022, Januari 24). 8 Daerah Penghasil Kakao Terbesar di Indonesia, Produksi Terbanyak Ada di Sulawesi. *Kompas.com*, [https://regional.kompas.com/read/2022/01/24/151542778/8-daerah-penghasil-kakao-terbesar-di-indonesia-produksi-terbanyak-ada-di?page=all#google\\_vignette](https://regional.kompas.com/read/2022/01/24/151542778/8-daerah-penghasil-kakao-terbesar-di-indonesia-produksi-terbanyak-ada-di?page=all#google_vignette).

Figure 7. Five Largest EU Countries Importing Cocoa from Indonesia in 2022 (Kg)

### 5 Largest EU Countries Importing Cacao from Indonesia in 2022 (Kg)



Source: trade.ec.europa.eu

Although the export values of Indonesian coffee and cocoa to the EU are not as substantial as oil palm, wood, and rubber, the average prices per kilogram for these products can reach 3-5 times that of oil palm. Therefore, there is a significant potential for increasing Indonesian export value if the quantity of coffee and cocoa exports increase. Coffee exports have high potential because both the value and quantity have been steadily increasing from 2020 to 2022. For oil palm and soya, the EU has substitute commodities such as rapeseed and sunflower oil. However, when it comes to coffee and cocoa, the EU does not have similar commodities for substitution. This could lead to a crisis in the availability of these commodities. Furthermore, the commodities mentioned above are often supplied by countries facing various governance challenges, such as African and Latin American nations. Experts' analyses even suggest a possible shift in coffee supplier regions imported by the EU due to the implementation of EUDR, where coffee from regions proven to be deforestation-free may replace coffee from high-risk regions, at least in the short term.<sup>13</sup> This could be a significant opportunity for Indonesia if it can encourage coffee-producing regions to become deforestation-free.

## Cattle and Soya

The export value of cattle products from Indonesia is not particularly significant when compared to other commodities, reaching only 791 thousand Euros in 2022. However, the average export value per kilogram of Indonesian cattle leather products is the highest compared to other affected commodities (Figure 8). Meanwhile, the export value of Indonesian soya products is very small, amounting to only 336 thousand Euros in 2022.

<sup>13</sup> Webinar *The EUDR Debate: What's Necessary to Make It Work Effectively?* [Organized by Innovation Forum, Thursday, January 18th.]. (2024).

Figure 8. Average Export Values per Kilogram of EUDR-Affected Commodities from 2020 to 2022 (Euros)

**Average Export Value of EUDR-Affected Commodities from Indonesia per Kg (Euro)**  
Year 2020-2022 (Average)



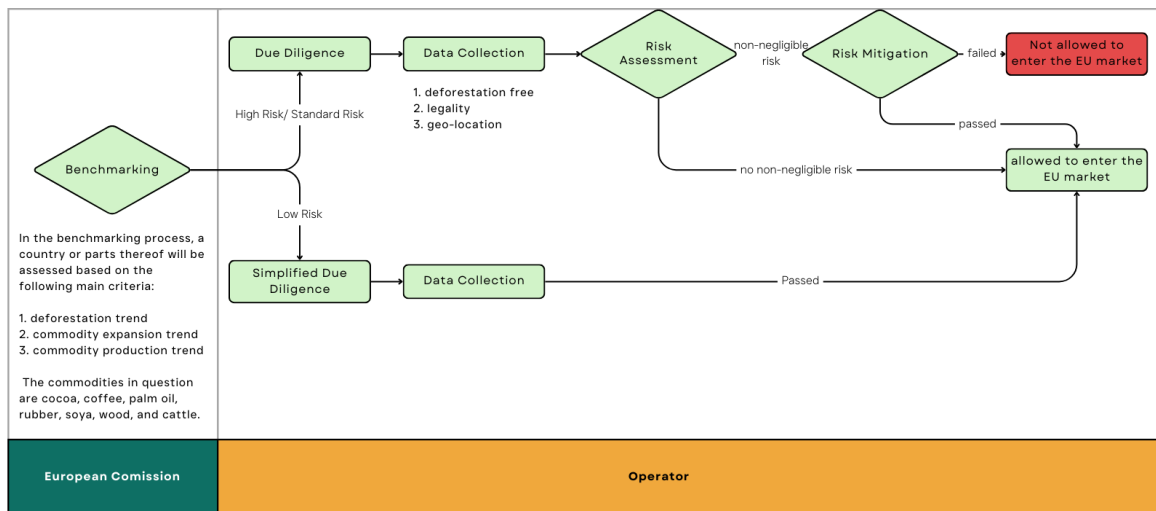
Source: trade.ec.europa.eu

“Oil palm, wood, and rubber are the most significant export commodities most affected by the EUDR. The export value of oil palm can be increased by exporting more high-value derivative products. EUDR also provides an opportunity for increasing the export value of coffee and cocoa by taking advantage of market shifts from other regions. Understanding the specific dynamics of each commodity is crucial for Indonesia to capitalize on potential market shifts. Italy, the Netherlands, Spain, Germany, Belgium, and France are crucial countries for Indonesia as both key markets and implementing authorities of the EUDR regulations, making partnerships with these countries strategically significant.”

## C. Requirements to Enter the European Market

Two crucial processes in EUDR for Indonesia are due diligence and benchmarking. Due diligence is mandatory for Operators who are placing Indonesian commodities and products on the European Union market for the first time, while benchmarking will be applied to countries or parts of them and will determine the level of scrutiny required in due diligence.

Figure 9. Benchmarking and Due Diligence in EUDR



### Due Diligence

Starting from January 1, 2025, commodities and products impacted by the EUDR must undergo a due diligence process to gain access to the European market. The key player responsible for carrying out this due diligence is referred to as "Operator." This term encompasses any entity that introduces products listed within the EUDR regulation into the EU market for the first time or exports them out of the EU market.

The goal of the due diligence process is to affirm that the relevant commodities and products: 1) are completely free from deforestation, and 2) have been produced in strict compliance with the prevailing regulations of the country in which they were produced, ensuring their legality.

To facilitate entry into the EU territory, products and related commodities must be accompanied by a due diligence statement, effectively serving as their "passport." In essence, Indonesian export commodities and products must fulfill three fundamental prerequisites to access the European market: **they must demonstrate their deforestation-free status, legality, and their ability to be traced back** to the specific land where they were produced.



## Deforestation-Free

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To be eligible for sale in the European market, relevant commodities and products *must demonstrate that they have not been produced through deforestation after December 31, 2020*. Concerning wood products, the *wood must originate from forests that have not experienced forest degradation after December 31, 2020*. The distinction in the treatment of wood products arises from the specific definition of 'deforestation' used by the EU.

In the EUDR, deforestation is defined as the process of converting forests into agricultural use, whether human-induced or not. The EUDR also defines forest degradation as a structural change in forest cover. This includes the transformation of primary forests or naturally regenerating forests into plantation forests or other wooded land, as well as the conversion of primary forests into planted forests.

It's important to note that even if related products have obtained sustainability certifications such as ISPO, RSPO, SVLK, or FSC, they must still satisfy the separate due diligence criteria set forth by the EUDR. While SVLK can serve as proof of the legality of wood commodities and products, it does not automatically establish their deforestation-free status. In the case of ISPO and RSPO certifications for oil palm commodities and products, these certifications can assist in meeting the information requirements within the due diligence process but cannot replace the due diligence process itself.

### *Definition of Forest and Deforestation from European and Indonesian Perspectives*

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The definition of deforestation depends on how forest is defined. There are some important technical differences between the Indonesian government's definition of forest and the one referred to in the EUDR. According to Indonesia, forest is an area of land covering more than 0.25 hectares (or 6.25 hectares if we refer to the working definition) with trees that are over 5 meters tall when mature, and a canopy covering more than 30%, or trees that meet these criteria *in situ*.<sup>14</sup> Meanwhile, EUDR defines forest as an area of land covering more than 0.5 hectares with trees that are over 5 meters tall and a canopy covering more than 10%, or trees that meet these criteria *in situ*, excluding land primarily designated for agriculture or urban use<sup>15</sup> (detailed definitions in Annex 1).

There are at least three differences in how forests and deforestation are defined between EUDR and the Indonesian government. First, Indonesia uses 0.25 hectares or 6.25 hectares as a minimum threshold to classify land as a forest compared to EUDR (0.5 hectares). Indonesia also requires a higher minimum canopy cover percentage (30%) compared to EUDR (10%). As a result, land that the European Union considers forest may not meet

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<sup>14</sup> Indonesian National Forest Reference Level for Deforestation, Forest Degradation, and Enhancement of Forest Carbon Stock submitted to the UNFCCC (2022).

<sup>15</sup> Article 2 paragraph 4 of the European Union Deforestation-Free Regulation.

Indonesia's definition of a forest. This also raises concerns about the possibility of detecting transitions between different types of plantations as deforestation, such as the conversion from rubber plantations to oil palm.<sup>16</sup> This could happen if rubber plantations are categorized as forests according to EUDR.

The second difference lies in how deforestation is defined as gross or net deforestation. The deforestation figure Indonesia reports nationally is net deforestation, which accounts for reforestation or afforestation. On the other hand, EUDR uses gross deforestation, which doesn't consider reforestation or afforestation on the land where commodities are produced. In simpler terms, a company that produces commodities by clearing forests still can't sell its products in the European market, even if they've planted trees elsewhere.

The third and most fundamental difference is whether planned deforestation is allowed. EUDR strictly prohibits both planned and unplanned deforestation for the production of relevant commodities while Indonesia still allows planned deforestation in accordance with its laws and regulations.

However, both EUDR and Indonesia agree on the definition of deforestation in the context of changing land cover. According to both, the conversion of forested land into agriculture is considered deforestation.<sup>17</sup>

Yet, there's a gray area regarding agroforestry. Agroforestry is a system commonly used by Indonesian communities to produce crops like coffee or cocoa, including through social forestry. According to EUDR, converting primary or naturally regenerated forests into agroforestry is seen as deforestation because agroforestry is categorized as agricultural land, not forest.<sup>18</sup> According to the Indonesian definition, such a change may only be considered forest degradation if the agroforestry system still meets the technical criteria for being a forest. Consequently, according to EUDR, communities that clear forests and convert them into agroforestry (usually for coffee or cocoa) after December 31, 2020, cannot sell their products in the European market. However, communities that establish agroforestry from previously cleared forest land before December 31, 2020, can still sell their products in the European market.

To sum it up, the definitions of deforestation between EUDR and the Indonesian government essentially relate to the same phenomenon of changing land cover from forest to agricultural land. The difference lies in how forest is defined, which determines whether a land transition is considered deforestation or not. The European Union's main reference is the EU Forest Observatory on Deforestation and Forest Degradation, while Indonesia uses the National Forest Monitoring System (SIMONTANA). It's crucial to make systematic efforts

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<sup>16</sup> A multi-stakeholder dialogue organized by MADANI with regional governments in November 2022.

<sup>17</sup> Kementerian Lingkungan Hidup dan Kehutanan. (2020). *Status Hutan dan Kehutanan Indonesia*. KLHK.

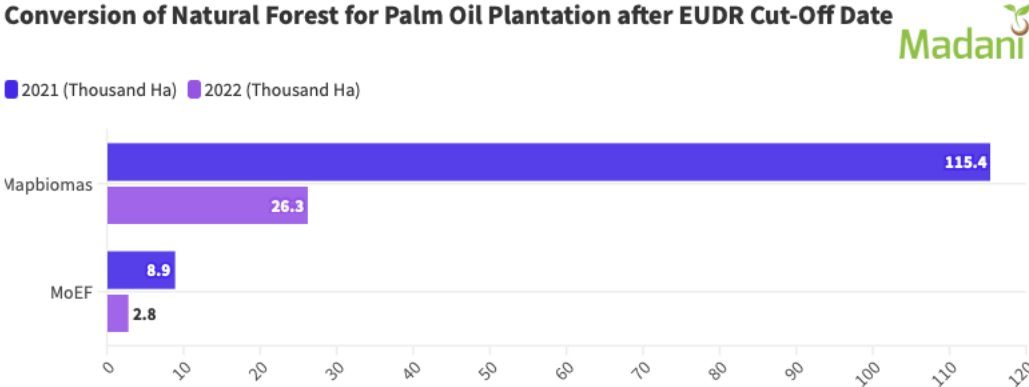
<sup>18</sup> The EUDR divides forests into four categories: "primary forests," "naturally regenerating forests," "planted forests," and "plantation forests." Meanwhile, Indonesia categorizes forest land into "primary forests," "secondary forests," and "planted forests."

to compare forest and deforestation data used by EUDR with data acknowledged by the Indonesian government and alternative data presented by civil society. This will help create a more accurate understanding of deforestation. When discrepancies arise, data that have undergone ground-truthing processes should take precedence. In this context, the European Union should engage the Indonesian government, local authorities, civil society, and academics in an inclusive dialogue, including in the Joint Task Force that addresses this issue. At the domestic level, the Indonesian government should also provide more transparency to the public so that government data on forests and deforestation can be compared and enriched with data from academics and civil society.

**Deforestation after the EUDR Cut-Off Date**

While not numerous, there remains a proportion of Indonesian oil palm plantations that continue to convert forests after the cut-off date of December 31, 2020. According to Mapbiomas data, oil palm plantations resulting from the conversion of natural forests in 2021 covered 115,000 hectares or 19% of the total expansion of new oil palm plantations that year. This number decreased to 26,000 hectares in 2022, but the percentage increased to 27%. Using Indonesian government's natural forest data as a reference, the new oil palm from natural forest conversion in 2021 was much smaller, at 8,900 hectares, or only 1.43% of the total oil palm plantation expansion that year. In 2022, oil palm plantations resulting from forest conversion were even smaller, at 2,800 hectares, or 2.3% of the total new oil palm plantations additions. The significant difference between government and civil society data highlights the importance of creating a space for dialogue to compare oil palm and forest data because different data references can lead to different conclusions.

Figure 10. Conversion of Natural Forest for Oil Palm Plantation after EUDR Cut-Off Date

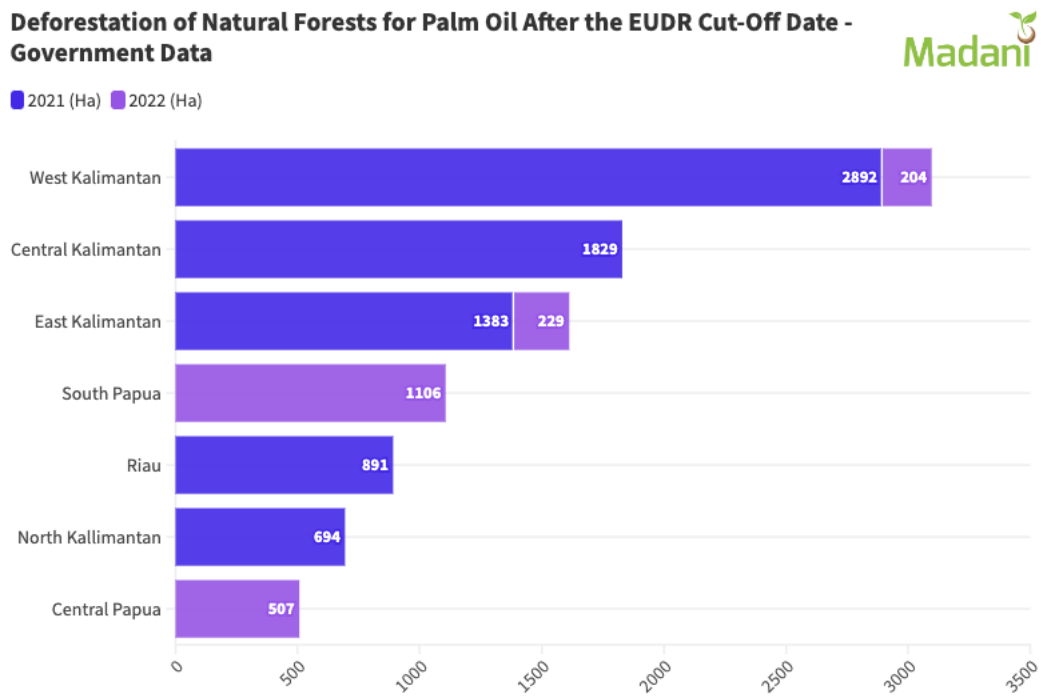


Source: Mapbiomas, 2023, MoEF, 2022

Based on the Indonesian government's natural forest data as a reference, the provinces contributing the most to oil palm deforestation after the EUDR cut-off date are West

Kalimantan, Central Kalimantan, and East Kalimantan. According to Mapbiomas data, the largest contributions come from Central Kalimantan, Riau, and Aceh.

*Figure 11. Deforestation of Natural Forests for Oil palm After the EUDR Cut-Off Date - Government Data*



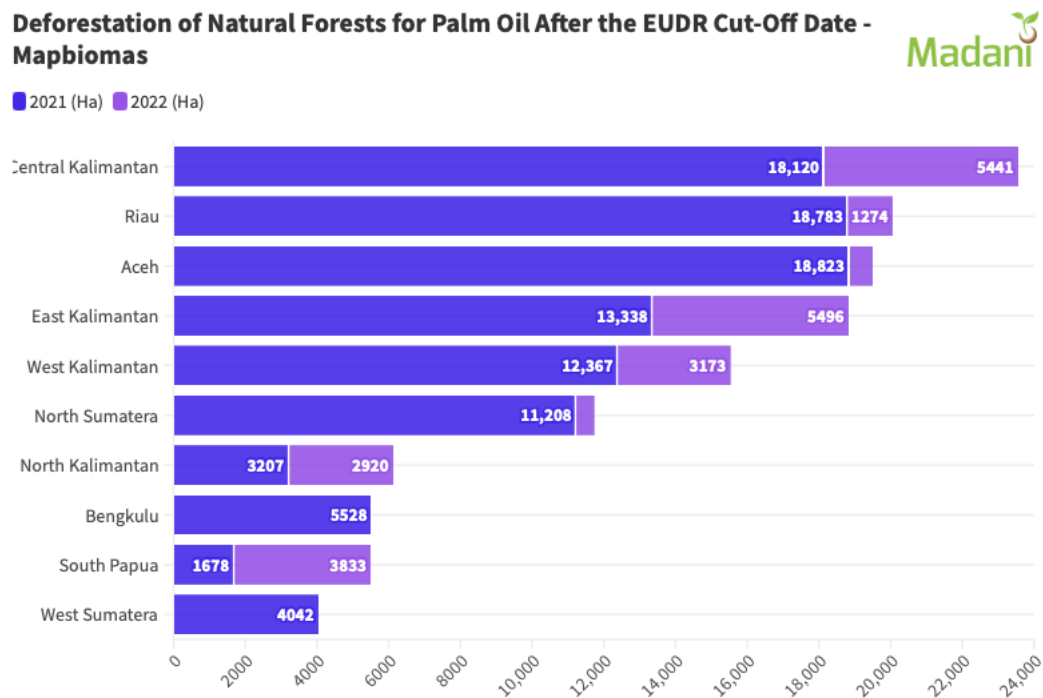
Source: MapBiomas, 2023, KLHK, 2022

Most of the conversion of natural forests into oil palm plantation after the cut-off date occurred within oil palm plantation permit areas, accounting for 64% (5.7 thousand ha) in 2021 and 73.8% (2 thousand ha) in 2022. The rest may have been carried out by smallholders or unpermitted companies. It is essential to highlight that nearly 20% (1.7 thousand ha) of the conversion of natural forests into oil palm plantation in 2021 appears to have been illegal as it took place within the forest zone. This figure decreased to 12.3% (350 ha) in 2022. The majority (68%) of the conversion of natural forests into oil palm plantation in 2021



occurred outside of the HGU (Land Use Title) areas, indicating a lack of legal compliance. This number decreased to 40% in 2022.

*Figure 12. Deforestation of Natural Forests for Oil Palm After the EUDR Cut-Off Date – Mapbiomas*



Source: MapBiomas

## Legal

EUDR requires agricultural commodities and products entering the European Union to prove their legality or compliance with the prevailing laws and regulations in the producing country. The required legality includes the legal status of the production area concerning land rights, environmental protection, forestry regulations, third-party rights, labor rights, internationally protected human rights, FPIC principles, and relevant tax, anti-corruption, trade, and customs regulations. During the due diligence process, companies importing Indonesian agricultural commodities must gather information related to the legality of these commodities.

A key legal challenge currently faced by Indonesia is the presence of oil palm plantations in the forest zone, whether owned by companies or smallholders. There are approximately 3.28 million hectares of oil palm plantations within the forest zone, accounting for 20% of the total oil palm plantations in Indonesia. About 107,000 hectares of these are even located within the forest moratorium or PIPPIB area. The largest oil palm plantations in the forest zone are recorded in the Riau Province, covering 1.42 million hectares, with the Rokan Hilir District having 269,000 hectares.

Companies operating oil palm plantations without Land Use Titles (HGU) represent another significant legal challenge in Indonesia. This means that they cultivate commodities without proper land rights. Of the recorded 19 million hectares of oil palm plantation permit data, only approximately 9.8 million hectares<sup>19</sup> (as of 2023) have HGU, with 5.9 million hectares having completed the HGU process, and 3.9 million hectares still in progress. Notably, 621,000 hectares of completed HGU and 481,000 hectares of HGU in progress are indicated within the forest zone. About 213,000 hectares are even indicated to overlap with the forest moratorium area (PIPIB) and areas designated for social forestry (PIAPS). It's essential to note that there are still approximately 887,000 hectares of natural forests within both completed and ongoing HGU.

Another legal challenge is smallholders lacking cultivation registration letters (*Surat Tanda Daftar Budidaya*/STD-B) and land rights (*Sertifikat Hak Milik*/SHM or other land titles). Indonesia has issued STD-B for only around 82,000 hectares out of approximately 8 million hectares of smallholder land (Ministry of Agriculture, 2023).<sup>20</sup> The e-STDB data states that approximately 157,000 hectares of STD-B have been issued or are in the process of issuance<sup>21</sup> but does not specify the commodities.

Since ISPO certification is mandatory for all plantation businesses, companies without ISPO certification also represent a significant legal challenge. Based on the Ministry of Agriculture data (2023), ISPO achievement as of April 2023 only covers 5.1 million hectares or 31% of the total oil palm plantation area in Indonesia, with CPO production of 26.4 million tons and PKO production of 7.2 million tons.<sup>22</sup>

Tax compliance by plantation businesses is also a legal stumbling block. The Corruption Eradication Commission (KPK) found around 63,000 taxpayers in the oil palm industry with tax evasion and allegations of suboptimal tax collection from the Directorate General of Taxes.<sup>23</sup> The Coordinating Minister for Maritime Affairs and Investment revealed that owners of 9 million hectares of oil palm plantation land had failed to fulfill their tax obligations.<sup>24</sup>

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<sup>19</sup> The data used refers to the MOMI ESDM website accessed up to 2023 and has been overlaid with oil palm plantation permit data.

<sup>20</sup> Presented by the Ministry of Agriculture during the Multi-Stakeholder Dialogue on the Implementation of EUDR in Indonesia, Office of the President's Staff, on November 17, 2023.

<sup>21</sup> Direktorat Jenderal Perkebunan Kementerian Pertanian Republik Indonesia. (n.d.). *Sistem Terpadu Pendaftaran Usaha Budidaya Perkebunan Untuk Pekebun*. e-STDB. <https://stdb.ditjenbun.pertanian.go.id/beranda>

<sup>22</sup> Direktorat Jenderal Perkebunan Kementerian Pertanian Republik Indonesia. (n.d.). *Rekapitulasi Data Sertifikat ISPO Sampai Bulan April 2023*. <https://ditjenbun.pertanian.go.id/template/uploads/2023/05/Rekap-update-sertifikat-ISPO-per-April-2023.pdf>

<sup>23</sup> Perkasa, A. (2017, Mei 4). KPK Temukan 63 Ribu Wajib Pajak Industri Sawit Kemplang Pajak. *CNN Indonesia*. <https://www.cnnindonesia.com/nasional/20170503174824-12-212023/kpk-temukan-63-ribu-wajib-pajak-industri-sawit-kemplang-pajak>

<sup>24</sup> Rachman, A. (2023, Mei 11). Luhut Sebut Ada Bos Sawit Tak Bayar Pajak, Ini Tanggapan DJP! *CNBC Indonesia*. <https://www.cnbcindonesia.com/news/20230511142055-4-436574/luhut-sebut-ada-bos-sawit-tak-bayar-pajak-ini-tanggapan-djp>

Respecting and protecting human rights and compliance with Free Prior Informed Consent (FPIC) provisions for IPLCs are crucial. Comprehensive data on compliance with human rights and FPIC provisions fulfillment is challenging to obtain. Still, violations of the rights of IPLCs can be observed through the numerous agrarian conflicts in the plantation and forestry sectors. The Human Rights Violation Survey in the Wilmar International Oil palm Concession Areas in West Sumatra by the Nagari Institute identified 23 companies violating the FPIC rights of the indigenous Minangkabau community in West Sumatra, including violations of land rights, the absence of FPIC in the HGU process, and labor rights violations.<sup>25</sup> According to the Agrarian Reform Consortium (KPA), there were at least 241 agrarian conflict incidents in 2023, dominated by the plantation-agribusiness and forestry sectors, contributing 44% and 12%, conflicts respectively.<sup>26</sup>

“*In summary, some legal challenges in commodity production currently involve oil palm plantations in the forest zone, affecting 20% of Indonesia's oil palm plantations, approximately 10 million hectares of plantation businesses operating without Land Use Permits (HGU), smallholders unable to obtain cultivation registration letter (STD-B) and land legality, 69% of Indonesia's oil palm plantation area lacking ISPO certificates, tax compliance issues with around 63,000 taxpayers in the oil palm sector facing tax evasion allegations, and human rights compliance, including Free Prior Informed Consent (FPIC) for IPLCs, as demonstrated by the high level of agrarian conflicts in the plantation and forestry sectors.*”

<sup>25</sup> Nagari Institute & Yayasan Masyarakat Kehutanan Lestari. (n.d.). *Hasil Survei Pelanggaran HAM di Area Koneksi Kelapa Sawit Wilmar International di Sumatra Barat*. forestpeoples.org. [https://www.forestpeoples.org/sites/default/files/documents/Daftar%20Wilmar%20International%20and%20Supplier%20Bermasalah%20di%20Sumatera%20Barat\\_04\\_11\\_19.pdf](https://www.forestpeoples.org/sites/default/files/documents/Daftar%20Wilmar%20International%20and%20Supplier%20Bermasalah%20di%20Sumatera%20Barat_04_11_19.pdf)

<sup>26</sup> Anisah, L. (2024, Januari 15). KPA: Konflik Agraria Naik Mencapai 241 Letusan Sepanjang 2023. *Kontan.co.id*. <https://nasional.kontan.co.id/news/kpa-konflik-agraria-naik-mencapai-241-letusan-sepanjang-2023>

## Traceable

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To prove that relevant commodities and products are legal and have not been produced through deforestation, they must be traceable back to the plantation or land where they were produced. This is done by providing geolocation information, which is the geographic location of a piece of land in the form of latitude and longitude coordinates, containing at least one latitude and longitude point and at least six decimal places. For land areas larger than four hectares, geolocation information must be in a polygon, except for cattle.

Geolocation information should be available in business permits for companies and STD-B for smallholders. However, the challenge lies in the fact that the information is not automatically passed down the supply chain from plantation operators producing the commodities to export operators. This is because there is currently no traceability system from the planting point to the export point for plantation commodities. Another fundamental issue is the lack of available geolocation information due to plantation operators not meeting the legal requirements. Additionally, the supply chain for commodities is long and lacks transparency, as the obligation for companies to build partnerships with independent smallholders has not been enforced. As a result, smallholders cannot sell their Fresh Fruit Bunches (TBS) directly to mills and must rely on intermediaries, further lengthening the supply chain. Meanwhile, intermediaries in Indonesia are often not burdened with traceability requirements.<sup>27</sup>

## Information Collection, Risk Assessment, and Risk Mitigation

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The entity responsible for conducting due diligence under EUDR is the operator, which refers to the company that first places the relevant commodities on the European market. The due diligence process carried out by the operator consists of three stages: 1) Information collection, 2) Risk assessment, and 3) Risk mitigation. The risk assessment and mitigation stages are not mandatory for commodities originating from countries or parts thereof that have received a low-risk status through benchmarking.

Some of the information to be provided in the information collection process includes complete and clear information about the commodity; geolocation of where the commodity was produced, including production dates or time frames;<sup>28</sup> and traceability, where there is convincing and verifiable information that the product in question is deforestation-free and produced in compliance with relevant regulations in the country of production.

In the information collection process, plantation operators in Indonesia must provide geolocation information for all land areas where commodities are grown, along with planting dates or time frames. For land exceeding four hectares, geolocation must be in

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<sup>27</sup> Multistakeholder FGD organized MADANI Berkelanjutan, 7 November 2022.

<sup>28</sup> Geolocation refers to the geographic location of a piece of land in the form of latitude and longitude coordinates that contain at least one point of latitude and longitude and at least six decimal points.



polygon, indicating the boundaries of the land. For land under four hectares, geolocation can consist of coordinate points.

In the risk assessment stage, the operator will verify and analyze the collected information and other relevant documentation. Based on this information, the operator will conduct a risk assessment to determine whether there is a risk that the relevant product does not comply with deforestation-free criteria. Products can only be imported by the operator if the risk assessment indicates no risk or only negligible risk of deforestation.

Some considerations in the risk assessment that can be critical points include the presence of forests in the country of production or parts thereof; the presence of indigenous communities in the country of production or parts thereof; reasonable claims from indigenous communities based on objective and verifiable information regarding the use or ownership of land used for the production of relevant commodities; the level of corruption, prevalence of document and data forgery, lack of law enforcement, violations of international human rights, armed conflicts, or sanctions imposed by the United Nations Security Council or the Council of the European Union.

### *Remaining Forests as a Crucial Element in the Due Diligence Process* \_\_\_\_\_

The presence of forests in the country or region of production plays a vital role in the risk assessment process that operators must undertake. According to export data from Trase<sup>29</sup>, between 2018 and 2020, there were over 400 locations of Oil Palm Mills (PKS) in Indonesia that were indicated as supplying Crude Palm Oil (CPO) to the European Union (represented by blue dots on the map below). There are at least 11.2 million hectares of oil palm plantations within a 25 km radius of these mills; 6.85 million hectares in Sumatra and 4.24 million hectares in Kalimantan.<sup>30</sup>

Within a 25 km radius of mills supplying CPO to the European Union, there are still natural forests covering 5.1 million hectares, including 4.1 million hectares of secondary natural forests and 1 million hectares of primary natural forests.<sup>31</sup> These natural forests are most abundant in the Kalimantan region (2.8 million hectares) and Sumatra (1.8 million hectares). Approximately 800,000 hectares of these natural forests are located outside the forest zone. This means that there are still extensive natural forests in the vicinity of mills in the EU supply

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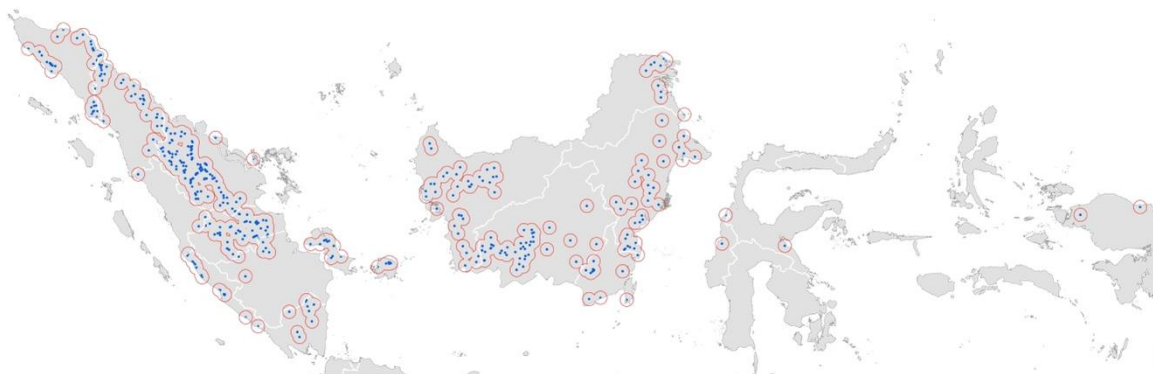
<sup>29</sup> Trase. (n.d.). *TRASE - Data Download*. Trase. Retrieved January 28, 2024, from <https://supplychains.trase.earth/data>

<sup>30</sup> Observations were made within a 25 km radius of the oil palm mill (PKS) with the assumption that at this distance, the oil palm plantations around the PKS would send fresh fruit bunches (TBS - Tandan Buah Segar) to the nearest PKS. This approach was taken due to the unavailability of supply chain data from PKS to the plantations. The oil palm cover data was obtained from <https://doi.org/10.1371/journal.pone.0266178>.

<sup>31</sup> Land Cover 2020; Ministry of Environment and Forestry (KLHK) 2021; Administrative Boundaries: National Geospatial Information Agency (BIG) 2020.

chain. This should be a focal point for operators during the due diligence process, especially in the risk assessment phase.

*Figure 13. Oil Palm Plantations and Natural Forests Area within a 25 km Radius of Oil Palm Mills Supplying CPO to the EU*



**Source:** Trase, processed by MADANI Berkelanjutan

*The blue dots indicate the locations of Oil Palm Mills (PKS) supplying Crude Palm Oil (CPO) to the European Union. Within a 25 km radius of these mills, there are extensive oil palm plantations covering approximately 11.2 million hectares. Additionally, there are natural forests spanning about 5.1 million hectares, including both primary and secondary forests. These forests are predominantly found in Kalimantan and Sumatra, with a portion located outside the forest zone, emphasizing the importance of considering the presence of forests in the risk assessment process.*

In the risk assessment process, valid FLEGT Licenses will be considered to meet the legality requirements for timber commodities. Meanwhile, the risk mitigation phase is carried out when the risk assessment reveals that the concerned product poses a non-compliance risk. Operators must adopt adequate risk mitigation procedures and measures to achieve either a "no-risk" or "negligible-risk" status before placing the product on the EU market or exporting it. These procedures and measures can include one or more of the following: (a) Requesting additional information, data, or documents, (b) Conducting independent surveys or audits, (c) Undertaking other actions as part of the information requirements.

These procedures and actions may involve supporting compliance with this Regulation by the Operator, including capacity building and investments for smallholders. Decisions regarding risk mitigation procedures and actions must be documented, reviewed at least annually, and provided by the operator to the competent authorities upon request.

## Benchmarking

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Benchmarking is a crucial process in the EUDR because it determines the stringency of the due diligence process and the percentage of commodities or export products that will be subject to scrutiny by authorities in the European Union. Benchmarking results in high, low, and standard risk ratings for countries or parts thereof that produce the commodities. When the EUDR comes into effect, all countries, including Indonesia, automatically receive a standard risk rating. Subsequently, the European Commission will assess and categorize producer countries or regions of commodities into high-risk, low-risk, and standard-risk categories no later than December 30, 2024.

### Benchmarking Criteria

There are three main criteria used in the benchmarking process:

1. Deforestation and forest degradation rates.
2. Expansion rate of agricultural land for relevant commodities.
3. Trends in the production of relevant commodities and products.

In addition to the three main criteria mentioned above, the European Commission may consider several additional pieces of information during the benchmarking process. These include:

1. Information submitted by the country concerned, regional authorities concerned, operators, NGOs and third parties, including indigenous peoples, local communities and civil society organizations, with regard to the effective covering of emissions and removals from agriculture, forestry and land use in the nationally determined contribution to the UNFCCC;
2. Agreements and other instruments between the country concerned and the Union and/or its Member States that address deforestation and forest degradation and facilitate compliance of relevant commodities and relevant products with deforestation-free, legality, and due diligence requirements and their effective implementation;
3. Whether the country concerned has national or subnational laws in place, including in accordance with Article 5 of the Paris Agreement, and takes effective enforcement measures to tackle deforestation and forest degradation, and to avoid and penalize activities leading to deforestation and forest degradation and in particular whether it applies penalties of sufficient severity to deprive of the benefits accruing from deforestation or forest degradation;
4. Whether the country concerned makes relevant data available transparently; and, if applicable, the existence, compliance with, or effective enforcement of laws protecting human rights, the rights of indigenous peoples, local communities and other customary tenure rights holders;

5. Sanctions imposed by the UN Security Council or the Council of the European Union on imports or exports of the relevant commodities and relevant products.

The assessment will lead to the identification of "high risk" for countries or regions where there is a high risk of deforestation in the production of related commodities or products. "Low risk" will be assigned to countries or regions where deforestation related to commodities or products is considered very rare or exceptional. "Standard risk" refers to countries or regions that do not fall into the categories of "high risk" or "low risk." The reference period for deforestation and the threshold used to categorize countries/regions into high and low risk are yet to be determined by the European Commission.

If Indonesia or parts of its territory receive a "low risk" rating, the commodities or products produced in those areas will only undergo a Simplified Due Diligence process, involving information collection without the need for risk assessment and mitigation steps. Consequently, the due diligence costs can be lower. Conversely, commodities produced in countries/regions rated as "high risk" or "standard risk" will have to go through the entire due diligence process, from information collection to risk mitigation.

Another consequence of a "high risk" rating is the minimum percentage of export products that will be inspected by the authorities of the destination country. This is set at 9% for commodities/products from countries/regions with a "high risk" rating, 3% for "standard risk," and only 1% for "low risk." If Indonesia or parts of its territory receive a "low risk" rating, it could lead to an enhanced reputation for Indonesian export commodities, potentially increasing market share in Europe.

## Subnational Benchmarking

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In addition to benchmarking at the national level, the EUDR may also involve benchmarking at the subnational level, such as within specific regions or provinces of a country. Subnational benchmarking may consider the deforestation and forest degradation rates, land expansion for relevant commodities, and production trends within these specific regions.

This subnational benchmarking allows for a more nuanced assessment of different regions within a country, as some regions may have higher deforestation risks than others due to variations in land use, environmental policies, and socioeconomic factors. Regions or provinces that are identified as having a higher risk of deforestation and non-compliance with EUDR requirements may face more stringent due diligence processes and increased scrutiny for the commodities and products originating from those areas. Conversely, regions with lower deforestation risks may benefit from simplified due diligence procedures, potentially reducing costs for businesses operating in those regions.

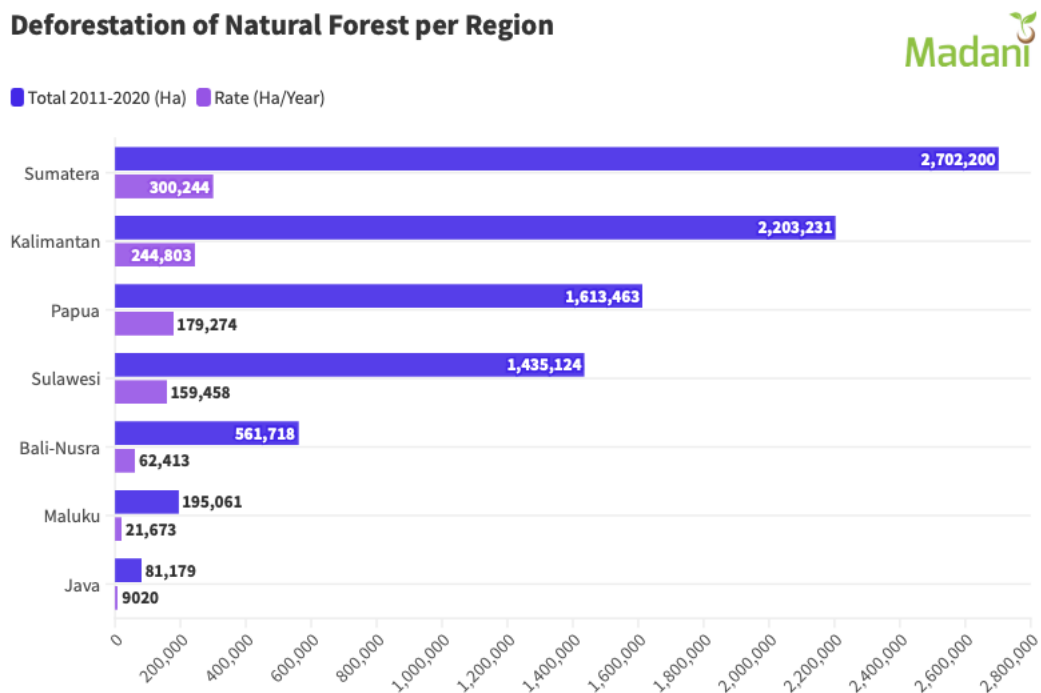
Indonesia is a vast and diverse country with a wide range of environmental and social conditions across its various regions. When it comes to implementing the EUDR, it would

be more equitable to conduct benchmarking at the subnational level rather than categorizing the entire country into a single risk category. This approach also aligns with ongoing initiatives and international partnerships aimed at strengthening governance and sustainability at the subnational level. Below, we will present relevant data that can inform discussions regarding benchmarking at the subnational level, helping to illustrate the diversity of conditions across Indonesia's regions and provinces.

### *Trends in Deforestation of Natural Forest*

The rate of natural forest deforestation in Indonesia during 2011-2020 was approximately 976,900 hectares per year. Sumatra contributed the highest rate of natural forest deforestation in this period, with approximately 300,000 hectares per year. Kalimantan, another critical region, witnessed a deforestation rate of around 245,000 hectares per year. The region of Papua experienced a notable deforestation rate of about 179,000 hectares per year. Sulawesi also faced significant deforestation, with a rate of approximately 159,000 hectares per year (Figure 14).

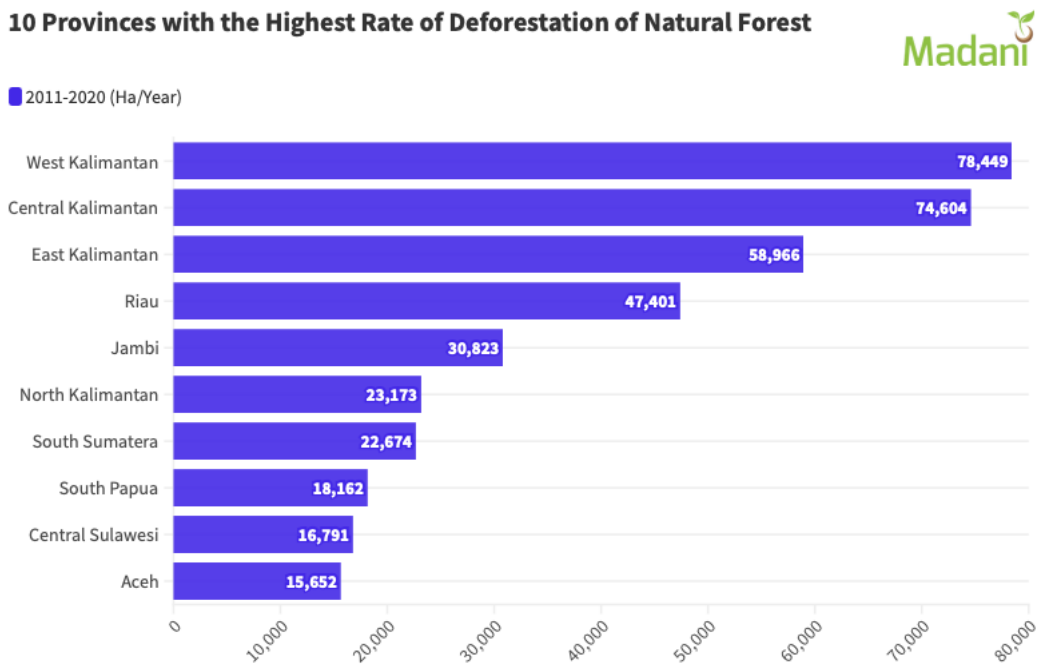
*Figure 14. Deforestation of Natural Forest per Region*



Source: KLHK 2021, processed by MADANI Berkelanjutan

The ten provinces with the highest rate of natural forest deforestation during the period 2011-2020 were West Kalimantan, Central Kalimantan, East Kalimantan, Riau, Jambi, North Kalimantan, South Sumatra, South Papua, Central Sulawesi, and Aceh, contributing to 75% of Indonesia's total natural forest deforestation during that period (Figure 15).

Figure 15. Ten Provinces with the Highest Rate of Deforestation of Natural Forests



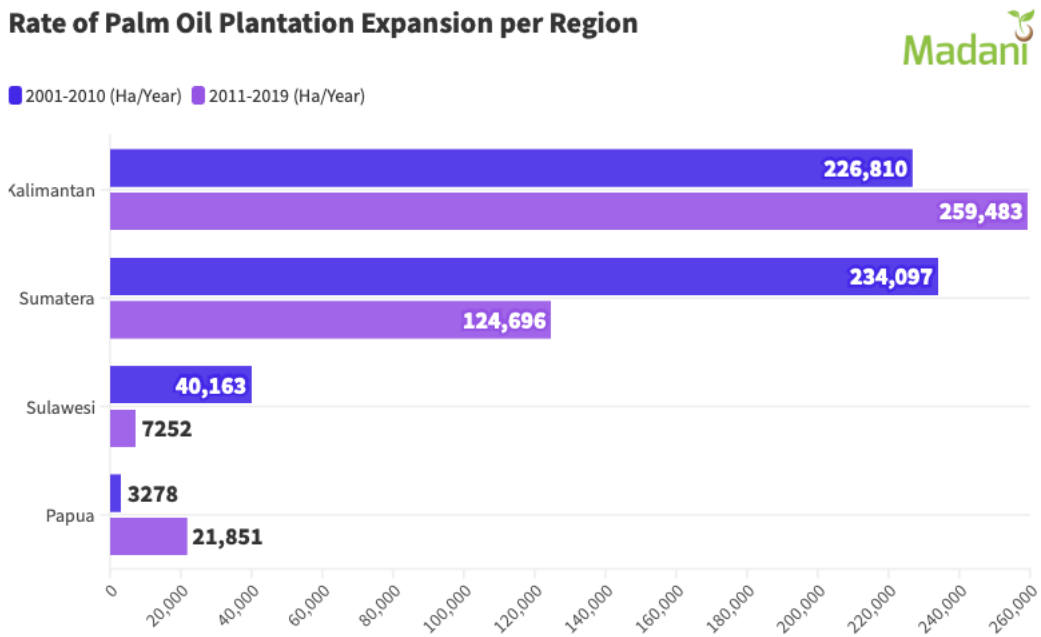
Source: KLHK, 2021, processed by MADANI Berkelanjutan

### Expansion of Oil Palm Plantations

The rate of oil palm plantation expansion in Indonesia reached 413,300 hectares per year during the period of 2011-2019. The Kalimantan region contributed the highest expansion rate, with 259,500 hectares per year, marking a 14% increase compared to the previous decade. Sumatra followed as the second-highest region in oil palm plantation expansion, with a rate of 125,000 hectares per year, although it slowed down by 47% compared to the previous decade. The expansion rate of oil palm plantations in the Sulawesi region also slowed down from the previous decade. It's worth noting that the expansion rate of oil palm plantations in Papua increased rapidly, rising by 567% compared to the previous decade (Figure 16).



Figure 16. Rate of Oil palm Expansion per Region

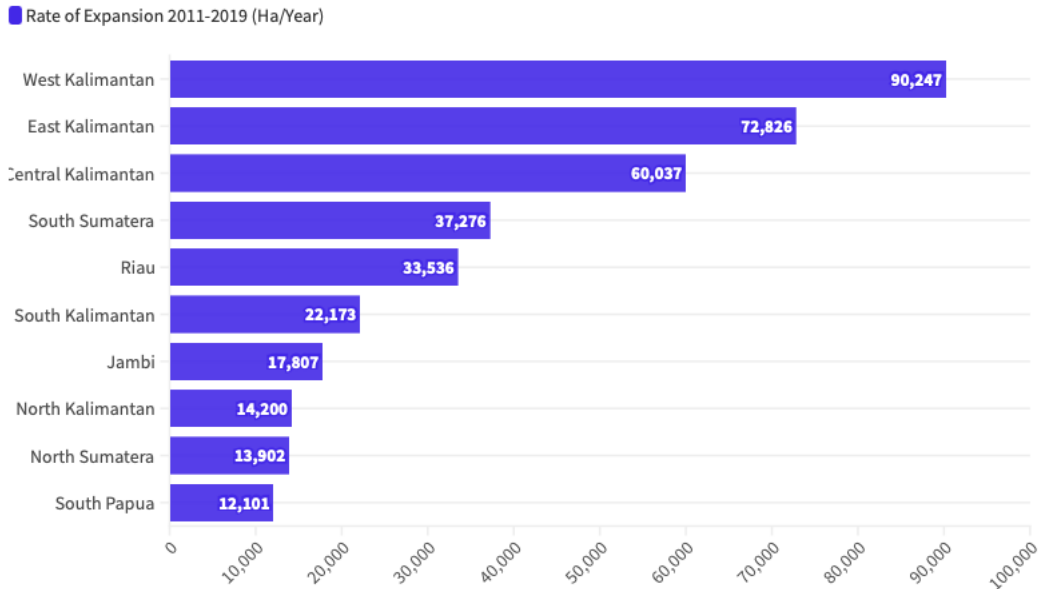


Source: Gaveau et al, 2022, processed by MADANI Berkelanjutan

The ten provinces with the highest oil palm plantation expansion rates in 2011-2019 were West Kalimantan, East Kalimantan, Central Kalimantan, South Sumatra, Riau, South Kalimantan, Jambi, North Kalimantan, North Sumatra, and South Papua (Figure 17). West Kalimantan, East Kalimantan, and Central Kalimantan provinces were among the top three provinces with the highest rates of both natural forest deforestation and oil palm plantation expansion in 2011-2019. South Papua also ranked among the top 10 provinces with the highest oil palm expansion rates in this decade, experiencing a rapid increase (71%) compared to the previous decade.

Figure 17. Ten Provinces with the Highest Rate of Oil palm Expansion

### 10 Provinces with the Highest Rate of Palm Oil Expansion



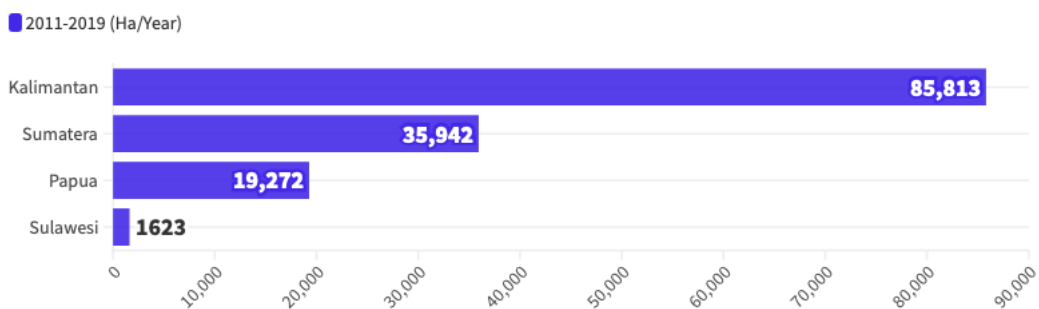
Source: Gaveau et al., 2022, processed by MADANI Berkelanjutan

### Natural Forests Conversion to Oil Palm Plantations

The rate of conversion of natural forests into oil palm plantations in Indonesia from 2011 to 2019 reached 142,600 hectares per year. Approximately 35% of the oil palm expansion during that period came from the conversion of natural forests. The Kalimantan region contributed the highest rate of conversion of natural forests into oil palm plantations at 86,000 hectares per year, followed by Sumatra with 36,000 hectares per year, Papua with 19,000 hectares per year, and Sulawesi with 1,600 hectares per year (Figure 18).

Figure 18. Rate of Natural Forest Conversion to Oil palm per Region

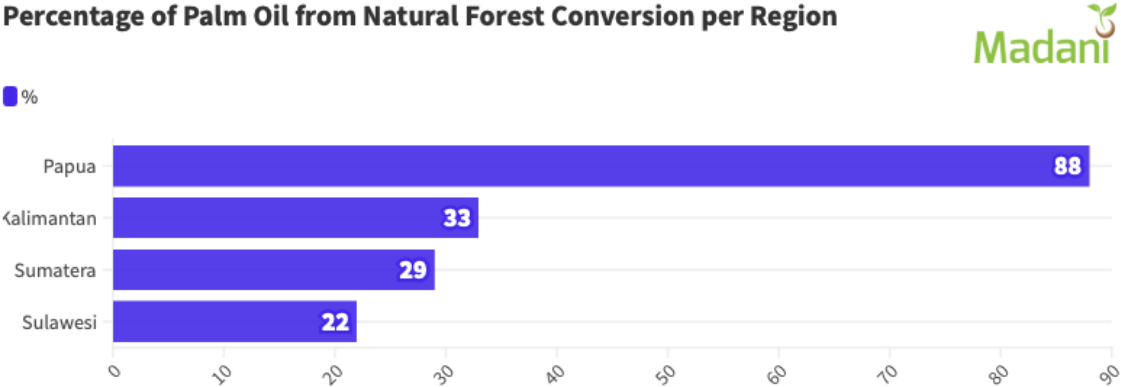
### Rate of Natural Forest Conversion to Palm Oil per Region



Source: Gaveau et al, 2022, processed by MADANI Berkelanjutan

It's important to highlight that the Papua region contributes the highest percentage of oil palm from the conversion of natural forests, with 88% of the oil palm expansion in this region coming from forest conversion (Figure 19).

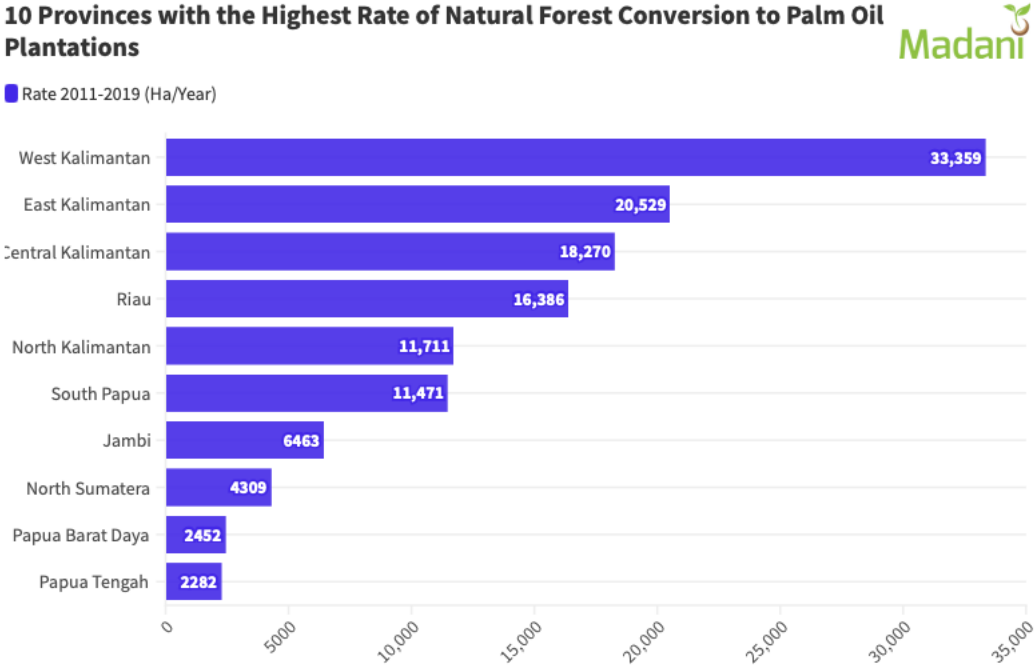
Figure 19. Percentage of Oil palm Plantation from Natural Forest Conversion per Region



Source: Gaveau et al, 2022, processed by MADANI Berkelanjutan

The ten provinces with the highest rate of forest conversion to oil palm plantations during the period 2011-2019 were West Kalimantan, East Kalimantan, Central Kalimantan, Riau, North Kalimantan, South Papua, Jambi, North Sumatera, Southwest Papua, and Central Papua (Figure 20).

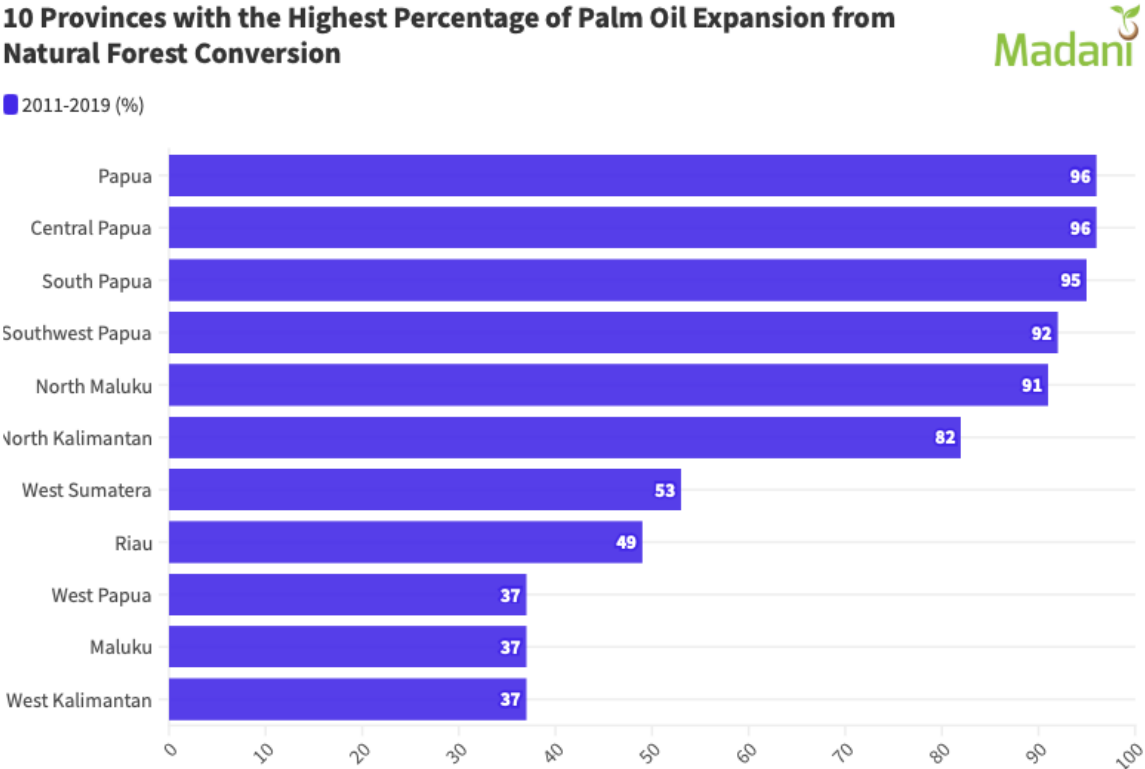
Figure 20. Ten Provinces with the Highest Rate of Natural Forest Conversion to Oil Palm Plantations



Source: Gaveau et al., processed by MADANI Berkelanjutan

Although the rate is smaller compared to the provinces in the Kalimantan and Sumatra regions, Papua, Central Papua, Southwest Papua, North Maluku, and North Kalimantan provinces need to be highlighted because the percentage of oil palm plantation expansion originating from their natural forests is very high, above 80%. This indicates a significant likelihood that future oil palm plantation expansion in these provinces will involve the conversion of natural forests. This happens because these provinces have a high natural forest cover.

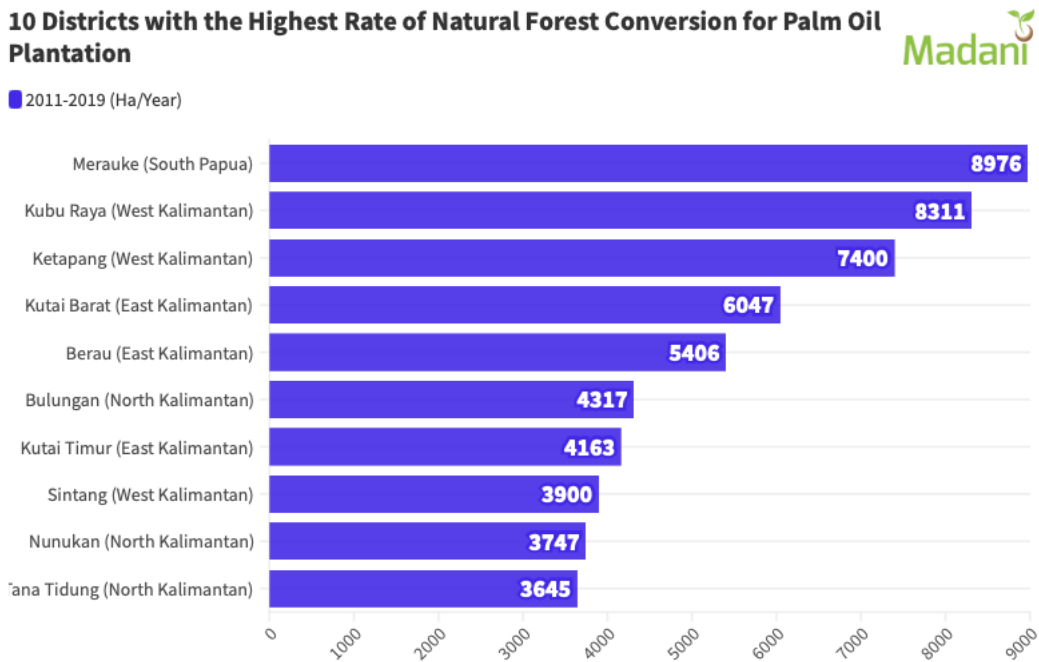
Figure 21. Ten Provinces with the Highest Percentage of Oil Palm Expansion from Natural Forest Conversion



Source: Gaveau et al., 2022, processed by MADANI Berkelanjutan

At the district level, 80% of the conversion of natural forests into oil palm plantations during the 2011-2019 period was contributed by 40 districts. The top ten districts with the highest rate of conversion from natural forests into oil palm plantations are Merauke District (South Papua), Kubu Raya (West Kalimantan), Ketapang (West Kalimantan), Kutai Barat (East Kalimantan), Berau (East Kalimantan), Bulungan (North Kalimantan), Kutai Timur (East Kalimantan), Sintang (West Kalimantan), Nunukan (North Kalimantan), and Tana Tidung (North Kalimantan) (Figure 22).

Figure 22. 10 Districts with the Highest Rate of Natural Forest Conversion for Oil Palm Plantation



Source: Gaveau et al., processed by MADANI Berkelanjutan

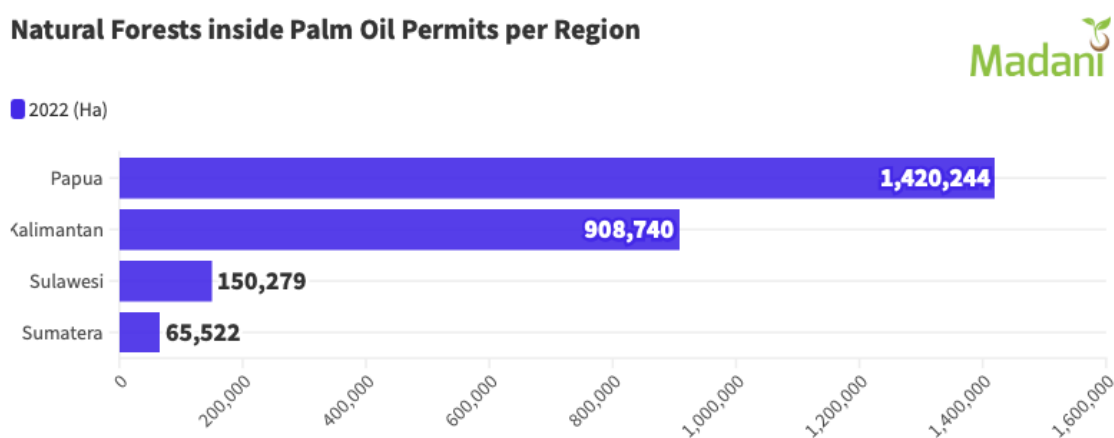
“Based on the data above, it can be concluded that the regions of Kalimantan and Sumatra require significant attention due to the high rates of deforestation and expansion of oil palm plantation between 2011-2019. However, the Papua region is also important to consider because 88% of the oil palm expansion comes from the conversion of natural forests. Provinces such as West Kalimantan, Central Kalimantan, East Kalimantan, Riau, Jambi, North Kalimantan, South Sumatra, South Papua, Central Sulawesi, Aceh, South Kalimantan, and North Sumatra have high rates of deforestation and oil palm expansion. Additionally, provinces like Papua, Central Papua, Southwest Papua, North Maluku, and North Kalimantan also require attention due to the high percentage of oil palm expansion resulting from forest conversion, indicating significant potential for future forest conversion.”

## Future Risk of Deforestation: Forests Inside Oil Palm Permits

In addition to looking at historical deforestation, the benchmarking process also needs to consider future deforestation risks. This can be seen from the licenses that have been granted and still cover intact forests. The benchmarking criteria in the EUDR do not currently take this risk into account. However, the presence of remaining intact forests within existing licenses can be a significant driver of future deforestation. In the EUDR, the existence of remaining forests is solely taken into account during the mandatory risk assessment process conducted by Operators during the due diligence process, which can be bypassed if the assessed commodities originate from countries or regions with a low-risk status.

Intact forests within oil palm plantation permits currently cover approximately 2.6 million hectares<sup>32</sup>, with the largest area in the Papua Region at 1.4 million hectares and Kalimantan at 908,700 hectares (Figure 23).

Figure 23. Natural Forests inside Oil Palm Permits per Region



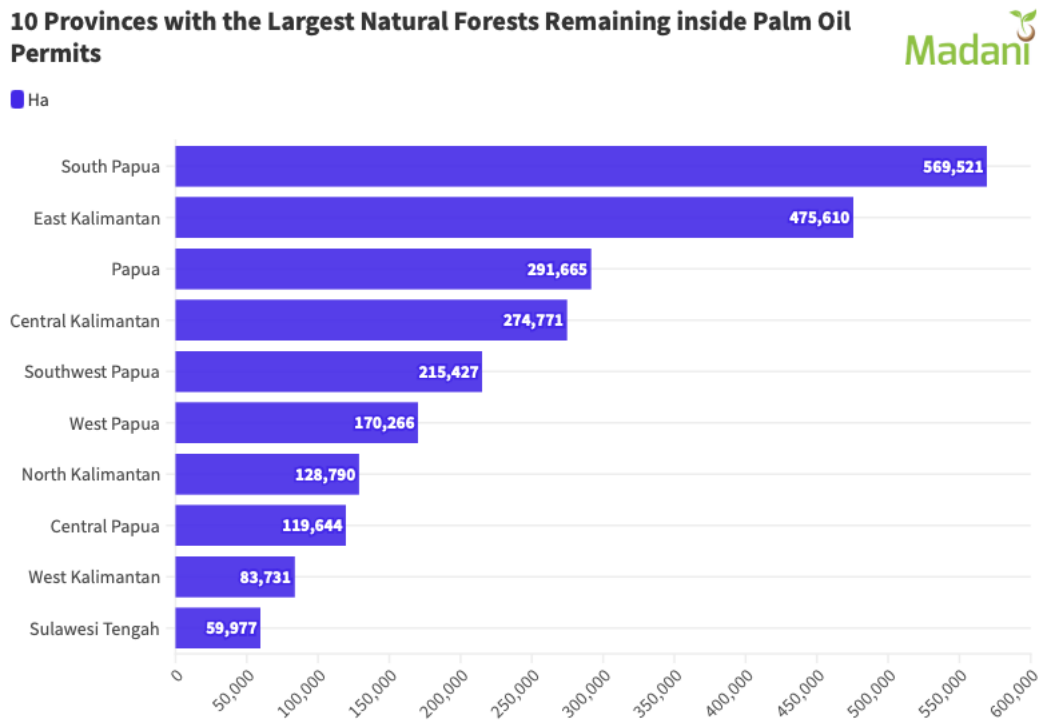
Source: KLHK, 2021, CSO Network Hub, 2020, processed by Madani Berkelanjutan

The ten provinces with the largest areas of natural forests within oil palm plantation permits are South Papua, East Kalimantan, Papua, Central Kalimantan, Southwest Papua, West Papua, North Kalimantan, Central Papua, West Kalimantan, and Central Sulawesi (Figure 24).

<sup>32</sup> Forest cover for the year 2022.



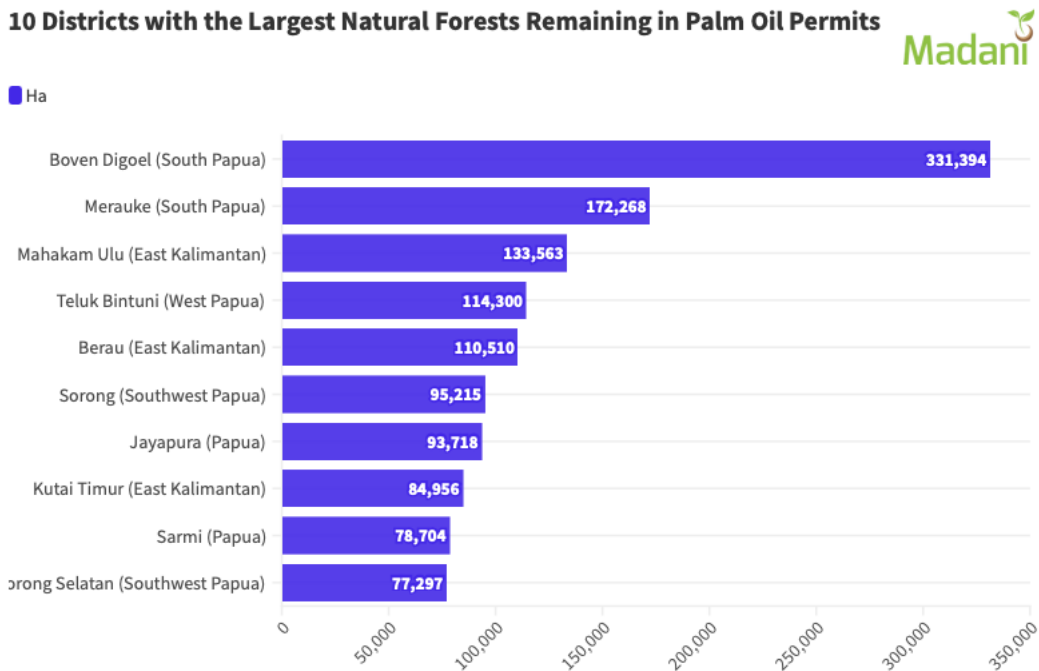
Figure 24. Ten Provinces with the Largest Natural Forests Remaining Inside Oil Palm Permits



Source: KLHK, 2022, CSO Network Hub 2020, processed by MADANI Berkelanjutan

More than 90% of the remaining natural forests within oil palm plantation permits are concentrated in 39 districts. The top ten districts with the largest areas of natural forests within oil palm plantation permits are Boven Digoel, Merauke, Mahakam Ulu, Teluk Bintuni, Berau, Sorong, Jayapura, Kutai Timur, Sarmi, and Sorong Selatan (Figure 25).

Figure 25. Ten Districts with the Largest Remaining Natural Forests in Oil Palm Permits



Source: KLHK 2022, CSO Network Hub, 2020, processed by MADANI Berkelanjutan, KLHK, 2022

When we examine the trend of oil palm plantation expansion into natural forests over the past decade and apply it linearly to the remaining natural forests within oil palm plantation permits, it is estimated that the natural forests in oil palm permits in Jambi and South Sumatra will be depleted in less than a year. In Riau and West Sumatra, they may be exhausted in approximately one year, and in West Kalimantan and South Kalimantan, it could take up to three years (Figure 26).

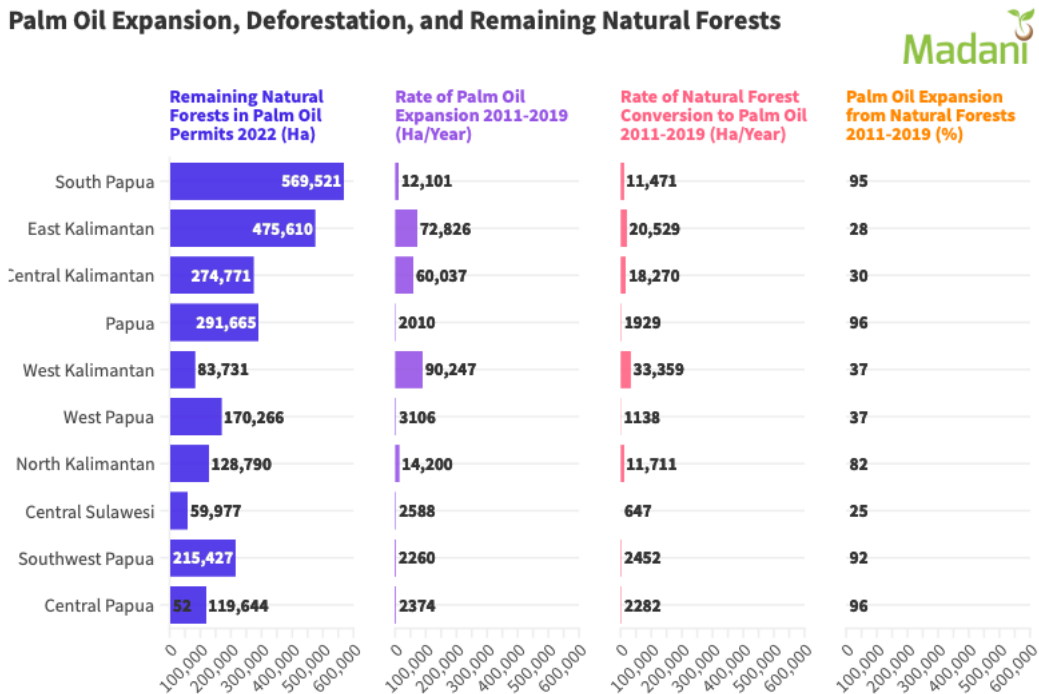
However, it's important to note that practices in the real-world are not always linear. The conversion of natural forests within existing oil palm permits can be influenced by various factors, including the government's and local government's permit evaluation processes, the availability of funding for companies, community resistance, and incentives to protect natural forests within permits/concessions. These incentives could include environmental service rewards, REDD+ payments, or carbon markets.

In 2021, the West Papua Provincial Government conducted a review of oil palm licenses within its region, leading to the revocation and reduction of concession areas, saving at least 346,800 hectares of land.<sup>33</sup> Nevertheless, some companies have legally contested these actions. In 2022, the Minister of Environment and Forestry also revoked licenses for 192 companies covering 3.12 million hectares and evaluated 1.37 million hectares of other

<sup>33</sup> Hartriani, J. (n.d.). Review Izin Sawit, Selamatkan Hutan Papua. *katadata.co.id*. <https://katadata.co.id/jeany/analisisdata/61a7571f2e894/review-izin-sawit-selamatkan-hutan-tanah-papua>

companies.<sup>34</sup> These licenses included forest zone release permits for oil palm plantations. However, the final outcome of this licensing evaluation is yet to be determined.

Figure 26. Oil palm Expansion, Deforestation, and Remaining Natural Forests



Source: KLHK, 2022, CSO Network Hub, 2020, Gaveau et al, 2022, processed by MADANI Berkelanjutan

“The presence of natural forests within existing oil palm permits should be a serious concern in the EUDR benchmarking process, as it poses a significant risk of driving deforestation in the future when producing commodities. Permits evaluation should also be a serious focus for both the central and local governments and must be carried out transparently.”

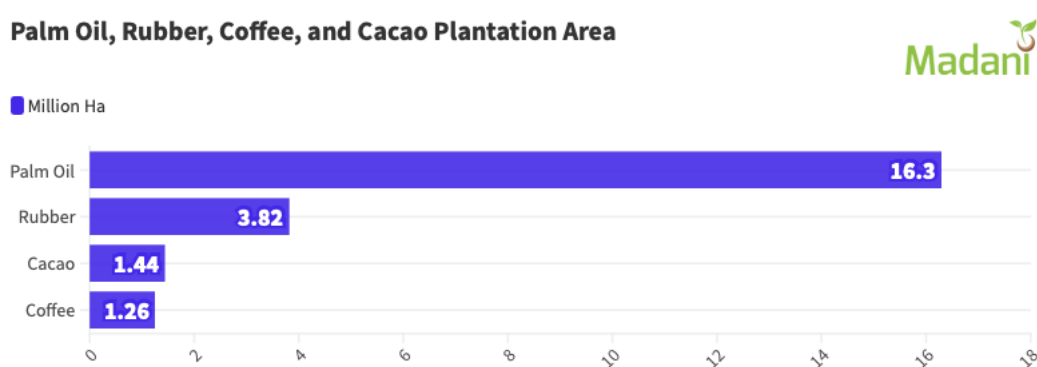
<sup>34</sup> Keputusan Menteri Lingkungan Hidup dan Kehutanan Republik Indonesia Nomor : SK.01/Menlhk/Setjen/kum.1/1/2022 Tentang Pencabutan Izin Konsesi Kawasan Hutan.

## Benchmarking by Commodity

If a country or parts thereof produces multiple EUDR-impacted commodities, and separate benchmarking is not carried out for each commodity, all of those commodities will be affected by the same risk status, even if not all of them contribute to deforestation in the region. Therefore, differentiated benchmarking for different commodities may be considered a fairer approach.

Oil palm plantations have the largest land area, covering 16.3 million hectares, followed by rubber with 3.82 million hectares,<sup>35</sup> cocoa with 1.44 million hectares, and coffee with 1.26 million hectares (Figure 27).<sup>36</sup> Unlike oil palm, which is predominantly controlled by large plantations or companies, rubber, cocoa, and coffee in Indonesia are mainly managed by smallholder farmers, comprising 87%, 98%, and 96% of the total plantation area, respectively.

Figure 27. Oil palm, Rubber, Coffee, and Cocoa Plantation Area



Source: Ministry of Agriculture, 2022

The oil palm plantation expansion rate is also the highest, at 5.7% or 447 thousand hectares per year from 2019 to 2020. Meanwhile, rubber and coffee plantation expansion rates were only 0.88% and 0.2% per year from 2011 to 2022, respectively.<sup>37,38</sup> The cocoa plantation area has been continuously decreasing at -1.8% per year from 2013 to 2022.<sup>39</sup> Rubber plantation expansion tends to stagnate due to the growth of synthetic rubber derived from petroleum

<sup>35</sup> Pusat Data dan Sistem Informasi Pertanian Sekretariat Jenderal - Kementerian Pertanian. (2022). *Outlook Komoditas Perkebunan Karet*. Kementerian Pertanian.

[https://satudata.pertanian.go.id/assets/docs/publikasi/Outlook\\_Karet\\_2022\\_ttd.pdf](https://satudata.pertanian.go.id/assets/docs/publikasi/Outlook_Karet_2022_ttd.pdf)

<sup>36</sup> Pusat Data dan Sistem Informasi Pertanian Sekretariat Jenderal - Kementerian Pertanian. (2022). *Outlook Komoditas Perkebunan Kopi*. Kementerian Pertanian.

[https://satudata.pertanian.go.id/assets/docs/publikasi/Buku\\_Outlook\\_Kopi\\_2022\\_compressed.pdf](https://satudata.pertanian.go.id/assets/docs/publikasi/Buku_Outlook_Kopi_2022_compressed.pdf)

<sup>37</sup> *Loc. cit.*

<sup>38</sup> *Loc. cit.*

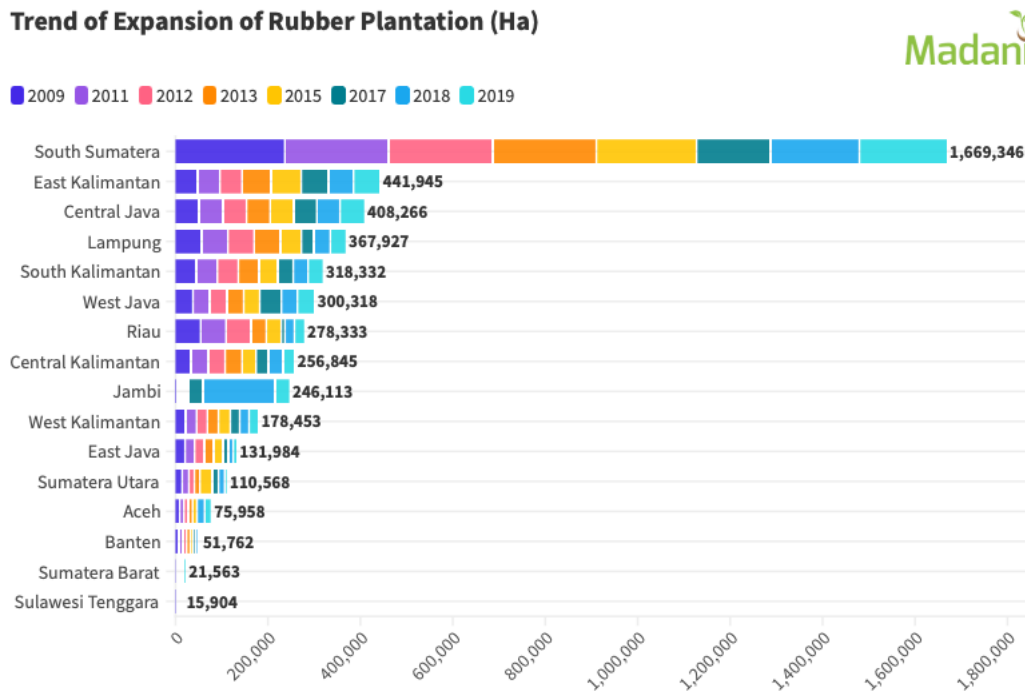
<sup>39</sup> Pusat Data dan Sistem Informasi Pertanian Sekretariat Jenderal - Kementerian Pertanian. (2022). *Outlook Komoditas Perkebunan Kakao*. Kementerian Pertanian.

[https://satudata.pertanian.go.id/assets/docs/publikasi/OUTLOOK\\_KAKAO\\_2022.pdf](https://satudata.pertanian.go.id/assets/docs/publikasi/OUTLOOK_KAKAO_2022.pdf)

and competition with more profitable plantation commodities like oil palm.<sup>40</sup> The cocoa plantation area continues to decline due to commodity shifting and land use changes.

The primary rubber production provinces contributing 73.21% are South Sumatra, North Sumatra, Riau, Jambi, West Kalimantan, and South Kalimantan.<sup>41</sup> Meanwhile, the highest rubber plantation expansion rates from 2009 to 2016 were observed in South Sumatra, East Kalimantan, Central Java, Lampung, and South Kalimantan.

Figure 28. Trend of Expansion of Rubber Plantation (Ha)



Source: Pranala Aksi Data Indonesia (PADI) 2023

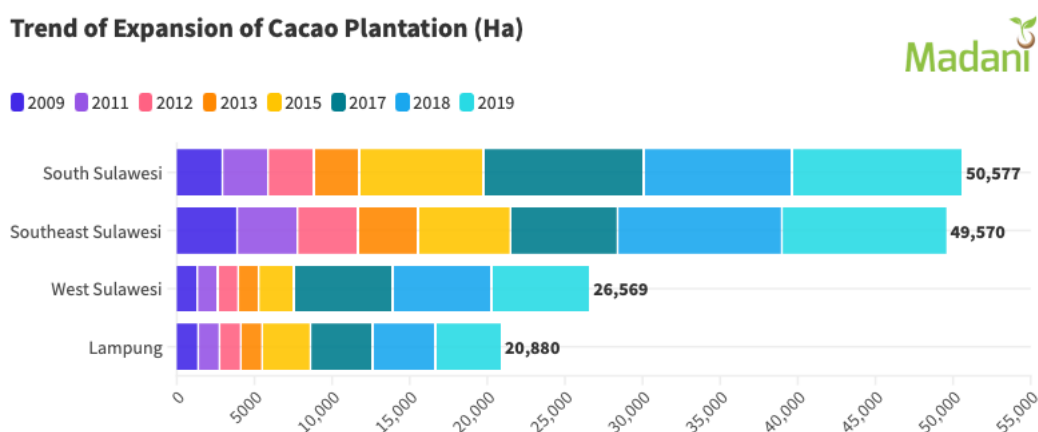
The central cocoa-producing provinces contributing 86.75% are Central Sulawesi, South Sulawesi, Southeast Sulawesi, West Sulawesi, West Sumatra, Lampung, Aceh, North Sumatra, and East Java.<sup>42</sup> Although the cocoa plantation area has decreased at the national level, several provinces experienced significant cocoa plantation expansion rates from 2009 to 2016, including South Sulawesi, Southeast Sulawesi, West Sulawesi, and Lampung.

<sup>40</sup> *Ibid.*

<sup>41</sup> Pusat Data dan Sistem Informasi Pertanian Sekretariat Jenderal - Kementerian Pertanian. (2022). *Outlook Komoditas Perkebunan Karet*. Kementerian Pertanian. [https://satudata.pertanian.go.id/assets/docs/publikasi/Outlook\\_Karet\\_2022\\_ttd.pdf](https://satudata.pertanian.go.id/assets/docs/publikasi/Outlook_Karet_2022_ttd.pdf)

<sup>42</sup> Pusat Data dan Sistem Informasi Pertanian Sekretariat Jenderal - Kementerian Pertanian. (2022). *Outlook Komoditas Perkebunan Kakao*. Kementerian Pertanian. [https://satudata.pertanian.go.id/assets/docs/publikasi/OUTLOOK\\_KAKAO\\_2022.pdf](https://satudata.pertanian.go.id/assets/docs/publikasi/OUTLOOK_KAKAO_2022.pdf)

Figure 29. Trend of Expansion of Cocoa Plantation (Ha)



Source: Pranala Aksi Data Indonesia (PADI) 2023

The central coffee-producing provinces in Indonesia are South Sumatra, Lampung, Bengkulu, East Java, Central Java, Aceh, North Sumatra, South Sulawesi, and West Sumatra. Currently, there is no available data regarding coffee plantation expansion.

“Except for Central Java, South Sulawesi, and Southeast Sulawesi, the majority of the central areas for rubber, coffee, and cocoa production are also provinces that produce oil palm. However, commodities from these regions should not automatically bear the same risk profile as oil palm, which has a higher rate of expansion into natural forests. The benchmarking process needs to take into account the expansion data for each individual commodity into natural forests. Commodity-specific benchmarking is crucial because rubber, coffee, and cocoa are often cultivated by communities through agroforestry or mixed farming systems, which contribute to the rehabilitation of critical forest and land areas.”



## Other Aspects to Consider in the Benchmarking Process \_\_\_\_\_

### *Policies and Regulations that Can Prevent or Encourage Deforestation* \_\_\_\_\_

One of the criteria that can be taken into account in the benchmarking process is the inclusion of emissions from the plantation, forestry, and land use sector (FOLU) within the Nationally Determined Contribution (NDC) documents. Currently, Indonesia has an NDC that encompasses the FOLU sector until 2030, which will be implemented at the subnational level, including districts. However, the NDC still allows for a significant amount of deforestation. Indonesia also has a national legal framework aimed at addressing deforestation and forest degradation, including the Reducing Emissions from Deforestation and Forest Degradation (REDD+) mechanisms accompanied by performance-based payments from developed countries. Key regulations and policies to reduce deforestation and forest degradation include: (i) the policy to halt new permits in primary natural forests and peatlands, (ii) the Nationally Determined Contribution (NDC) and Indonesia FOLU Net Sink 2030, (iii) Government Regulation Number 23 of 2021 on Forest Management, which regulates forest release for plantations, (iv) the protection and management of essential ecosystem areas and High Conservation Value areas, (v) the Indonesian Sustainable Oil palm (ISPO), and (vi) the Timber Legality and Sustainability Verification System.

At the subnational level, several regulations that can reduce deforestation and forest degradation include spatial planning policies, green development, the implementation of low-carbon development and FOLU Net Sink 2030 planning, oil palm moratorium, and policies for the protection of High Conservation Value areas. The various regulations and policies mentioned above will be discussed in more detail in the regulatory framework section at both the central and regional levels, including areas that need strengthening to make Indonesia more competitive in addressing the EUDR.

### *Data Availability and Transparency* \_\_\_\_\_

Another crucial factor to consider in the benchmarking process is the availability and transparency of relevant data, including plantation data, licensing data, land use data, and deforestation data. Since 2016, Indonesia has implemented the One Map Policy to consolidate and resolve conflicts related to maps and spatial planning. Currently, the government has established the National Geospatial Information Network, which includes 158 thematic maps, including licensing and land tenure maps. These maps are essential for the public to effectively monitor compliance with legality and deforestation requirements in the implementation of the EUDR. However, the data is not accessible by the public. Based on Article 3 paragraph 3 and Article 5 of the Regulation of the Coordinating Minister for Economic Affairs No 6/2018, access to geospatial data and information through the National Geospatial Information Network is prohibited for anyone other than those who hold access

rights and authorized recipients. No civil society elements are included in the group of access rights holders and authorized recipients.

The government has also continued to withhold Plantation Land Use Title (HGU) data, despite it being declared open to the public by the Information Commission, the Administrative Court (PTUN), and even the Supreme Court. Eight years after the Central Information Commission declared HGU as public information in a dispute between Forest Watch Indonesia (FWI) and the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN), the Ministry of ATR/BPN has not yet released the requested data. Instead, the government filed its second Reconsideration lawsuit in October 2023, disregarding the Ombudsman's recommendation to immediately implement the Supreme Court's decision.<sup>43</sup>

The lack of transparency in the relevant data mentioned above makes it challenging for public oversight, including monitoring compliance with legality and deforestation requirements in the production of related commodities regulated by the EUDR.

### *Enforcement of Laws Protecting Human Rights, Indigenous Peoples and Local Community Rights, and Other Customary Rights*

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Indonesia's constitution recognizes the rights of indigenous peoples and local communities; however, the implementation of these rights often involves a complex and convoluted process, posing challenges to their realization. The sectoralization of recognition and protection of indigenous peoples' rights, the dualism in the forms of recognition of indigenous communities in Indonesia,<sup>44</sup> and the absence of specific legislation for the easy recognition and protection of indigenous peoples further hinder the fulfillment of these rights in the forestry and plantation sectors.

The slow recognition of indigenous peoples' rights is reflected in the delayed legal recognition of indigenous territories that have been mapped through participatory processes. The Indigenous Territory Registration Agency (Badan Registrasi Wilayah Adat or BRWA) has recorded 1,336 maps of indigenous territories covering 26.9 million hectares spread across 32 provinces and 155 districts/cities in Indonesia.<sup>45</sup> Of this area, 64% has been registered, 9.7% has been verified, 6.8% has been certified, and 19% are newly listed.<sup>46</sup> However, as of 2022, only 667 maps covering 13.76 million hectares have been legally recognized through regional regulations (Perda), while the rest lack legal recognition.

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<sup>43</sup> Forest Watch Indonesia. (2023, November 13). *Kementerian ATR/BPN Kembali Ajukan PK ke 2, Memang Boleh Lembaga Negara Sebesar Itu?* fwi.or.id. <https://fwi.or.id/kementrian-atr-bpn-kembali-ajukan-pk-ke-2/>

<sup>44</sup> Dianto, & Hamdani, F. (2020, 8 3). Kajian Yuridis Kewenangan Pemerintah Daerah Dalam Pengakuan dan Perlindungan Masyarakat Adat. *Jurnal Education and Development Institut Pendidikan Tapanuli Selatan*, 8(3), 903-908. <https://journal.ipts.ac.id/index.php/ED/article/view/2052/1067>

<sup>45</sup> Badan Registrasi Wilayah Adat. (n.d.). *Status Pengakuan Wilayah Adat di Indonesia Pada Hari Internasional Masyarakat Adat Sedunia 2023*. brwa.or.id. <https://brwa.or.id/#>

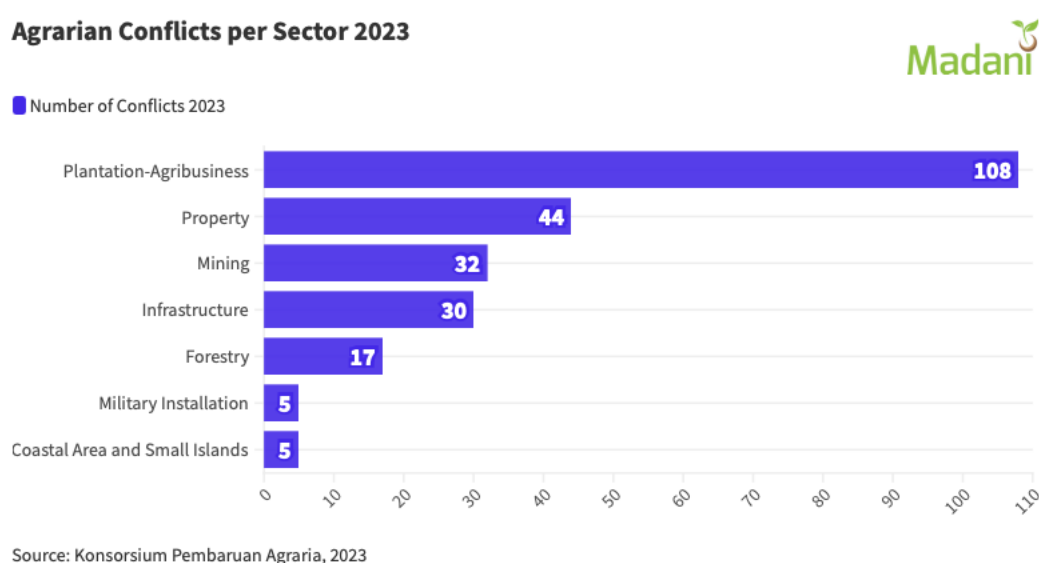
<sup>46</sup> Badan Registrasi Wilayah Adat. (n.d.). *Peta Wilayah Adat*. brwa.or.id. <https://brwa.or.id/sig/>

Additionally, thematic maps of indigenous territories have not yet been integrated into the One Map Policy, even for those already having legal certainty through Perda or regional head decisions.<sup>47</sup>

The designation of customary forests (*hutan adat*) has also been relatively slow compared to other social forestry schemes that do not grant ownership rights to indigenous communities. To date, only 1.97% of customary forests have been officially designated, despite approximately 1 million hectares of customary forest zone being set aside for recognition.<sup>48</sup>

The lack of protection and respect for the rights of indigenous peoples and local communities is evident in the continued conflicts and human rights violation complaints lodged by these communities. According to the Agrarian Reform Consortium (Konsorsium Pembaruan Agraria or KPA), in 2023, there were at least 241 agrarian conflicts, primarily dominated by the plantation-agribusiness sector (44%) and property sector (18%), followed by mining, infrastructure, forestry, coastal areas, and small islands (Figure 30).<sup>49</sup>

Figure 30. Agrarian Conflicts per Sector 2023



Unfortunately, Indonesia has not ratified ILO Convention 169, which serves as the international basis for the recognition and protection of indigenous peoples, as Indonesia considers that the definition of indigenous peoples does not align with the Indonesian

<sup>47</sup> Badan Registrasi Wilayah Adat. (n.d.). *Menanti Keseriusan Lindungi Wilayah Adat*. brwa.or.id. <https://www.brwa.or.id/news/read/510>

<sup>48</sup> Kementerian Lingkungan Hidup dan Kehutanan Republik Indonesia. (n.d.). GoKUPS. <https://gokups.menlhk.go.id/public/home>

<sup>49</sup> Anisah, L. (2024, Januari 15). KPA: Konflik Agraria Naik Mencapai 241 Letusan Sepanjang 2023. *Kontan.co.id*. <https://nasional.kontan.co.id/news/kpa-konflik-agraria-naik-mencapai-241-letusan-sepanjang-2023>

context.<sup>50</sup> Amidst the sectoralization and overlapping regulations related to indigenous communities, the Indigenous Peoples Rights Bill (*RUU Hak Masyarakat Adat*) has not yet been passed to date.

#### **Box 1. Preserving Customary Forests Leading to Criminalization**

The Long Isun Indigenous Community in Mahakam Ulu District lays claim to customary forests spanning 80,443 hectares. In 2014, after learning of PT. Roda Mas Tbr Kalimantan's (RMTK) intention to engage in forest logging, the community sent a letter to PT RMTK. During the same year, PT. Kemakmuran Berkah Timber (KBT), also part of the Harita Group like PT. RMTK, commenced logging activities on 2,000 hectares of Long Isun's customary forest in a disputed area neighboring Naha Aruq. The Long Isun community subsequently patrolled to inspect PT. KBT's activities. These actions led to the arrest of three community members who were summoned and accused of extortion, resulting in a three-month imprisonment. Ultimately, PT. RMTK and PT. KBT obtained permission to manage 26% of the Long Isun area. In 2019, the Ministry of Environment and Forestry (MoEF) mediated negotiation between PT. KBT, Long Isu, and Naha Aruq, resulting in the establishment of a status quo in the company's concession areas located on Long Isun's land and the recognition of the disputed land as customary forest. This agreement prompted the companies to cease logging activities on the disputed land. However, PT. RMTK's Forest Management Rights have not been revoked to date, leaving the community in ongoing uncertainty regarding their rights.

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<sup>50</sup> Yan-man Sing, F. (2013, June 13). Indonesia denies it has any indigenous peoples. *Mongabay*. <https://news.mongabay.com/2013/06/indonesia-denies-it-has-any-indigenous-peoples/>

## D. Opportunities to Strengthen National Regulations and Policies ■

Although the EUDR imposes obligations on operators rather than producer countries, policies and legislation in producer countries can facilitate plantation business actors in meeting various EUDR requirements, including legality, deforestation-free, and traceability. Policies or regulations that curb deforestation and forest degradation can also make producing countries or regions more competitive in the benchmarking process. The following section will discuss regulations in Indonesia that promote deforestation-free, legality, and traceability in the production of the relevant commodities, gaps with EUDR requirements, and areas that can be strengthened to make Indonesia better prepared to face the EUDR.

### Regulatory and Policy Framework to Prevent Deforestation \_\_\_\_\_

Until now, Indonesia does not have a regulation or a legal framework that explicitly prohibits deforestation in the production of the relevant commodities, as long as it complies with the prevailing laws and regulations. This is because as a developing country, Indonesia's development plan still allows for deforestation. Planned deforestation involves forest conversion based on government policies at the central or regional level, carried out legally in accordance with existing regulations for land use and/or for the development of specific sectors such as plantations, agriculture, housing, or mining. On the other hand, unplanned deforestation refers to changing forest cover into non-forest land without legal basis. This can include illegal logging, forest encroachment, forest clearance in protected and conservation areas, or in protected areas within forest utilization permits (*Perizinan Berusaha Pemanfaatan Hutan* or PBPH) and Land Use Title (*Hak Guna Usaha* or HGU) or forest and land fires and other disasters.

Forest conversion for agriculture is still permitted as long as it adheres to the spatial planning, does not occur in the forest zone, and has the required permits and legal basis as determined by regulations. Forest conversion for plantations is still possible through non-forestry wood utilization permit or PKKNK (previously known as *Izin Pemanfaatan Kayu* or IPK), including from the forest zone designated as Production Forest for Conversion (HPK) that has been released, forest area use permit, Land Use Title (HGU), and other areas with designated permits.<sup>51</sup> Conversion of natural forests for timber plantation establishment is also possible, although multi-purpose forestry policy (*Multi-Usaha Kehutanan*) encourages forest use while preserving sustainability and forest cover.

On the other hand, Indonesia has regulations and policies aimed at reducing deforestation and forest degradation as part of efforts to reduce greenhouse gas emissions and achieve

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<sup>51</sup> Appendix XVII letter c.1., Minister of Environment and Forestry Regulation Number 8 of 2021 Regarding Forest Management and the Preparation of Forest Management Plans, as well as the Utilization of Forests in Protected Forests and Production Forests.

climate commitments (Nationally Determined Contribution 2030 and Net Zero Emissions 2060 or sooner). Various regulations and policies may limit the extent of forests that can be converted to produce agricultural and forestry commodities, though not entirely. Indonesia also has policies to protect natural forests within permits and concession areas, such as the protection of High Conservation Value Areas (HCV or ABKT in Indonesian), and regulations to make commodity production more sustainable, such as the Indonesian Sustainable Palm Oil (ISPO) for oil palm and the Timber Legality Verification and Sustainability (*Sistem Verifikasi Legalitas Kayu dan Kelestarian* or SVLK) for timber. A summary of these existing regulations and policies and their relation to EUDR requirements can be found in Table 1.

Table 1. Summary of Existing Regulations and Policies to Support Deforestation-Free, Traceability, and Legality

Existing Regulation/Policy	Support Deforestation-free	Support Commodity Traceability	Support Legal Compliance
<b>Presidential Instruction No. 5 of 2019</b> on the Halting of New Permit Issuance and Improvement of Primary Natural Forest and Peatland Governance	V Partial	-	-
<b>Nationally Determined Contribution (NDC) and Indonesia FOLU Net Sink 2030</b>	V Partial	-	-
<b>Government Regulation No. 23 of 2021</b> on Forestry Administration	V Partial	-	-
<b>Regulation of the Director General of Natural Resources and Ecosystem Conservation No. P.1/KSDAE/BPE2/KSA.4/2/2021</b> on Technical Guidelines for Assessing the Effectiveness of Essential Ecosystem Management Area	V Partial	-	-
<b>Regulation of the Ministry of Agriculture of the Republic of Indonesia No. 38 of 2020</b> on The Implementation of Sustainable Oil palm Plantation Certification in Indonesia	V Partial	V Partial	V Partial
<b>Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 10/SE/VII/2015 Tahun 2015</b> on the Issuance of Permit on High Conservation Value Forest	V Partial	-	-
<b>Government Regulation No. 24 of 2021</b> on Procedure for the Imposition of Administrative Sanctions and the Procedure for the Receipt of Non-Tax State Revenue Derived from Administrative Fines in the Forestry Sector	-	-	V Partial
<b>Presidential Instruction No. 6 of 2019</b> on National Action Plan for Sustainable Palm Oil (RAN KSB)	V Partial	V	V
<b>Decree of the Minister of Environment and Forestry Number SK.9895/MenLHK-PHL/BPPHH/HPL.3/12/2022</b> on the Standard and Implementation Guidelines of the Legality and Sustainability Verification System	V Partial	V	V



## Forest and Peatland Moratorium

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The policy of halting the issuance of new permits in primary natural forests and peatlands (formerly known as the moratorium policy) is a key policy in Indonesia aimed at reducing greenhouse gas emissions from deforestation and forest degradation, and it can be a strong point for Indonesia in the EUDR benchmarking process.

The policy was initiated through the signing of a Letter of Intent between the Government of Indonesia and the Government of Norway in 2010, where Norway pledged to provide funding of up to 1 billion US dollars to Indonesia for verified results in achieving emissions reductions from deforestation and forest degradation.<sup>52</sup> The policy was issued in 2011 through Presidential Instruction No. 10 of 2011 regarding the Suspension of New Permits and Improvement of Governance of Primary Natural Forests and Peatlands by President Susilo Bambang Yudhoyono. In 2019, President Joko Widodo amended the instruction from "suspension of the issuance of new permits" to "halting the issuance of new permits" through Presidential Instruction No. 5 of 2019 regarding the Halting of Issuance of New Permits and Improvement of Governance in Primary Natural Forests and Peatlands ("INPRES 5/2019"). In this Presidential Instruction, the President instructed relevant ministers to no longer issue forest utilization permits,<sup>53</sup> forest zone use permits,<sup>54</sup> agricultural permits,<sup>55</sup> and new plantation permits<sup>56</sup> in primary natural forests and peatlands. Although the moratorium is now permanent, the protected area under PIPPIB, or the Indicative Map of Halting of Issuance of New Permits, continues to change and can be revised every 6 months.

Based on the revision in early 2023, the total area protected by the moratorium policy reached 66.75 million hectares (Figure 31). Nearly 80% of the area are natural forests, covering an area of 52.8 million hectares. Currently, the moratorium policy protects 59% of Indonesia's remaining natural forests from the expansion of new forestry, plantation, and mining permits. A study showed that this policy has successfully prevented the conversion of approximately 13 million hectares of forested areas into oil palm plantations.<sup>57</sup>

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<sup>52</sup> Sloan, S. Edwards, DP. and William F Laurence. 2012. Does Indonesia REDD+ moratorium on new concessions spare imminently threatened forests. *Conservation Letters* 5; 222-231

<sup>53</sup> Second Consideration of Presidential Instruction No. 5 of 2019 on the Suspension of New Permit Grants and Improvement of Primary Natural Forest and Peatland Governance.

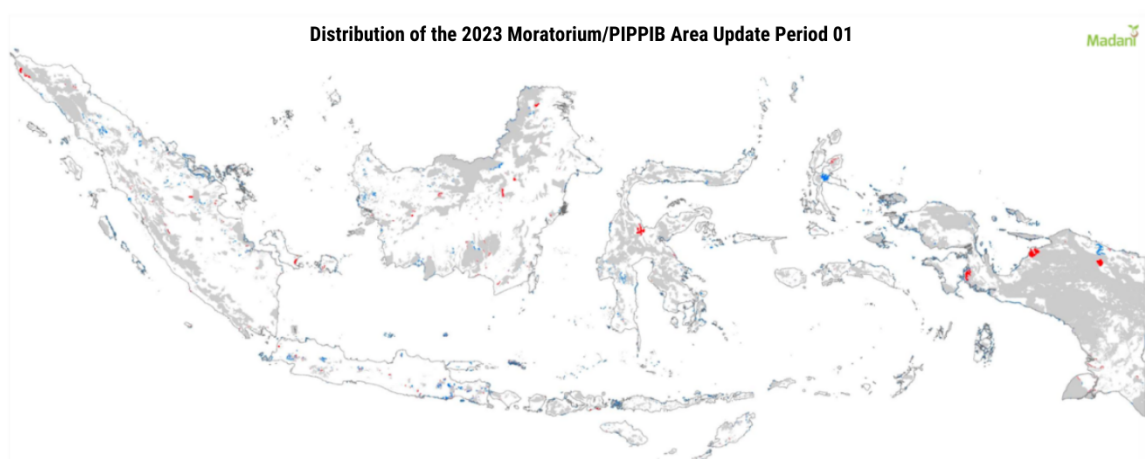
<sup>54</sup> *Ibid.*

<sup>55</sup> Third Consideration of Point 4 in Presidential Instruction No. 5 of 2019 regarding the Suspension of New Permit Grants and Improvement of Primary Natural Forest and Peatland Governance.

<sup>56</sup> *Ibid.*

<sup>57</sup> Yusuf, AA. Roos, EL. and Horridge, Jonathan M. 2018. Indonesia's Moratorium on Oil palm Expansion from Natural Forests: Economy-Wide Impacts and the Role of International Transfers. *Asian Development Review*. 35(2); 85-112

Figure 31. Area Protected by the Moratorium Policy - PIPPIB 2023 Period 1



The above map shows areas protected by the moratorium policy (in grey). Red spots show areas that were newly included in the 2023 period 1 revision and blue spots show areas that were excluded from the moratorium area in the same revision.

### **Many natural forests are not yet protected by PIPPIB**

While INPRES 5/2019 represents a policy that is positive, it still has shortcomings in preventing deforestation in the production of the relevant commodities. First, its legal status is weak because it is not integrated in the hierarchy of regulations in Indonesia. INPRES can be easily revoked if there is a change in the presidency.

Second, more than 9.7 million hectares of natural forests still lack protection because they are not included in PIPPIB. This is due to the limited coverage of INPRES 5/2019, which only applies to "primary natural forests" and excludes "secondary natural forests", except for those already located in protected and conservation areas of the forest zone, which are protected by existing regulations. Most (48%) of the unprotected natural forests are located in production forest zone (HP), 20% in production forest for conversion (HPK) that can be released from forest zone for plantations, and 30% are already classified as other land uses (APL) that can be directly used for plantations.

Third, this policy excludes permit applications that had received principle approval before Inpres 10/2011 was issued, allowing permits that deforest in areas that should be protected to still be issued.<sup>58</sup>

Fourth, the policy still allows for the extension of existing permits without requiring them not to deforest in the permit areas.<sup>59,60</sup> According to MADANI's analysis, there are still around 830,000 hectares of oil palm plantation permits that overlap with PIPPIB, with the remaining

<sup>58</sup> Second Consideration of Presidential Instruction No. 5 of 2019 on the Suspension of New Permit Grants and Improvement of Primary Natural Forest and Peatland Governance.

<sup>59</sup> *Ibid.*

<sup>60</sup> Busch, J. Gallon-Feretti, K. Engelmann, J. Wrights, M. Austin, KG. Stolle, F. Turubanova, S. Potapov, PV. Margono, B. Hansen, MC. dan Alessandro Bacini. 2015. PNAS. 112(5); 1328-1333

natural forests covering 308,000 hectares. These forests are highly vulnerable to deforestation or may have already been deforested.<sup>61</sup>

Fifth, this policy only applies to companies and does not cover the expansion of plantations by communities.

These shortcomings have led to continued deforestation in the moratorium areas. According to MADANI's analysis, deforestation in the moratorium area amounted to 30 thousand hectares in 2020-2021. Some of the deforested areas are adjacent to or even contiguous with oil palm and forestry plantation permits, although in some other areas, the deforestation patterns are fragmented.

Due to its wide coverage, Inpres 5/2019 can prevent deforestation in the production of commodities regulated by EUDR by halting new permits for such commodities.<sup>62</sup> However, there are still many natural forests left unprotected and challenges in enforcement on the ground.

There are measures that can be taken to optimize the role of INPRES 5/2019 in reducing deforestation risks related to the relevant commodities to strengthen Indonesia's position in facing the EUDR. First, expand the coverage of protection under INPRES 5/2019 to include secondary natural forests. Second, expedite the integration of PIPPIB-protected areas into national and regional spatial planning. Third, evaluate active oil palm and forestry permits that continue deforestation within PIPPIB and enact policies to stop the forest conversion, including by designating them as HCV or through ecological incentives.

## Nationally Determined Contribution (NDC) and Indonesia's FOLU Net Sink 2030

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NDC is Indonesia's climate commitment to realize the goal of the Paris Agreement to limit global temperature rise. NDC contains commitments to reduce Greenhouse Gas (GHG) emissions and strengthen resilience to climate change impacts. Indonesia has committed to reduce its GHG emission to 31.89% with own efforts and up to 43,2% with international support compared to the Business as Usual (BaU) scenario by 2030 (Enhanced NDC, 2022). Indonesia's NDC has included targets for the Forestry and Land Use (FOLU) sector, aiming for a contribution of 17.4% to 25.4% from the BAU scenario by 2030. The FOLU sector is targeted to contribute the largest reduction in GHG emissions, accounting for 55% of the total national emission reduction target with its own efforts. The government also aims to achieve a net sink in the FOLU sector with a target of -140 million tons of CO<sub>2</sub>e by 2030, known as Indonesia's FOLU Net Sink 2030 target. In 2022, the government aims to promote

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<sup>61</sup> Because the forest cover data used is from 2020, there is a high possibility that it may have already changed or become outdated by the time this report is written.

<sup>62</sup> Presidential Instruction 5/2019 can prevent deforestation for the development of timber plantations, oil palm, rubber, coffee, cocoa, and cattle farming, although not for soybeans as it falls under the exception of vital national development for food sovereignty.

FOLU Net Sink in 22 provinces, followed by the development of sub-national work plans at the provincial level.<sup>63</sup>

### *NDC still allows for planned and unplanned deforestation*

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One policy measure to achieve the NDC and FOLU Net Sink 2030 targets is to reduce deforestation and forest degradation. To achieve the NDC, in the period from 2020-2030, deforestation is targeted at 359 thousand ha/year for the scenario with own efforts, with planned deforestation at 213 thousand ha/year. With international support, deforestation is targeted not to exceed 175 thousand ha/year, with planned deforestation at 118 thousand ha/year. The deforestation targets mentioned are not overly ambitious because the current deforestation rate is already below those levels. However, the NDC and Indonesia FOLU Net Sink can help mitigate planned deforestation in the forestry and plantation sectors until 2030. To achieve the NDC targets in the FOLU sector, the remaining natural forests in oil palm plantation permits and Industrial Timber Plantation permits should no longer be converted. In the FOLU Net Sink 2030 modeling, the deforestation quota up to 2030 has already been used up. Preventing deforestation in the forestry and plantation sectors aligns with the overall FOLU Net Sink policy to preserve the remaining natural forests, including through multi-use forestry policies used to protect natural forests in forestry concession areas and the utilization of natural forests directed towards environmental services and Non-Timber Forest Products (NTFPs).

The NDC and the policies to achieve it hold the potential to facilitate compliance with the deforestation-free requirements of the EUDR and earn positive points in the benchmarking process. The NDC is updated every five years and must be enhanced in the next NDC round, the Second NDC in 2025. To strengthen Indonesia's position in addressing EUDR, the Second NDC can be improved by further reducing planned deforestation and adopting a zero-deforestation approach for commodity production.

### **Forestry Administration**

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Government Regulation Number 23 of 2021 on Forestry Administration was issued as an implementing regulation of Law Number 11 of 2020 on Job Creation ("UUCK"), which amended Law Number 41 of 1999 concerning Forestry and Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction ("UU P3H").

This regulation contains a provision that has the potential to restrict the conversion of natural forests from the release of the forest zone for oil palm or other plantations. Article 58 paragraph 2 of this Government Regulation regulates that Partial Forest Zone Release can only be carried out in unproductive Production Forest for Conversion (HPK). In the

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<sup>63</sup> Pusat Pengelolaan Data dan Informasi KLHK. (2023, Maret 13). *KLHK Gelar Sosialisasi Indonesia's FOLU Net Sink 2030 Sub Nasional Provinsi Sulawesi Tengah*. PPID KLHK. <https://ppid.menlhk.go.id/berita/siaran-pers/7095/klhk-gelar-sosialisasi-indonesias-folu-net-sink-2030-sub-nasional-provinsi-sulawesi-tengah>

explanatory notes of the article, it is mentioned that "Unproductive HPK" is Production Forest dominated by non-forested land, such as shrubs, empty land, and mixed gardens. This provision has the potential to protect natural forests within HPK that are unprotected by the moratorium policy. The extent of natural forests in HPK that are not covered by PIPPIB is still quite significant, approximately 3.17 million ha, especially in Papua region. Five provinces with the highest percentage of natural forest cover in HPK unprotected by the moratorium policy are Southwest Papua 87.2%, Papua 86.3%, West Papua 83.9%, West Papua 83.9%, and North Sulawesi 77.7%. However, forest zone release that still has natural forest cover is still permitted in certain provinces.<sup>64</sup>

### *The release of forest zone covered by natural forests is still allowed in certain provinces.*

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An exception clause weakens efforts to prevent deforestation from the release of the forest zone for plantations. Article 58 paragraph 3 states that the above provisions are exempted in provinces where there are no longer unproductive HPK available. Thus, the release of the forest zone with remaining natural forests may still be allowed in provinces with high natural forest cover, such as in Papua and Maluku regions.

Another provision in the regulation that can prevent deforestation in the production of relevant commodities is the protection of High Conservation Value (HCV) areas. Permit holders for Forest Area Utilization, managers of Social Forestry or Business Licenses must implement Forest Protection in their work areas (Article 249 paragraph (5)), including the protection of HCV areas (Article 250 letter a). However, there is no explanation regarding the coverage of areas with high conservation values in this regulation, making it difficult to determine whether HCV will protect all remaining natural forests within forestry business permits.

To facilitate compliance with EUDR's deforestation-free requirements, a strong policy from the central government is needed to stop granting forest zone release permits that still have natural forest cover throughout Indonesia, including in provinces with high natural forest cover. Furthermore, rules and/or incentives should be created to prohibit the conversion of all remaining natural forests within forestry business permits.

## Management of Essential Ecosystem Areas and High Conservation Value Areas

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Directorate General of Natural Resources and Ecosystem Conservation Regulation Number: P.1/KSDAE/BPE2/KSA.4/2/2021 on Technical Guidelines for Assessing the Effectiveness of Essential Ecosystem Area Management contains important provisions related to the identification and management of High Conservation Value Areas (HCVAs) as one of

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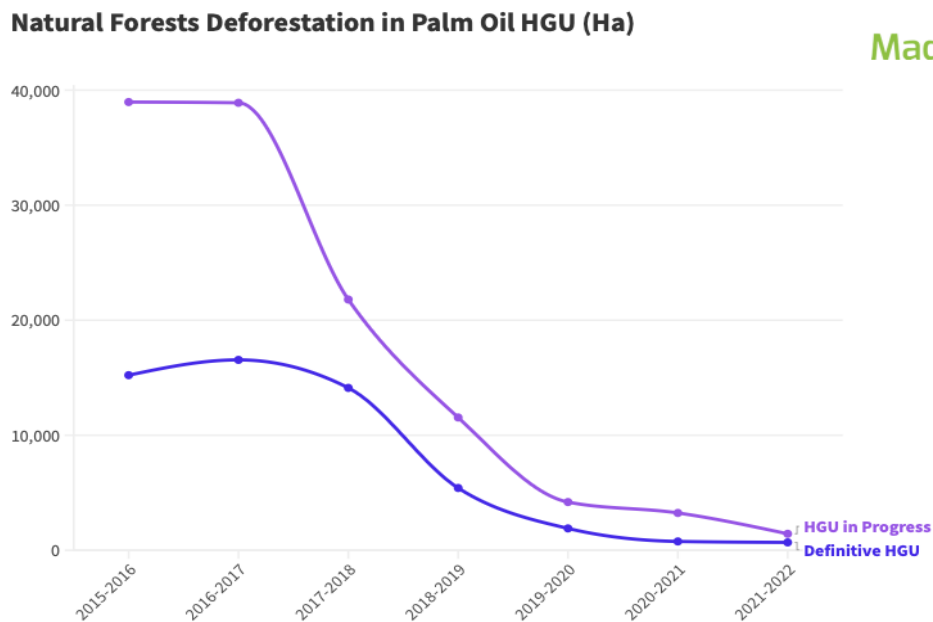
<sup>64</sup> Analysis of MADANI Berkelanjutan (Indonesian Sustainable Oil palm) based on 2022 land cover data, 2023 the forest zone, and 2023 Revised PIPPIB (Spatial Plan for Forest Area Utilization) Version 1.

Essential Ecosystem Areas (KEEs).<sup>65</sup> HCVA can be a policy instrument to prevent deforestation within forestry and plantation business permits if the remaining natural forests within the permits align with the definition of areas defined as HCVA. The term HCVA or High Conservation Value (HCV) itself appears in several regulations related to plantation and forestry permits, including the Minister of Agriculture Regulation No. 38/2020 regarding ISPO and the regulation on the Timber Legality and Sustainability Verification System (SVLK).

HCVA is important because there are still many areas with high conservation values that are not part of the currently designated conservation areas. There are approximately half a million hectares of the forest zone with High Conservation Value that are not part of conservation areas, mostly in the Production Forest Zone without permits or concessions.

Based on Directorate General of Natural Resources and Ecosystem Conservation Regulation P1/2021, High Conservation Value Areas (HCVA) are defined as areas that have significant value for the conservation of biodiversity, ecosystems, ecosystem services, social functions, and cultural functions for local communities. There are seven criteria for High Conservation Value Areas (HCVA), including (a) high biodiversity, (b) important natural landscape elements that are crucial for the natural ecological processes, (c) unique, rare, vulnerable, and endangered ecosystems, (d) ecosystem service providers, (e) social functions related to the basic needs of local communities, (f) cultural functions for indigenous communities and related to local wisdom in resource and environmental utilization, and/or (g) high carbon stocks.

Figure 32. Natural Forest Deforestation in Oil Palm HGU (Ha)



Source: KLHK 2022, MOMI, CSO Network Hub, 2020

<sup>65</sup> Regulation of the Director General of Natural Resource and Ecosystem Conservation Number: P.1/KSDAE/BPE2/KSA.4/2/2021 concerning Technical Guidelines for the Assessment of the Effectiveness of Essential Ecosystem Management.

## Regulations and Policies to Promote Legality and Traceability \_\_\_\_\_

### Legalization of Oil Palm Plantations in the Forest Zone \_\_\_\_\_

Government Regulation Number 24 of 2021 on the Procedure for Imposing Administrative Sanctions and the Procedure for Acceptance of Non-Tax State Revenue Derived from Administrative Fines in the Forestry Sector was issued as one of the derivatives of Law Number 11 of 2020 concerning Job Creation. This regulation, often referred to as "legal amnesty," mandates that oil palm plantations that have been established in the forest zone illegally or non-procedurally (without forest zone release permit) meet the legal requirements within a maximum of 3 years from the enactment of Law Number 11 of 2020 concerning Job Creation. Thus, this regulation facilitates the legalization of oil palm plantations in the forest zone that were previously illegal if they had had Location Permits and/or Plantation Business Permits before the Law 11/2020 came into effect. Another requirement for legalization is that the plantation business must already be "established" and in accordance with the prevailing Spatial Plan at the time the plantation business was first built or operated.

As of September 2023, 162 companies are in the process of legalization. A total of 78 companies have obtained Area Work Arrangement (PAK) permits, 29 companies have obtained Principal Approvals for Forest Zone Release, and 55 companies are still under review. The total area of oil palm plantations in the legalization process reaches 326,955.58 hectares.<sup>66</sup>

The legal amnesty lacks transparency and seems to mainly benefit corporations, rather than smallholders. According to the Palm Oil Farmers Union (SPKS), this is because smallholders are not being properly documented and facilitated in self-reporting through the Plantation Licensing Information System (SIPERIBUN) website as required. Furthermore, the institutions responsible for resolving oil palm issues in the forest zone are centralized at the national level. Meanwhile, at the subnational level, there are no teams ensuring mapping and verification of smallholders' oil palm plantations within the forest zone.<sup>67</sup> It should also be noted that smallholders in the forest zone resolved through social forestry (*jangka benah*) cannot enter the European market because their status remains within the forest zone and therefore cannot obtain ISPO certification.

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<sup>66</sup> Bhawono, A. (2023, November 10). Pemutihan Sawit: Banyak Raksasa, Tak Ada Sawit Masyarakat. *betahita*. <https://betahita.id/news/detail/9481/pemutihan-sawit-banyak-raksasa-tak-ada-sawit-masyarakat.html?v=1705041833>

<sup>67</sup> Putri, R. S. (2023, September 21). Pemutihan Kebun Sawit Ilegal di Kawasan Hutan, Serikat Petani: Menguntungkan Perusahaan dan Tidak Transparan. *tempo.co*. <https://bisnis.tempo.co/read/1774472/pemutihan-kebun-sawit-ilegal-di-kawasan-hutan-serikat-petani-menguntungkan-perusahaan-dan-tidak-transparan>



## Indonesian Sustainable Oil palm (ISPO)

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Indonesia has specific regulations for reducing the risk of deforestation and forest degradation for oil palm and timber, namely ISPO (Indonesian Sustainable Oil palm) for oil palm and SVLK (Timber Legality and Sustainability Verification System) for timber. Unfortunately, Indonesia does not yet have a mandatory sustainability certification system for rubber, coffee, cocoa, soya, and cattle products. For timber, the FLEGT license based on SVLK will automatically be considered evidence of legality, allowing exporters to meet EUDR requirements more easily. Meanwhile, ISPO, although mandated for all oil palm plantation business in Indonesia, including private companies, state-owned enterprises, and smallholders, is not yet recognized as evidence of legality or deforestation-free proof for EUDR. EUDR does not accept the sustainability certification of specific countries as a golden ticket for direct entry into the European market without going through due diligence. However, if the sustainability certification requirements mandated by the government align with EUDR requirements, the due diligence process can be easier since the information requested by EUDR is already available. Industry players only need to comply with national requirements and can simultaneously be accepted by the European Union. Through a partnership with the European Union, it is possible for ISPO, when strengthened, to be recognized as evidence of legality, similar to SVLK, making it easier for oil palm industry players to pass the due diligence process.

ISPO aims to encourage oil palm plantation businesses to comply with legal regulations, protect, and promote sustainable oil palm plantation businesses as required by the market.<sup>68</sup> Currently, the legal basis for ISPO is Presidential Regulation No. 44 of 2020. The principles, criteria, and indicators of ISPO are found in the Minister of Agriculture Regulation No. 38 of 2020. According to the ministerial regulation, oil palm businesses must obtain ISPO certification no later than November 24, 2025.<sup>69</sup>

ISPO is mandatory for all plantation businesses, encompassing both smallholders and companies. However, ISPO current application is limited to the upstream sector, which includes plantation companies and first-stage processing of plantation products (oil palm mills). ISPO has not yet been extended to include further downstream processing industries and export points. The three categories of plantation business required to obtain ISPO are integrated plantation companies that engage in cultivation and processing businesses, plantation companies solely engaged in cultivation, and plantation companies solely engaged in processing plantation products.

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<sup>68</sup> Article 2 of the 2011 Presidential Regulation on ISPO.

<sup>69</sup> Article 3, paragraph (3) of the Indonesian Minister of Agriculture Regulation Number 38 of 2020 regarding the Implementation of Sustainable Oil palm Plantation Certification in Indonesia.

*ISPO does not yet include requirements for the protection and respect of internationally protected human rights*

ISPO principles, criteria, indicators, and verifiers are outlined in Minister of Agriculture Regulation 38/2020. There are seven ISPO principles that plantation companies must comply with: 1) compliance with legal regulations; 2) implementation of good plantation practices; 3) environmental management, natural resource management, and biodiversity conservation; 4) labor responsibility; 5) social responsibility and community economic empowerment; 6) transparency; and 7) sustainable business improvement.

For smallholders, all principles must be met except labor responsibility and social responsibility and community economic empowerment. ISPO can facilitate compliance with most of the EUDR legality requirements, such as land use rights, environmental protection, third-party rights, labor rights, FPIC principles, taxes, and anti-corruption. However, ISPO does not require compliance with internationally protected human rights and customs-related legality requirements (Table 2).

Table 2. ISPO dan Legality Aspect in the EUDR

No.	ISPO and Legality Aspects under the EUDR	ISPO	Notes
1	Land Use Right	V	For plantation companies, ISPO requires compliance with plantation business legality, which includes land legality (criterion 1.1) and plantation business legality (criterion 1.2). Land legality for plantation companies includes Location Permit, release of the forest zone for plantation land originating from Production Forest for Conversion (HPK), as well as land rights (HGU, HGB, and/or Right to Use).  For smallholders, ISPO requires land legality, including proof of land ownership (criterion 1.1), conformity with spatial planning (RTRW) (criterion 1.2), and plantation business legality, which includes the Certificate of Plantation Business Registration for Cultivation or STD-B (criterion 1.3). Thus, ISPO can facilitate compliance with EUDR legal requirements related to the <i>de jure</i> aspect of land legality.
2	Environmental Protections	V	For plantation companies, ISPO requires compliance with legal requirements related to Environmental Permits before conducting activities (criterion 1.2.2). For smallholders, ISPO requires compliance with obligations related to Environmental Permits (criterion 1.5), where they must possess an Environmental Management and Monitoring Letter (SPPL) and have a record of its implementation. Thus, ISPO can facilitate compliance with environmental protection requirements in EUDR in terms of document availability. However, ISPO itself does not assess the compliance of various provisions in Environmental Permits or SPPL by inspecting the on-field conditions.
3	Forestry Regulations	N/A	Only applicable to Wood products.
4	Third Parties' Rights	V	For plantation companies, ISPO requires evidence of documentation records for land release conducted in the HGU area (criterion 1.1.3, indicator 2), resolution of land disputes within their area (criterion 1.14), and facilitation of smallholder development (criterion 1.2.3). ISPO also requires smallholders to ensure that their

			<p>land is free from disputes with other communities in the vicinity. Thus, ISPO can facilitate compliance with legal requirements related to third-party rights in the context of land release, land disputes, and smallholder development.</p> <p>However, ISPO's assessment norms are primarily based on written documents such as land release documents, land dispute documents, and partnership with the surrounding community. It is not designed to assess the alignment between what is written in the documents and the actual implementation on the ground.</p>
5	Labor's Rights	V	<p>For plantation companies, ISPO requires the implementation of occupational safety and health (OSH) systems, compliance with employment administration, including the existence of employment contracts/documents, prohibition of forced labor and slavery, compliance with minimum wage regulations, inclusion of workers in the National Social Security System and the Employment and Health BPJS, prohibition of employing workers under 18 years of age, establishment of worker complaint and grievance mechanisms, and facilitation of labor union formation (principle 4). Thus, ISPO can formally facilitate evidence of legal compliance related to labor rights in the EUDR.</p>
6	Internationally protected human rights	X	<p>ISPO does not yet have specific criteria and indicators that explicitly require the protection and respect of human rights or internationally protected human rights.</p>
7	FPIC Principles	V	<p>For plantation companies, ISPO requires that plantation land originating from indigenous or customary land must be obtained through deliberation and full-informed consent without coercion from the indigenous community (criterion 1.1.2, indicator 3). Explicitly, the company must have an agreement through Free, Prior, and Informed Consent (FPIC) and must possess valid documents related to the origin of indigenous land. Thus, ISPO can formally facilitate compliance with FPIC requirements. However, because the verification method applied to check compliance with FPIC only involves document review (no interviews or observations), ISPO cannot serve as evidence of on-the-ground compliance that FPIC has truly been implemented without coercion and without complaints from the indigenous community.</p>
8	Tax	V	<p>One of the ISPO requirements related to the legal aspects of plantation businesses is the availability of the Taxpayer Identification Number (NPWP) (criterion 1.2.1, indicator 2), and the payment of Land and Building Tax (PBB) annually, Income Tax (PPh), and Value Added Tax (PPN) in accordance with applicable regulations, as well as reporting the tax return (SPT) in accordance with local regulations (criterion 1.2.1, indicator 5). Thus, ISPO can facilitate compliance with tax-related requirements.</p>
9	Anti-Corruption	V	<p>ISPO requires plantation companies to commit to not engaging in actions that could be indicative of bribery (criterion 6.5) with a verifier checking for the existence of a company code of ethics policy related to the prevention and eradication of corrupt practices that has been socialized. Thus, ISPO can formally facilitate compliance with the legal aspects related to anti-corruption, but cannot prove the absence of corruption <i>de facto</i>.</p>
10	Relevant trade and customs regulations	V Partial	<p>ISPO requires ownership of the Trading Business License (SIUP) as part of the plantation business's legality, but it does not include customs or export-related legal requirements as it is only applied to the upstream sector.</p>

Source: Regulation of The Ministry of Agriculture no. 38/2020

## *ISPO does not yet have a deforestation cut-off date.*

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EUDR requires no forest conversion for the production of relevant commodities post-December 31, 2020. Unlike RSPO (Roundtable on Sustainable Palm Oil) and MSPO (Malaysian Sustainable Palm Oil), ISPO does not yet have a deforestation cut-off date in its principles, criteria, and indicators.

RSPO has two deforestation cut-off dates, namely November 2005 and November 2018.<sup>70</sup> RSPO's Criterion 7.1.2 requires that land clearing does not result in deforestation or damage to areas needed to protect or enhance High Conservation Value (HCV) forests or forests with high carbon stock (HCS). Indicator 7.12.1 stipulates that land clearing since November 2005 should not harm primary forests or areas required to protect or enhance HCV, and land clearing since November 15, 2018, should not harm forests with high conservation value (HCV) or forests with high carbon stock (HCS).<sup>71</sup> Meanwhile, although there are no explicit MSPO requirements regarding deforestation, MSPO stipulates no conversion of natural forests, protected areas, and high conservation value areas after December 31, 2019.<sup>72</sup> It should be noted that despite having deforestation cut-off dates, the differences in the definitions of areas not to be deforested mean that RSPO and MSPO cannot automatically meet EUDR's deforestation-free requirements.

As of now, ISPO does not have provisions related to a deforestation cut-off date or a total prohibition of forest conversion. Nevertheless, there are at least two ISPO provisions that can facilitate efforts to prevent deforestation. **The first** is the obligation of oil palm plantation companies to identify, socialize, and preserve protected areas and High Conservation Value (HCV) areas in accordance with prevailing regulations (Criterion 3.7). Oil palm plantation companies must identify protected areas and high conservation value (HCV) areas and have Standard Operating Procedures for HCV preservation that comply with prevailing regulations. Companies must also have maps of protected areas and HCV areas, Management Plans, and conduct activities to safeguard them. This provision has the potential to facilitate compliance with EUDR's deforestation-free requirements if all forests within plantation permits are designated as protected and high conservation value areas and are effectively protected in the field. However, from the definition alone, HCV may not necessarily encompass all remaining natural forests, leaving room for deforestation in areas of permits not identified as HCV.

**The second** is the obligation of oil palm plantation companies to protect natural forests and peatlands (Criterion 3.9). This criterion has the potential to facilitate compliance with EUDR's

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<sup>70</sup> Brinkmann Consultancy and Pasmans Consultancy. (2023). *The RSPO system as a tool to help companies comply with requirements of the EU Deforestation Regulation*. <https://rspo.org/resources/?category=eudr>

<sup>71</sup> Roundtable on Sustainable Palm Oil. (n.d.). *RSPO Principles and Criteria for the Production of Sustainable Oil palm 2018*. [rspo.org](https://rspo.org/resources/). <https://rspo.org/resources/>

<sup>72</sup> Malaysian Sustainable Palm Oil. (2021, Agustus 6). *MSPO Certification Scheme* [Presentasi dalam Biomass Sustainability Working Group].

[https://www.meti.go.jp/shingikai/enecho/shoene\\_shinene/shin\\_energy/biomass\\_sus\\_wg/pdf/011\\_e02\\_00.pdf](https://www.meti.go.jp/shingikai/enecho/shoene_shinene/shin_energy/biomass_sus_wg/pdf/011_e02_00.pdf)

deforestation-free requirements because it explicitly mentions the protection of natural forests. The indicator for this criterion is the availability of documents showing that new plantation development does not open up natural forests in accordance with prevailing regulations. Verification involves the presence of integrated maps of plantation operational areas with natural forests, integrated maps of plantations or factories with the latest revised moratorium map (PIPPIB), and records that plantation operators do not clear land in the forest zone. However, there is still ambiguity in this provision because the prohibition of clearing natural forests for new plantation development must comply with prevailing regulations. As discussed earlier, prevailing regulations currently do not protect all existing natural forests. Presidential Instruction 5/2019 and PIPPIB only protect primary forests and secondary natural forests located within protected and conservation zones. Therefore, conversion of forests within plantation permits is still possible. The Omnibus Law even mandates the development of oil palm plantations within 2 years of land rights (HGU) being granted. If the land is not cleared and converted into oil palm within 2 years, it may be categorized as idle land, and the state may reclaim the rights to it.<sup>73</sup> This provision can encourage land clearing, including natural forests, within oil palm plantation permits to avoid categorizing the land as idle.

In contrast, there are no provisions for smallholders to identify and preserve protected areas and High Conservation Value areas or to protect natural forests covered by PIPPIB. The principle of environmental management, natural resource management, and biodiversity conservation for smallholders only includes fire prevention and control and biodiversity preservation. Compliance with EUDR's deforestation-related aspects in ISPO can be seen in Table 3.

*Table 3. ISPO and Deforestation-Free Requirement in EUDR*

No.	Deforestation -Free Requirements in EUDR	ISPO	Notes	Steps Towards Strengthening EUDR Eligibility
1.	Produced on non-deforested land, meaning the conversion from forest to agricultural use, whether human-induced or not after December 31, 2020.	X	EUDR prohibits the conversion of all forest land, whereas ISPO only prohibits the conversion of natural forests and peatlands protected by prevailing regulations—those covered by the moratorium map (PIPPIB) and areas identified as protected and High Conservation Value (HCV) areas. For smallholders, ISPO only covers fire prevention and control and biodiversity conservation.	Adding deforestation cut-off date to ISPO: a prohibition of clearing forests for new plantations, both for companies and smallholders, starting from a specific date.

Source: EUDR, Minister of Agriculture Regulation No. 38/2020

<sup>73</sup> Government Regulation No. 20 of 2021 concerning the Arrangement of Abandoned Land.

*There is no comprehensive traceability system from the plantation to the point of export yet.*

ISPO has included provisions related to traceability as part of Principle 6, Implementation of Transparency, with criteria for a supply chain traceability system. According to these criteria, plantation companies must establish and implement a supply chain model and have complete information on purchase and sale transaction documents, including at least the name and address of the seller and buyer, destination, product identification (CPO, PKO, kernel, by-products), conformity of the applied supply chain model, quantity of products shipped and received, loading and shipping dates, shipping/transportation documentation, ISPO certificate number, ISPO certificate validity period, and unique identification number.

In the Ministerial Regulation 38/2020, ISPO Certification Bodies (LS) are instructed to conduct supply chain assessments to ensure the traceability of fresh fruit bunches (FFB) processed into Crude Palm Oil, Palm Kernel Oil, and by-products. The goal is to ensure that the FFB obtained is also ISPO certified. However, supply chain traceability can be performed using both segregation and mass balance supply chain models. The segregation supply chain model requires that 100% of the fresh fruit bunches (FFB) be ISPO certified, while the mass balance model requires at least 30% of FFB to be ISPO certified. Plantation companies implementing supply chain traceability assurance for oil palm products are allowed to choose the supply chain model that suits their needs.<sup>74</sup> Therefore, Permentan 30/2020 still allows for a mixture of FFB from plantations that are not ISPO certified with ISPO-certified FFB.

Out of the 8 types of information required by EUDR in the due diligence process, ISPO has not been able to provide specific geolocation information and conclusive and verifiable information to ensure that relevant products are free from deforestation. However, geolocation information can be found in STD-B for smallholders and plantation permits and HGU for plantation companies (Table 4).

*Table 4. ISPO and Information Requirements in EUDR*

No.	Information Requirements in the Due Diligence Process	ISPO	Notes
1	Description, including trade name and relevant product type	V	ISPO requires product identification.
2	Quantity (net mass/volume)	V	ISPO requires information on the quantity of shipped and received products.
3	Identification of the producing country and its regions (if relevant)	X	ISPO does not require this information, but it can be obtained in the STD-B or HGU

<sup>74</sup> Articles 28-30 of the Indonesian Minister of Agriculture Regulation Number 38 of 2020 regarding the Implementation of Sustainable Oil palm Plantation Certification in Indonesia.

			documents in the form of plantation locations.
4	Geolocation of the entire land where the relevant commodities are produced, including the date or production period.	X	ISPO does not require this information, but geolocation information can be obtained in the STD-B or HGU documents.
5	Name, email, and business address of the commodity/product supplier;	V	ISPO requires the name and address of the buyer.
6	Name, email, and address of each business or person to whom the relevant commodities or products have been supplied	V	ISPO requires the name and address of the seller.
7	A conclusive and verifiable information which states that the relevant products are free from deforestation;	X	ISPO cannot provide deforestation-free information, but it can provide information on not converting protected natural forests and peatlands, as stipulated by applicable regulations (included in PIPPIB), and areas identified as conservation and high conservation value areas.
8	A conclusive and verifiable information which states that the production of relevant commodities has been carried out in accordance with the relevant legislation of the country of production, including regulations that grant the right to use each area for the purpose of producing the relevant commodities;	V Partial	ISPO can provide information on compliance with regulations within the scope of EUDR, except for internationally protected human rights and customs regulations compliance.

Source: EUDR, Regulation of The Minister of Agriculture No. 38/2020

### Implementation Challenges

Although ISPO can facilitate the fulfillment of most of the information requirements requested by EUDR, the implementation of ISPO remains difficult, especially for small-scale independent farmers (smallholders). The ISPO system and standards pose genuine challenges for farmers, particularly in proving land and plantation legality, practicing sustainable land management, and archiving essential documents. This situation, in general, is not due to farmers' reluctance but rather due to a lack of funds and limited access to information and knowledge. ISPO is also seen as not providing direct benefits to farmers because the prices received by farmers for ISPO-certified Fresh Fruit Bunches (FFB) are the same as non-ISPO certified ones.<sup>75</sup> Farmers prefer RSPO because RSPO-certified oil palm is valued higher by purchasing companies. Additionally, the implementation of traceability principles already adopted by ISPO also needs to be evaluated to gain a clear understanding of the application of these regulations.<sup>76</sup>

Currently, the government is in the process of revising ISPO. In the Draft Revision of the ISPO Presidential Regulation, ISPO is mandated not only for oil palm plantations but also

<sup>75</sup> Multi-Stakeholder Focus Group Discussion (FGD) organized by MADANI Berkelanjutan, November 7, 2022.

<sup>76</sup> Herdiansyah, H, Kusumastuti, RD. Samputra, PL. Indriyana, N. Nanik Ambar Suharyanti. 2021. Application of Supply Chain Requirements for Smallholders: Impact on Sustainable Oil palm Management Policies in Indonesia. IOP Conference Series: Earth and Environmental Science. 755 012022;



for downstream oil palm and biofuel industries. Although there are no changes to the 7 ISPO principles, traceability will be elaborated within the ISPO criteria.<sup>77</sup> Furthermore, ISPO applications submitted by downstream industrial and biofuel companies must be accompanied by ISPO supplier certificates to strengthen traceability.

“*To facilitate compliance with EUDR legality requirements, there is a need to strengthen ISPO to encompass the protection of human rights protected by international law. Additionally, ISPO should be enforced throughout the downstream industry to the export point to also cover compliance with relevant customs regulations. To facilitate compliance with EUDR deforestation-free requirements, ISPO’s principles and criteria can be enhanced by adding a deforestation cut-off date, which is a deadline after which new plantations should not be established on forested land, not limited to the forests covered by PIPPIB. If this is implemented, ISPO certification can facilitate compliance with the legality and deforestation-free aspects of EUDR.*”

## National Sustainable Palm Oil Action Plan (RAN KSB)

### RAN KSB and Legality

Presidential Instruction Number 6 of 2019 regarding the National Sustainable Oil Palm Action Plan (RAN KSB), which is mandated until 2024, has five major objectives: improving the capacity and capability of oil palm growers, resolving land status and legalization, utilizing oil palm as a new renewable energy source, enhancing diplomacy to achieve sustainable oil palm plantations, and accelerating the achievement of sustainable oil palm plantations in Indonesia.

RAN-KSB can support the fulfillment of EUDR requirements through improvements in oil palm governance. Various programs within RAN-KSB are highly relevant to efforts to support the fulfillment of plantation legality requirements mandated by EUDR (Table 5). In fact, compliance with the norms in this Presidential Instruction will strengthen readiness both among policymakers and industry players who will be affected by the implementation of EUDR. Unfortunately, as of today, only 23 regions, both at the provincial and district levels, have established derivative regulations at the local level. Up to the time of writing, there have been no official proposals or drafts from policymakers regarding the extension of the implementation of this regulation.

<sup>77</sup> Draft Presidential Regulation of the Republic of Indonesia Number [TBD] Year [TBD] on the Indonesian Sustainable Palm Oil Certification System (No numbering assigned yet).

Table 5. RAN-KSB and Fulfillment of Legal Aspects in EUDR

No.	Relevant RAN-KSB Programs to Support Plantation Legality	Mandatories	Strengthening Opportunities Towards EUDR Compliance
1.	Strengthening the basic data for oil palm plantations	Ministry of Agriculture	Accelerating the mapping of all smallholder farmers as an initial step to support them in obtaining plantation and land legality. Mapping should include smallholder farms that overlap with business permits and the forest zone for resolution.
2.	Improving legal compliance for business actors in the oil palm plantation sector coordinatively	Ministry of Agriculture	Law enforcement against plantation companies that have been operating without proper permits.
3.	Resolving oil palm plantations within the forest zone	Ministry of Environment and Forestry	Prioritizing the mapping and resolution of smallholder farms in the forest zone, not just corporate plantations. Prioritize the resolution of smallholder farms that overlap with business permits.
4.	Handling land disputes in oil palm plantations outside the forest zone.	Ministry of Agrarian and Spatial Planning/National Land Agency	Accelerating the mapping and resolution of smallholder farms that overlap with business permits in APL / outside the forest zone.
5.	Legalizing land resulting from the resolution of oil palm plantations in the forest zone and resolving land disputes through the agrarian reform scheme.	Ministry of Agrarian and Spatial Planning/National Land Agency	Accelerate implementation.
6.	Accelerating the realization of companies' obligations to facilitate the development of sustainable oil palm for the community	Ministry of Agriculture	Mapping and enforcing the law against companies that have not fulfilled their obligations for community plantation development according to regulations. Mapping conflicts related to <i>plasma</i> partnership and mediating their resolution.
7.	Accelerating the implementation of ISPO certification for companies and smallholder	Ministry of Agriculture	Accelerating the implementation of ISPO certification for smallholder farmers should begin with the identification and resolution of overlaps between smallholder farms and the forest zone or business permits to obtain land and plantation legality. This is a prerequisite for obtaining ISPO certification.

### RAN KSB and Deforestation-Free

Although RAN-KSB is in a strong position to support legality, it does not yet have strong norms to prevent deforestation for oil palm plantations post-2020. Referring to the prevailing regulations, RAN-KSB does not explicitly mention a prohibition on forest conversion for oil palm. This is one of the key gaps between RAN-KSB and EUDR, which has set a deforestation cut-off year. It should be noted that the norm of a deforestation cut-off date has not been regulated in any Indonesian law.

The government once issued Presidential Instruction Number 8 of 2018 regarding the Postponement and Evaluation of Oil Palm Plantation Permits and the Improvement of Oil Palm Plantation Productivity, or the oil palm moratorium, which was in effect until September 19, 2021. Unfortunately, the government did not extend this policy. Even during the moratorium period, civil society data still showed expansion of new oil palm areas from 2019 to 2021.

Table 6. RAN-KSB and Compliance with Deforestation-Free Aspect in EUDR

No.	Relevant RAN-KSB Programs to Support Deforestation-free Plantations	Mandatories	Strengthening Opportunities Towards EUDR Compliance
1.	Improvement of farmers' capacity and capability in implementing Good Agricultural Practices (GAP)	Ministry of Agriculture	Incorporating natural forest protection into the GAP guidelines
2.	Enhancement of efforts in conserving biodiversity and plantation landscape	Ministry of Environment and Forestry	Incorporating natural forest protection into biodiversity conservation and plantation landscape guidelines.  To support deforestation-free plantations, RAN-KSB needs to be strengthened by instructing the cessation of releasing the forest zone that are still covered by natural forests for plantations.
3.	Increased utilization of critical land as an effort to reduce greenhouse gas emissions in oil palm plantations	Ministry of Agrarian and Spatial Planning/National Land Agency	To support deforestation-free plantations, not only the utilization of critical land, but RAN-KSB also needs to instruct the protection of natural forests in APL (areas outside the forest zone) and APL derived from the release of the forest zone, as well as prohibiting land clearing in natural forests.

### *RAN KSB and Traceability*

The implementation of RAN-KSB is also highly relevant to meeting the traceability aspect in EUDR as it includes programs to strengthen basic data on oil palm plantations and accelerate the establishment and strengthening of farmer institutions. Strengthening basic data on oil palm plantations needs to include the information required by EUDR, including the geolocation of land used to produce plantation commodities. Furthermore, the acceleration of the establishment and strengthening of farmer institutions is an opportunity to enhance the capacity of farmers not only in meeting legal requirements and good plantation practices but also in managing production and sales records of Fresh Fruit Bunches (TBS), including geolocation, to meet EUDR's information requirements. To continue improving oil palm governance, RAN-KSB needs to be continued by the next government. RAN-KSB also needs to be strengthened with increased transparency in licensing to enhance accountability and prevent corruption.

Table 7. RAN-KSB and Compliance with Traceability Aspect in EUDR

No.	Relevant RAN-KSB Programs to Support Traceability	Mandatories	Strengthening Opportunities Towards EUDR Compliance
1.	Strengthening basic data for oil palm plantations	Ministry of Agriculture	Strengthening the basic data of oil palm plantations needs to include geolocation information of the plantations producing commodities.
2.	Accelerating the establishment and strengthening of farmers' institutions	Ministry of Agriculture	Strengthening farmers' institutions, accompanied by mentoring to manage production and sales documentation of commodities from farmers, should include information required by EUDR, such as geolocation, legality proof, and evidence of non-deforestation.

## Verification System for Legality and Sustainability (SVLK) \_\_\_\_\_

### *Deforestation and Forest Degradation Requirements in SVLK* \_\_\_\_\_

The Timber Legality and Sustainability Verification System (*Sistem Verifikasi Legalitas dan Kelestarian*- SVLK) plays a role in ensuring that wood products and its raw materials come from legally accountable sources and that their management meets various sustainability aspects. Wood is considered legal if it can be proven that the origin of the wood, logging permits, logging systems, transportation procedures, processing, trading, and transfers meet all applicable legal requirements. SVLK includes standards, criteria, indicators, verifiers, verification methods, and assessment norms agreed upon by stakeholders. All wood originating from state forests or the forest zone must undergo legality verification to ensure the origin of the raw materials. Wood products for export require V-Legal Documents to guarantee that the wood raw materials come from legal sources.

As part of the FLEGT VPA, SVLK will automatically be considered as proof of legality in EUDR. The information required by SVLK in general can also meet traceability requirements, including geolocation, which can be found in the ID barcode of wood products that can be traced back to the forest where the wood was harvested (tree stump). However, SVLK or FLEGT licenses cannot yet be regarded as evidence of deforestation-free status or a substitute for the due diligence process.

Since March 1, 2023, the SVLK assessment standards refer to SK.9895/MenLHK-PHL/BPPHH/HPL.3/12/2022. In this guideline, there are no provisions banning the conversion of natural forests into plantation forests. The provisions that can protect natural forests are the protection of High Conservation Value Areas (*Areal Bernilai Konservasi Tinggi* - ABKT), similar to those in plantations (Table 8). SVLK can be strengthened by adopting norms that prohibit the conversion of natural forests into plantation forests so that SVLK can meet the deforestation-free requirements of EUDR.

Table 8. SVLK and Compliance with Deforestation-Free Aspect in EUDR

No.	Deforestation-Free Requirements in EUDR	SVLK	Notes	Strengthening Opportunities Towards EUDR Compliance
1.	Produced on land that has not experienced forest degradation, which refers to structural changes in forest cover, such as the conversion of primary forest or naturally growing forests into plantation forests or other wooded land, and the conversion of primary forest into planted forests.	Partial	Indicator 3.1 of SVLK requires the presence, stability, and condition of protected areas as well as High Conservation Value Areas (ABKT). ABKT is defined as an area/landscape that holds significant value for the conservation of biodiversity, encompassing biological, ecological, social, and cultural aspects.  Additionally, SVLK assessment will be considered good if the forested condition of protected areas covers $\geq 80\%$ or if there is rehabilitation to restore protected areas to their original condition above 80%.	Protection and management of protected areas are strengthened by prohibiting the conversion of natural forests into plantation forests.

Table 9. SVLK and Compliance with Information Requirements in EUDR

No.	Information Requirements in the Due Diligence Process	SVLK	Notes
1.	Description, including trade name and relevant product type	V	
2.	Quantity (net mass/volume)	V	
3.	Identification of the producing country and its regions (if relevant)	V	
4.	Geolocation of the entire land where the relevant commodities are produced, including the date or production period.	V (through Barcode)	SVLK has provisions for the traceability of the origin of timber forest products (Indicator 3.1.3). The verifier is the PUHH mark or barcode that can be tracked on the timber logs. Auditors must check the barcode on the wood and trace the log number and type to the timber stump in the harvesting area or through SIPUHH data to ensure the accuracy of its origin.
5.	Name, email, and business address of the commodity/product supplier;	V	
6.	Name, email, and address of each business or person to whom the relevant commodities or products have been supplied	V	
7.	A conclusive and verifiable information which states that the relevant products are free from deforestation;	X	
8.	A conclusive and verifiable information which states that the production of relevant commodities has been carried out in accordance with the relevant legislation of the country of production, including regulations that grant the right to use each area for the purpose of producing the relevant commodities;	V	SVLK is considered as evidence of legality for timber commodities in EUDR.

## Market Policies

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### *Deforestation-Free Requirements in RSPO*

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The Roundtable on Sustainable Palm Oil (RSPO) has required that land clearing that happened since November 2005 does not damage primary forests or areas needed to protect or enhance High Conservation Value (HCV) areas (criterion 7.12). There is also a provision that land clearing since November 15, 2018, should not harm high conservation value forests or high carbon stock forests. However, the assessment of high conservation value and high carbon stock forests that should not be damaged in RSPO is based on specific methodologies according to specific locations. RSPO also makes exceptions to these provisions for High Forest Cover Landscape/Countries areas.<sup>78</sup>

### *Deforestation-Free Requirements in FSC*

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The voluntary Forest Stewardship Council (FSC) certification scheme has requirements in place to avoid converting natural forests or high conservation value areas after December 31, 2020 (PnC 6.1.1).<sup>79</sup> Nevertheless, there are exceptions to this provision, namely, if the proportion of the converted area is very limited and provides real, substantial, additional, secure, and long-term conservation and social benefits within the management unit, and if it does not threaten high conservation value areas or the sites and resources needed to maintain or enhance these high conservation value areas.

### *No Deforestation No Peat No Exploitation (NDPE) Commitments*

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In addition to certification schemes, many large companies have voluntarily adopted No Deforestation, No Peat, No Exploitation (NDPE) commitments. NDPE commitments include Early Free, Prior and Informed Consent (FPIC) agreements for indigenous and local communities, not clearing land by burning, and preserving high conservation value areas, high carbon stock areas, and peatlands.<sup>80</sup> As of April 2020, NDPE commitments covered 83% of the total oil palm refining capacity in Indonesia and Malaysia. In Indonesia, only 16 out of 21 major oil palm refining companies have complied with NDPE commitments, while the rest continue deforestation to establish palm plantations.<sup>81</sup>

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<sup>78</sup> Brinkmann Consultancy and Pasmans Consultancy. (2023). *The RSPO system as a tool to help companies comply with requirements of the EU Deforestation Regulation*. <https://rspo.org/resources/?category=eudr>

<sup>79</sup> Forest Stewardship Council. (n.d.). *FSC Principles and Criteria for Forest Stewardship* (FSC-STD-01-001 V5-3 EN ed.).

<sup>80</sup> Kate, A. t., Kuepper, B., & Piotrowski, M. (n.d.). *NDPE Policies Cover 83% of Oil palm Refineries; Implementation at 78%*. Chain Reaction Research. Retrieved October 12, 2023, from <https://chainreactionresearch.com/wp-content/uploads/2020/04/NDPE-Policies-Cover-83-of-Palm-Oil-Refining-Market.pdf>

<sup>81</sup> *Ibid.*

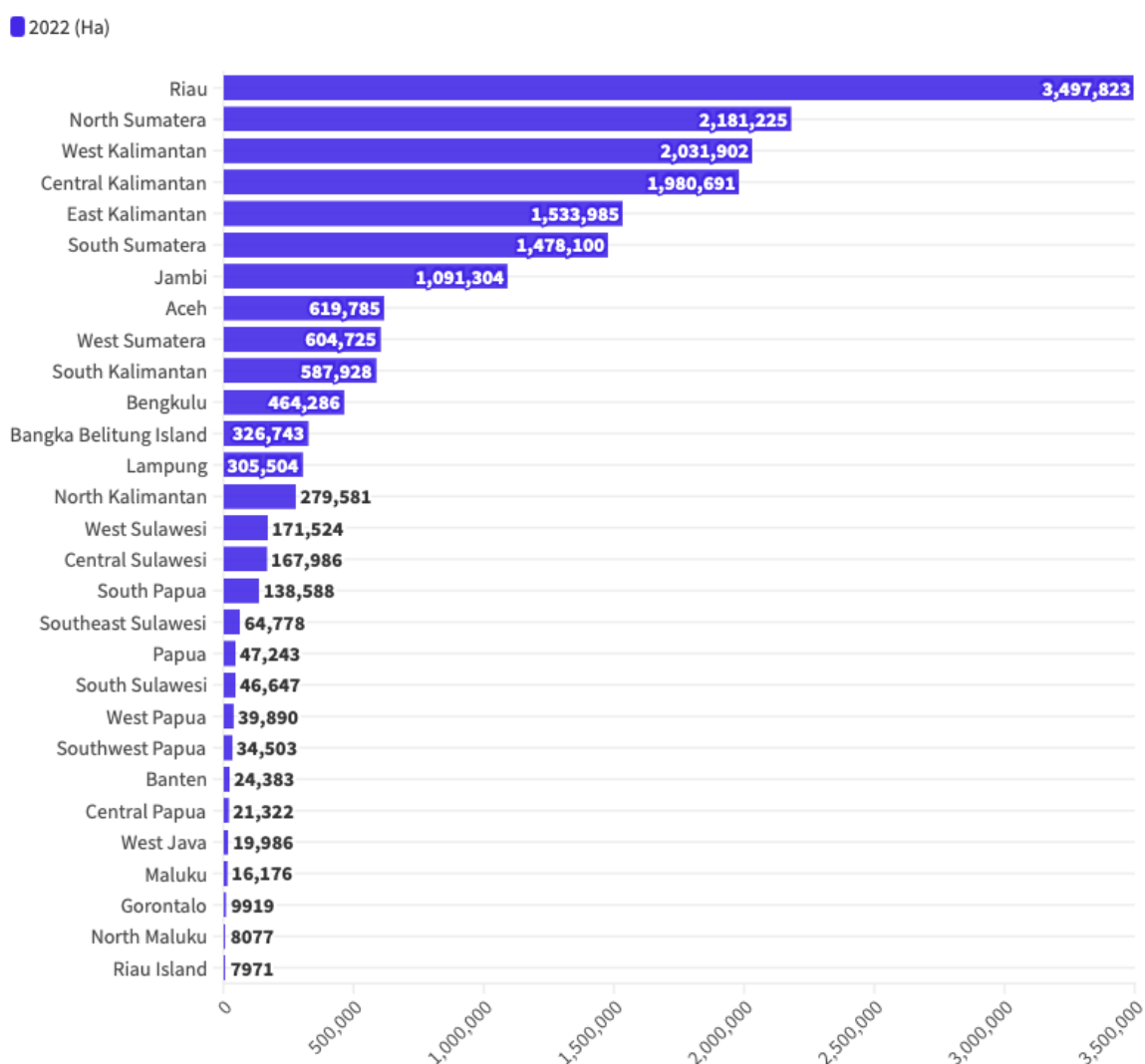
## E. Opportunities to Strengthen Regulations at the Subnational Level

### Oil Palm Producing Regions

Currently, there are 29 provinces in Indonesia that produce oil palm (Figure 33). The largest oil palm plantations in Sumatra are located in six provinces: Riau, North Sumatra, South Sumatra, Jambi, Aceh, and West Sumatra. In the Kalimantan region, the largest oil palm plantations are in West Kalimantan, Central Kalimantan, East Kalimantan, and South Kalimantan. In the Papua region, the largest oil palm plantations are in South Papua, and in the Sulawesi region, they are in West Sulawesi and Central Sulawesi.

Figure 33. Oil palm Plantation Area per Province

#### Palm Oil Plantation Area per Province



Source: MapBiomass



Although provinces and districts have the authority to issue permits for oil palm plantations, most policies and regulations related to plantations and forestry are largely determined by the central government, such as the oil palm moratorium, RAN-KSB, NDC, and oil palm resolution in the forest zone. However, the implementation of such policies and regulations lies in the hands of subnational/local governments.

Subnational governments play a strategic role at the site level because they are responsible for ensuring that information about EUDR is known and understood by all stakeholders in the supply chain of affected commodities, such as companies and planters. Additionally, subnational governments, in their capacity as regulators, have the power to proactively improve governance to be more competitive in the EUDR benchmarking process and in facilitating the supply chain stakeholders in successfully meeting EUDR due diligence criteria. Below are some subnational regulations and policies that can promote readiness in facing EUDR.

## Subnational Regulations and Policies to Promote Legality and Traceability

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### The Regional Sustainable Palm Oil Plantation Action Plan (RAD-KSB)

President's Instruction (Inpres) Number 6 of 2019 on the Sustainable Palm Oil Plantation National Action Plan (RAN KSB) mandates the development of Regional Sustainable Palm Oil Plantation Action Plans (RAD-KSB) at the provincial and district levels. RAD-KSB provides a comprehensive guideline for improving the governance of oil palm plantations, as it covers five components: 1. Strengthening data, coordination, and infrastructure; 2. Enhancing the capacity and capability of oil palm farmers; 3. Environmental management and monitoring; 4. Governance of plantations and dispute resolution; and 5. Supporting the acceleration of ISPO certification and improving market access.<sup>82</sup> Currently, there is a strong push for provinces and districts to develop RAD-KSB as it has become one of the requirements to access Oil Palm Plantation Revenue Sharing Fund (DBH). However, as of November 2023, based on data from the Directorate General of Plantations, not all oil palm-producing regions have completed their action plans (Table 10).<sup>83</sup>

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<sup>82</sup> Kementerian Dalam Negeri Republik Indonesia. (n.d.). *Panduan Penyusunan dan Penerapan Rencana Aksi Daerah Perkebunan Kelapa Sawit Berkelanjutan*. Kementerian Dalam Negeri. <https://goodgrowthpartnership.org/wp-content/uploads/Report-in-Bahasa-Guideline-for-Formulation-of-a-Regional-Action-Plan-in-Indonesia.pdf>

<sup>83</sup> Article 8 Paragraph (1) letter d of the Minister of Finance Regulation Number 91 of 2023 concerning the Management of Revenue Sharing Funds for Oil palm Plantations.

Table 10. Provinces and Districts That Have Developed Palm Oil Action Plan

RAD-KSB Completed		Under Completion
Province	District	
North Sumatra, Riau, Jambi, West Kalimantan, East Kalimantan, Central Kalimantan, South Kalimantan, West Sulawesi, South Sumatra	South Tapanuli, Sintang, Pelalawan, East Tanjung Jabung, Tebo, East Kotawaringin, Sekadau, Berau, Paser, Sanggau, Gunung Mas, Rokan Hulu, Kampar	Aceh, North Sulawesi, North Kalimantan, Lampung, Subulussalam, Sarolangun, Ketapang, Tanjung Jabung Barat, North Labuan Ratu, North Konawe, Berau, Bulungan, West Kutai, Aceh Tamiang, Aceh Singkil, Pulang Pisang, Banyuasin, Siak, Indragiri Hilir, Indragiri Hulu, Bengkalis, Kubu Raya
Not yet in completion: Central Sulawesi and South Papua		

RAD-KSB does not automatically facilitate the fulfillment of deforestation-free requirements as there are no norms prohibiting the conversion of natural forests into oil palm plantations. However, RAN-KSB, which includes strengthening plantation data and legal compliance of plantation actors, can support the fulfillment of legality and traceability requirements.

RAD-KSB can serve as an initial step to facilitate the fulfillment of legality requirements for smallholder farmers, including the issuance of Cultivation Registration Certificates (STDB) and Land Ownership Certificates (SHM), resolving oil palm plantations in the forest zone, including through agrarian reform, and accelerating ISPO certification. RAD-KSB can encourage traceability for smallholder farmers through the acceleration of STD-B, which includes location information and plantation maps, as well as through ISPO assistance that includes traceability clauses. RAD-KSB also includes the strengthening of farmer institutions and partnerships between smallholder farmers and oil palm mills.

At the provincial level, RAD-GRK also mentions several programs to promote the legality of large plantation businesses (companies), including the inventory of Plantation Business Permits (IUP), monitoring and evaluation of Land Use Rights (HGU), evaluation of cross-district Location Permits, improved spatial planning supervision and control, environmental document monitoring and supervision, as well as the establishment of inter-agency task forces to enhance legal compliance.

## Regulations and Policies to Promote Deforestation-Free \_\_\_\_\_

### Protection of Forests in Spatial Planning \_\_\_\_\_

Local governments have significant room to protect natural forests within their Regional Spatial Planning (RTRW), especially those in areas designated for Other Land Uses (APL) or outside the forest zone. Based on forest cover data from 2020, there are still approximately 2.9 million hectares of natural forests in APL areas outside existing permits and concessions

for plantations, forestry, mining and areas reserved for social forestry (PIAPS). These natural forests are not yet protected by the moratorium policy. To prevent deforestation, local governments can designate these unprotected natural forests as protected areas within their spatial plan. This step has been taken, for example, by the Sintang District Government, which has designated a protected area of 541,000 hectares in its RTRW. Local governments can also designate indigenous and customary areas as protected areas in their spatial plan to ensure that their forested areas are protected from large-scale permit expansions.

Based on Government Regulation (PP) No. 23 of 2021 concerning Forest Administration, areas outside the forest zone that still have forest cover can be proposed for designation as protected areas. This regulation also states that local governments can receive incentives for protecting natural forests within their territories. Some existing incentive models include the Ecological Fiscal Transfer scheme, environmental service payments, and Carbon Economic Value mechanisms such as Performance-Based Payments for Reducing Emissions from Deforestation and Forest Degradation (REDD+ RBP) and carbon trading.

## Green Development, Low-Carbon Development, and Greenhouse Gas Emission Reduction

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Protecting natural forests in spatial planning can be encouraged through green development or low-carbon development in subnational planning. Some oil palm-producing provinces have green policies, such as Riau with its "Green Riau" policy (Governor Regulation of Riau Province Number 9 of 2021). Green Riau policy aims to shift the focus of forest area utilization towards ecosystem restoration, facilitating the use of the forest zone for communities (social forestry, TORA, and partnership collaborations). Riau is also one of the pilot provinces for low-carbon development planning initiated by the National Development Planning Agency (Bappenas).

Another example is South Sumatra province, which has a "Green Economic Growth Master Plan" (Governor Regulation of South Sumatra Number 21). In this master plan, there will be sustainable land allocation and land use alignment, environmental service incentives, and innovative financing for sustainable commodities. This plan not only includes oil palm but also limited expansion of coffee plantation areas and the revitalization of rubber and sustainable coffee cultivation. Interestingly, the master plan includes a moratorium on oil palm expansion in peatlands, even though there is no moratorium on oil palm expansion in natural forests.

Jambi province is also in the process of developing a master plan for green economic growth for the period 2021-2045, supported by Regional Regulation Number 4 of 2023.<sup>84</sup>

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<sup>84</sup> Lan. (2023, September 18). Di Seminar Nasional OJK, Gubernur Jambi Tegaskan Komitmen Terkait Ekonomi Hijau. *Sinar Jambi*. <https://sinarjambi.com/di-seminar-nasional-ojk-gubernur-al-haris-tegaskan-komitmen-terkait-ekonomi-hijau/>

Meanwhile, Aceh has already established an Integrated Low-Emission Development Strategy for Aceh Province.<sup>85</sup>

Protection of remaining natural forests in subnational jurisdictions can also be promoted through the implementation of central government policies. For example, the Low-Carbon Development Planning as a continuation of the Regional Greenhouse Gas Emission Reduction Action Plan (RAD-GRK) led by Bappenas. Currently, there are seven pilot provinces for low-carbon development: South Sulawesi, Central Java, West Java, Papua, West Papua, Riau, and Bali.<sup>86</sup>

This can also be encouraged through the development of Subnational FOLU Net Sink 2030 Work Plans led by the Ministry of Environment and Forestry. Both initiatives have climate change mitigation elements in the forestry and land sectors that can be translated into actions to protect remaining natural forests. Some major oil palm-producing provinces that have been introduced and encouraged to develop subnational FOLU Net Sink plans include Riau, North Sumatra, South Sumatra, Jambi, Aceh, West Sumatra, Bengkulu, Bangka Belitung, Lampung, West Kalimantan, East Kalimantan, South Kalimantan, North Kalimantan, West Sulawesi, and Central Sulawesi. These plans have also been introduced to provinces with the largest natural forest, such as Papua and West Papua.

## Oil Palm Moratorium

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Presidential Instruction No. 8 of 2018 regarding the Suspension and Evaluation of Oil Palm Plantation Licensing and the Improvement of Oil Palm Plantation Productivity expired in 2021 and was not extended by President Joko Widodo. The policy can halt the expansion of new oil palm plantation permits into natural forests. Although not extended by the central government, subnational governments can continue this policy by issuing regional regulations or through strategies and policy directions in regional development planning outlined in spatial plans. By no longer granting permits for large-scale plantations, regional governments can help prevent the expansion of oil palm plantations into forested areas and curb deforestation resulting from commodity production. Furthermore, regional governments can focus on addressing existing governance issues, such as resolving oil palm plantations within the forest zone, increasing productivity, enforcing partnership obligations between companies and independent smallholders, and ensuring overall compliance with permits. The oil palm moratorium can also have a positive impact on smallholders, as regional governments can allocate unproductive lands for their use instead of granting them to large companies. This is crucial because one of the factors driving the encroachment of

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<sup>85</sup> Pemerintah Aceh. (n.d.). *Strategi Pembangunan Rendah Emisi Terintegrasi Aceh (Integrated Low Emission Development Strategy in Aceh) ILEDSA*. BAPPEDA Aceh.

[http://182.253.224.163/assets/lampiran/Dokumen\\_ILEDSA.pdf](http://182.253.224.163/assets/lampiran/Dokumen_ILEDSA.pdf)

<sup>86</sup> Badan Pembangunan Nasional. (2023, Agustus 16). *Bappenas-Pemerintah Provinsi Eratkan Kerja Sama Pembangunan Rendah Karbon*. bappenas.go.id. <https://www.bappenas.go.id/id/berita/bappenas-pemerintah-provinsi-eratkan-kerja-sama-pembangunan-rendah-karbon-88eRx>

forests or forest zones is the lack of available land, which has already been acquired by large corporations.

## Protection of High Conservation Value Areas ---

The majority of oil palm plantation permits are issued by local governments. Natural forests within oil palm plantation permits cover a significant area, approximately 2.6 million hectares (Mapbiomas, 2022). Besides permit evaluation and revocation, the regulatory framework available to protect natural forests within existing permits is the protection and management of Essential Ecosystem Areas (KEE) and High Conservation Value Areas (HCV - ABKT in Indonesian). KEE and HCV protection is included in the RAN-KSB, and RAD-KSB generally follows suit, albeit different in depth. North Sumatera province only mentions the socialization of KEE protection guidelines in its RAD-GRK, while South Sumatera and West Kalimantan provinces specifically include the development of regulations and guidelines for KEE and HCV protection. West Kalimantan has even included the establishment of institutions responsible for managing KEE and monitoring conservation areas within its RAD-GRK.

West Kalimantan, East Kalimantan, and Central Kalimantan provinces are relatively advanced because they have provincial regulations related to HCV. West Kalimantan has Regional Regulation No. 6 of 2018 concerning Sustainable Land-Based Business Management, which obliges any area or land designated for land-based business activities to have a conservation area of at least 7% of the permit's total area. This regulation also stipulates that high-value conservation areas that are not within the forest zone or resulting from the release of the forest zone must be designated as Conservation Areas.<sup>87</sup>

East Kalimantan has Governor Regulation No. 12 of 2021 concerning Criteria for Areas with High Conservation Value and Governor Regulation No. 43 of 2021 concerning the Management of Areas with High Conservation Value in Plantation Areas. According to these regulations, district/city governments and plantation stakeholders are required to identify, inventorize, and manage HCV. Governors and districts would establish Indicative Maps of HCV in plantation areas at the provincial and district levels, which serve as references in the Strategic Environmental Assessments (KLHS) and the preparation of Regional Spatial Plans for districts and municipalities. HCV areas without permits will have their management adjusted based on the assessments, while HCV areas with permits cannot be converted to

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<sup>87</sup> The term conservation area includes areas or lands containing concentrations of biodiversity values considered important globally, regionally, and/or nationally; areas or lands with extensive natural forest landscapes considered important globally, regionally, and/or nationally that support the natural population's sustainability; areas or lands with unique, rare, endangered, or near-extinct ecosystem types; areas or lands providing environmental services in river basin protection, erosion control, and coastal protection; areas or lands serving as a basic source of livelihood for local communities and food security areas; or areas or lands with cultural significance, including sacred or revered places.

plantations but will remain part of the land rights of the plantation companies or other approved management schemes by the Regional Government.

Central Kalimantan also has Governor Regulation No. 41 of 2014 concerning the Management of High Conservation Value Areas in Plantation Business in Central Kalimantan Province. This regulation mandates that every plantation business with an area greater than 25 hectares must manage high conservation value areas within their operational areas.

HCV regulations in East Kalimantan are the most advanced as they not only serve as instruments to protect natural forests within existing permits but can also be used to protect unpermitted natural forests through spatial planning.

In several districts participating in the Sustainable District Association (*Lingkar Temu Kabupaten Lestari* – LTKL), there have been numerous initiatives to improve plantation governance, which can serve as a foundation to be more competitive in the implementation of EUDR (Table 11).

Table 11. Assets of District Government to Face EUDR Implementation

District	Assets to support plantation legality	Assets to support deforestation-free plantation	Assets to support traceability
Sintang District	RAD-KSB	Designation of protected area covering 541,000 hectares in the Regional Spatial Plan (RTRW)  Establishment of Social Forestry Areas, High Conservation Value (HCV), High Carbon Stock (HCS) areas, and protected lakes  Regulation of the District Head of Sintang Number 122 of 2021 regarding guidelines and procedures for proposing and determining the management of customary forests/ <i>rimba</i> and <i>gupung</i> outside the forest zone by the community in Sintang District	Plantation WebGIS (by name, by address, farmer polygon) managed collaboratively through the TPD (Regional Implementation Team) forum in Sintang
Sigi	Sigi spatial plan has included release of forest zone for agricultural lands	Green Sigi (Regional Regulation No. 4 of 2019) aims to harmonize spatial allocations and utilization with sustainability principles. The Roadmap requests companies to implement NDPE. <sup>88</sup>  Ecological fiscal transfer policy (TAKE) (5%)  Initiation of Social Forestry	One Data Sigi (under development)  Cocoa Sustainability Partnership (CSP) Reporting Platform
Siak	RAD KSB	Siak Hijau (District Head Regulation No. 22 of 2018) aims to promote sustainability	One Map Initiative at the site level <sup>89</sup>

<sup>88</sup> Sedagho Siak and Siak District Government.. (2019). *Peta Jalan Siak Menuju Kabupaten Hijau*. Sedagho Siak dan Pemerintah Kabupten Siak. <http://perpustakaan.menlhk.go.id/pustaka/images/docs/FINAL-ROADMAP-KABUPATEN-HIJAU.pdf>

<sup>89</sup> Pemerintah Kabupaten Siak. (n.d.). *Inisiatif Satu Peta di Tingkat Tapak*. [siakhijau.siakkab.go.id](http://siakhijau.siakkab.go.id).  
[https://siakhijau.siakkab.go.id/peta\\_gotong\\_royong/inisiatif-satu-peta-di-tingkat-tapak/](https://siakhijau.siakkab.go.id/peta_gotong_royong/inisiatif-satu-peta-di-tingkat-tapak/)

		<p>principles and sustainable utilization of natural resources and improve the economic conditions of the community.</p> <p>Siak Spatial Plan (Regional Regulation No. 1 of 2020) includes agriculture development plan that takes into account environment supporting capacity and prohibition of using fires for land clearing.</p> <p>Integrating sustainability in Regional Development Plan 2020-2024.</p>	
Sanggau	RAD KSB	Currently drafting a regional regulation aimed at sustainable plantation development	N/A
Musi Banyuasin	RAD KSB (in formulation)	Green Muba (Regional Regulation No. 7 of 2021) aims to align development policies in each sector with social conditions and environment supporting and carrying capacity for sustainable economic resilience.	Musi Banyuasin One Map Geoportal has mapped 20,000 hectares of polygons for PSR (Smallholders' Oil Palm Replanting). Buyers can receive this data from Farmer Cooperatives.
Aceh Tamiang	RAD KSB (in completion)	Integration of Leuser Ecosystem in the Spatial Plan.	Monitoring of deforestation in a collaborative manner by Forest Management Unit (KPH) and NGOs facilitated by a multistakeholder institution, integrated with Source Up.

Source: FGD with districts participating in the Sustainable District Association, LTKL 2023

## Regulatory and Policy Framework to Support Plantation Legality \_\_\_\_

In the RAD KSB of Sintang District, the local government supports the legality of plantation businesses by: 1) Creating Standard Operating Procedures (SOPs) to streamline all plantation licensing services and listing the required permits for each service agency, including expediting the issuance process of STD-B, 2) Synchronizing regulations and policies related to oil palm plantation development through regulatory reviews and meetings with stakeholders in the oil palm industry to gather input, and 3) Designing local regulations and policies that serve as legal frameworks for strengthening oil palm farmers and their institutions.

In the RAD KSB of Sanggau District, the government supports plantation legality by: 1) Resolving oil palm plantations in the forest zone through coordination among various institutions, including the Regional Development Planning Agency (Bappeda), the Environmental Agency, the Land Office/National Land Agency (BPN), and the Department of Plantation and Livestock, 2) Resolving issues related to oil palm plantations within forest utilization permits, 3) Mapping community oil palm plantations in the forest zone, 4) Facilitating compliance with requirements for social forestry permits, forest plantation utilization permits, or forest zone release, 5) Legalizing farmers land in the forest zone as



part of agrarian reform, 6) Legalizing land as part of agrarian reform to address land disputes related to oil palm plantations.

Even without a RAD KSB, local governments can still enact policies to expedite plantation legality processes. For example, Rokan Hulu District aims to have 1,600 farmers obtain STD-B in 2022, Tanjung Jabung Barat District targets the issuance of STD-B for 550 hectares of oil palm plantations in 2022, Kotawaringin Timur District encourages the issuance of STD-B for smallholder farmers with less than 25 hectares of land.

## Regulatory and Policy Framework to Support Deforestation-free \_\_\_\_\_

To ensure that plantation commodities are not sourced from deforestation, district governments maintain the boundaries between conservation and cultivation areas, as well as preparing control strategies for these areas.

Sintang District Government has designated a protected area of 541,000 hectares in its Regional Spatial Planning (RTRW) and established boundaries for Social Forestry areas, High Conservation Value (HCV) areas, High Carbon Stock (HCS) areas, and protected lakes. Communities can participate in monitoring the protected areas, and according to Regulation No. 122 of 2021, they can propose the designation of forests or groves outside the forest zone to the government.

Sigi District Government issued Regional Regulation No. 4 of 2019 aimed at aligning development by regulating the distribution between protected areas and cultivation areas to prevent illegal plantations. This implementation will be further strengthened with the development of One Data Sigi.

Siak District Government issued District Head Regulation No. 22 of 2018 aimed at delineating areas based on natural resource utilization zones, including conservation zones (where no recommendations or permits for forestry and plantations are granted), food crop zones, plantation and forestry zones, industrial zones, and residential zones. In addition, Regional Regulation No. 1 of 2020 issued Siak's spatial plan, which included a map of the areas and established a multi-stakeholder institution to protect peatland conservation areas.

Musi Banyuasin District Government issued Regional Regulation No. 7 of 2021 discussing strategies for preventing pollution and damage to natural resources and the environment, including fire prevention in land and forests, prevention of biodiversity loss and ecosystem damage through land and water conservation, and restoration and rehabilitation of peatlands. These measures are also reinforced by map monitoring through the Musi Banyuasin One Map geoportal.

Meanwhile, Sanggau District Government is in the process of drafting a regional regulation that will serve as guidelines for sustainable, deforestation-free plantation development.

## Regulatory and Policy Framework to Support Traceability \_\_\_\_\_

In general, registration letters like STD-B, sustainability certificates such as ISPO for oil palm, SVLK for wood, and Rainforest Alliance certification for cacao can help promote the traceability of commodities because they contain maps identifying the plantation locations. Sintang District government has prepared a Web Geographic Information System (WebGIS) that aggregates polygon data of plantations (by name, by address), managed through a multi-stakeholder team, Sintang Regional Implementation Team (TPD), which should be accessible at this link: <http://distanbun.sintang.go.id/>.<sup>90</sup>

Sigi District government has utilized the Cocoa Sustainability Partnership (CSP) reporting platform, which is a result of public-private collaboration. Additionally, they are currently developing the One Data System, which will serve as a database showing geolocation points of commodity plantations.

Musi Banyuasin District government has prepared the basic foundation for traceability by compiling 20,000 hectares of plantation polygon data that participate in the Smallholder Replanting Program (PSR). This data can be provided to buyers through farmer cooperatives, although it does not cover smallholder farmers who have not yet been included in the PSR program. This data can be accessed through the Musi Banyuasin District Geoportal at this link: <https://geoportal.mubakab.go.id/>.

Local governments can support achieving a low-risk status through consistent efforts to reduce deforestation, such as spatial planning by expanding protected areas, monitoring of protected and conservation forests through strong law enforcement, controlling the expansion rate of plantations through permit moratoriums, providing education and incentives for high-value and diverse commodity plantations, and increasing production rates through land intensification.

Preventing deforestation-related plantations can start with strengthening data and planning. Local governments can protect natural forests within their jurisdiction by designating them as protected areas in their spatial plans. They can also accelerate the recognition of indigenous communities' rights in their areas to ensure their protection and conservation. Furthermore, in line with Presidential Instruction No. 5 of 2019, local governments could stop issuing recommendations and new location permits for the forest zone release, peatlands, and other designated areas based on the Indicative Map for Halting New Permit Issuance (PIPPIB). Local governments can also continue the oil palm moratorium policy (Presidential Instruction No. 8 of 2018) by not issuing new oil palm plantation permits and focusing on the intensification, optimization, and rejuvenation of existing oil palm plantation areas. Local governments can also allocate unproductive or critical lands for the expansion of smallholder farms. They can encourage the protection of natural forests within

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<sup>90</sup>Suryatini. (2022, Desember 14). Pemkab Sintang Luncurkan Webgis Perkebunan. *RRI.co.id*. <https://rri.co.id/index.php/daerah/112403/pemkab-sintang-luncurkan-webgis-perkebunan>

existing plantation permits through various policy instruments, including the protection of Essential Ecosystem Areas, High Conservation Value Areas, and High Carbon Stock Areas, as well as ensuring compliance with environmental protection provisions through Plantation Business Assessments (PUP), ISPO certification, and routine monitoring.

Local governments can strengthen the legality of commodities and products by preparing the basic foundation, such as streamlining the bureaucracy for issuing licensing documents within their domain to be more efficient, which will subsequently accelerate the issuance of sustainability certifications. Local governments can also enhance traceability systems by providing the basic foundation, such as mapping and data collection of farmers and accelerating the issuance of STD-B, which can include geolocation information. They can also utilize an integrated clearing house system that stores geolocation data from plantation stakeholders to exporters and end-users.

## Multi Stakeholder Support

In addition to civil society advocacy for governance improvements, forest protection, and community rights, multi-stakeholder initiatives collaborations involving civil society organizations and development partners can also support the readiness of local governments and smallholders for the implementation of EUDR. These initiatives might even help achieve low-risk status at the subnational level in the benchmarking process. In terms of legality and traceability, the general support provided by development partners includes assisting local governments, supporting independent smallholders, and assisting companies. The table below outlines some forms of support provided by development partners.

*Table 12. Support from Civil Society Organizations and Development Partners to Meet EUDR Requirements*

Support Area	EUDR Requirement	NGO/Development Partners	Form of Support
Smallholders	Legality	SPKS, WRI	Increasing the capacity and certification of independent oil palm farmers in Siak.
	Legality	SPKS & GIZ	Enhancing the capacity of independent oil palm farmers in Sanggau.
	Legality	GIZ, WWF, Solidaridad	Strengthening the capacity of independent rubber and oil palm farmers related to Good Agricultural Practices (GAP) in Kapuas Hulu.
	Legality	BPN, IDH and FKL	Strengthening efforts to issue STD-B for independent farmers with 5000 land titles (SHM) in Kab. Aceh Tamiang.
	Traceability	GIZ, CSP, PisAgro	Boosting the capacity of independent cocoa and coffee farmers in expanding market access.
Regional Government	Deforestation-free	Winrock	Facilitating the development of climate change mitigation and adaptation policies, as well as the

			capacity development of Village-Owned Enterprises (BumDes) in Kab. Siak and Kapuas Hulu.
	Legality	MADANI	Increasing the capacity of Regional Apparatus Organizations (OPD) in sustainable development planning in Kapuas Hulu and mapping independent farmers for STD-B submission.
	Legality	LI and SPKS	Assisting the Siak District Government and the National Land Agency (ATR BPN) in participatory mapping with independent farmers.
	Legality	Daemeter	Optimizing the implementation of the Long-Term Improvement Strategy and mapping and data collection of independent farmers in Kab. Siak and Pelalawan.
	Traceability	RSPO and LI	Assisting the Siak District Government in developing a traceability system for oil palm commodities.
	Deforestation-free	Alam Siak Lestari, Winrock, Elang.	Developing business models and alternative products to protect forests and peatlands in Kab. Siak.
	Deforestation-free	WRI	Monitoring deforestation in Siak and Aceh Tamiang District.
	Deforestation-free	IDH, WRI, FKL, KPH3	Monitoring land clearing systems in Aceh Tamiang District.
	Deforestation-free	WRI	Encouraging several districts to comply with EUDR regulations, including deforestation-free, legality, and traceability. Strengthening the capacity of the Department of Plantations in several regions to manage spatial data and databases effectively.
	Deforestation-free	LTKL	Assisting Kab. Bone Bolango in allocating special financial assistance funds in several villages to protect the forest zone.
	Deforestation-free	Winrock	Managing sustainable peatland, paludiculture to preserve peatland areas, in collaboration with the Peat Restoration Agency (BRG) in several working areas.
	Deforestation-free	GIZ	Conducting assessments and integrating High Carbon Stock (HCS) and High Carbon Value (HCV) values into spatial planning in Kapuas Hulu District.
	Deforestation-free	Traction Energy Asia	Assisting in improving the quality of regional planning, including the preparation of sustainable Medium-Term Regional Development Plans (RPJMD) in Bone Bolango District.
	Legality	LTKL	Facilitating the preparation of Sustainable Oil Palm Regional Action Plans (RAD-KSB) in Sintang, Sanggau, Siak, Musi Banyuasin, and Aceh Tamiang.
	Deforestation-free	LTKL	Assisting in the formulation of the Siak Green Policy.
	Deforestation-free	LTKL	Encouraging the commitment to Sustainable Districts based on the Sustainable Jurisdiction Indicators applied in Kab. Aceh Tamiang, Sanggau, Siak, Kapuas Hulu, and Sigi.

	Deforestation-free	CSF	Facilitating the preparation of Green Budget Tagging in Kab. Kapuas Hulu.
	Deforestation-free	KARSA	Assisting in the formulation of the Sigi Green Regional Regulation.
	Deforestation-free	TKSSH, Sedagho Siak Coalition, KPSSH	Supporting the implementation of the Siak Green District Regulation.
Company	Legality	CORE, Daemeter, Proforest	Strengthening business sector involvement through Landscape Programs in Siak and Pelalawan Regencies.
	Legality	Supernova	Assisting companies in improving plantation governance and incentive calculations.
	Legality	GIZ	Encouraging the commitment of Oil palm Mills in Kabupaten Sanggau.
	Legality	FORTASBI, Solidaridad, RA, WWF	Promoting the acceleration of ISPO and RSPO implementation in Kabupaten Kapuas Hulu.
	Legality	Supernova	Providing funding to facilitate legal practices and ISPO certification for several oil palm companies.
	Traceability	FKL, LTKL, WRI	Strengthening the readiness of businesses in the Sustainable Supply Chain in Kab. Aceh Tamiang and Sanggau.
	Traceability	Proforest	Facilitating companies in achieving fair transition so that independent farmers are also prepared as part of the supply chain.
	Traceability	CDP	Assisting in the creation of corporate questionnaires to enhance traceability in several regions.

Source: FGD with districts participating in the Sustainable District Association

### *Support for Independent Farmers*

Support from local civil society organizations to independent farmers mainly focuses on meeting the legality requirements, which can also support traceability. Assisting farmers in adopting good agricultural practices can also encourage compliance with deforestation-free aspects. This aligns with the fact that many of Indonesia's plantation governance issues are still centered on the limited capacity of independent oil palm farmers and the complexity of land conflicts between communities and companies. For example, in the Kapuas Hulu District, many community plantations overlap with company HGU permits, making it impossible to obtain STD-B certificates. Land conflicts significantly affect the acquisition of legality proof, which is a requirement under EUDR regulations. Therefore, support measures need to be expanded to address these aspects to provide holistic and sustainable support for smallholders.

### *Support for Local Governments*

Support for district governments from various local NGOs has been distributed across the three criteria in the EUDR regulations. Some support takes the form of facilitating the

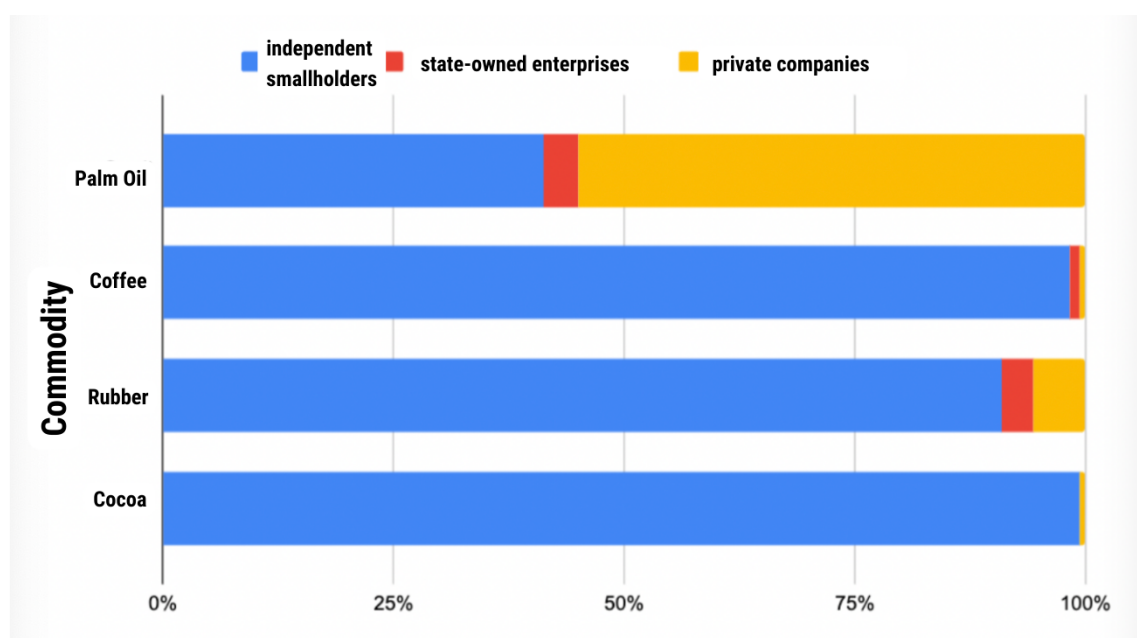
drafting and approval of regulations and policies that support the implementation of EUDR regulations at the local level. Multiparty collaboration initiatives to support district governments, especially in the drafting of regulations and policies, are crucial steps in promoting legality, traceability, and deforestation prevention at the local level. Hence, the focus and challenges ahead lie in the implementation level and replicating it in other regions.

The various forms of support from civil society organizations mentioned above are essential assets to support the readiness of actors in the face of EUDR implementation. A variety of technical support, funding, and facilitation of the needs of actors in the regions not only build a solid foundation for implementing legality, traceability, and deforestation-free criteria but also enhance the awareness and capacity of actors to continue complying with EUDR regulations. Actors are not only provided with physical and financial support but are also empowered to understand and follow the processes according to EUDR regulations. Nevertheless, there are some notes and challenges ahead for such collaborations such as the non-uniformity of rule implementation in the regions, land conflict complexity, and the need for expanded support to ensure that existing policies cover all the criteria in EUDR regulations.

## F. The Urgency to Support Smallholders

The previous sections have discussed the regulatory and policy framework that can serve as a basic foundation to assist plantation businesses and growers in facing the implementation of EUDR. Smallholders face their own challenges and thus require special support from various stakeholders. On one hand, smallholders play a strategic role in ensuring a sustainable commodity supply. They manage a significant amount of land (Figure 34). On the other hand, smallholders encounter numerous issues. For instance, smallholder oil palm farmers have contributed more than 34% of Indonesia's total oil palm production. Yet, in the national oil palm industry dominated by large private corporations,<sup>91</sup> smallholders have limited bargaining power and resources to fully engage in the supply chain.<sup>92</sup> Consequently, smallholders are often forced to sell their produce at prices below the established rates.<sup>93</sup>

Figure 34. Land Ownership Status for Oil Palm, Coffee, Rubber, and Cocoa in 2021



Source: Ministry of Agriculture, 2023

### Challenges in meeting legal and deforestation-free requirements

The fundamental barrier for smallholders to meet legal and deforestation-free requirements of EUDR is land overlap. Smallholder farmers' land often overlaps with both the forest zone and concessions owned by companies. In the context of land overlap with the forest zone, oil palm farmers are at a higher risk compared to rubber, cocoa, and coffee farmers. There

<sup>91</sup> Pirard, R. Et All (2020) Corporate ownership and dominance of Indonesia's oil palm supply chains.

<sup>92</sup> Suharyadi, A., Iswhara, M. A., & Nurshadrina, D. S. (n.d.). *Regulasi Deforestasi Uni Eropa Menyulitkan Petani Kecil Indonesia*. SMERU. <https://smeru.or.id/id/article-id/regulasi-deforestasi-uni-eropa-menyulitkan-petani-kecil-indonesia>

<sup>93</sup> *Ibid.*



are still approximately 3.1 million hectares of oil palm plantations within forest areas. From purely spatial observations, 50.1% of these plantations show small farming patterns. However, only 242 thousand hectares (7.7%) are indicated to be smallholders' plantations while the rest is registered under palm oil company permits.<sup>94</sup> In contrast, rubber, cocoa, and coffee farmers' lands are not indicated to overlap with the forest zone. This is reasonable because, in Indonesian regulations, these three commodities are classified as agroforestry crops that can be located within the forest zone, while oil palm is excluded.

Similarly, land overlap with company permits also hinders smallholder farmers from obtaining legality. Oil palm and rubber farmers are at high risk in this regard. This is due to around 1.17 million hectares of smallholder oil palm plantations overlapping with company concession permits.<sup>95</sup> Around 1 million hectares of smallholder rubber plantations are also overlapping with oil and gas concession permits.<sup>96</sup> On the other hand, cocoa and coffee plantations are not identified to have any overlap with permits or concessions.

The consequences of land overlap are complex for smallholder farmers. With land overlap, smallholder farmers cannot prove their land rights or the right to manage their land. Consequently, they cannot meet the legal requirements required by EUDR, which require proof of these rights. The same applies to smallholder farmers whose land is located inside the forest zone, as they have a high vulnerability to deforestation. Therefore, meeting the deforestation-free prerequisites of EUDR becomes challenging. Moreover, without legal recognition, smallholder farmers cannot access formal financial capital. Access to capital is crucial for smallholder farmers to improve land productivity through agricultural inputs.<sup>97</sup> Low land productivity results in low incomes,<sup>98</sup> leading to a continued cycle of land clearing as a means of livelihood.

## Challenges in Meeting Traceability Requirements

Long before the traceability requirements were set by EUDR, the Indonesian government had actually established rules containing similar conditions through the implementation of the Certificate of Plantation Business Registration (STD-B).<sup>99</sup> STD-B is applied to record and register plantations with an area of less than 25 hectares. This certificate applies to 137 plantation commodities, including oil palm, rubber, cocoa, and coffee. STD-B contains various information related to landowner details, plantation data, including the location/coordinates of the plantation, and production aspects.<sup>100</sup> Ownership of STD-B is

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<sup>94</sup> Spatial Analysis by MADANI Berkelanjutan (2024).

<sup>95</sup> *Ibid*

<sup>96</sup> Op.Cit

<sup>97</sup> Ronkhorst, E., et. al.. CIFOR (2018). Praktik dan inovasi permodalan petani sawit di Malaysia dan Indonesia

<sup>98</sup> Hidayatullah, T. (2023). Analisis Empiris Produksi Kelapa Sawit Terhadap Tingkat Kesejahteraan Petani. *Jurnal Budget: Isu dan Masalah Keuangan Negara*, 8(1), 156-175.

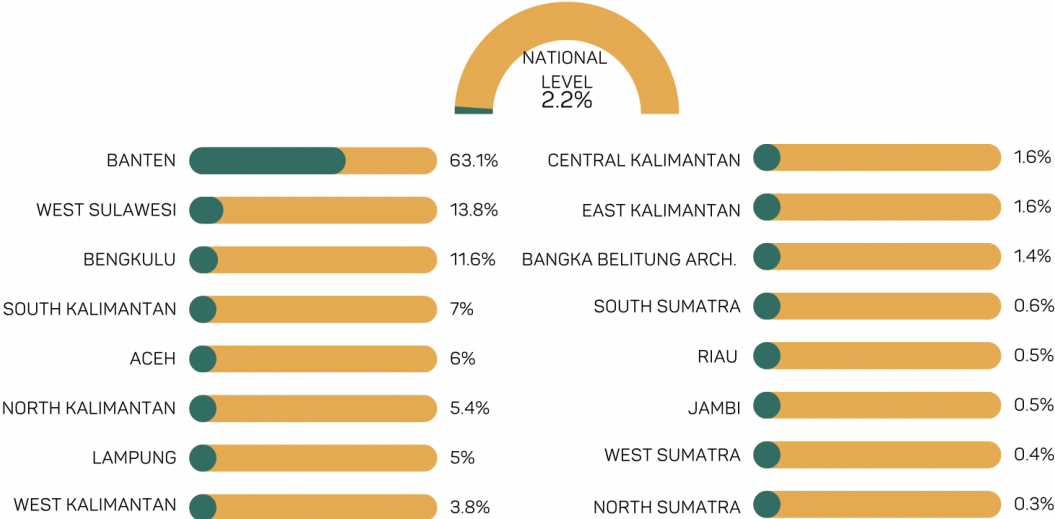
<sup>99</sup> Minister of Agriculture Regulation of the Republic of Indonesia Number 98/permentan/ot.140/9/2013 concerning Guidelines for Plantation Business Licensing.

<sup>100</sup> *Pedoman Penerbitan STDB*. (2019, Juli 25). SIAR. <https://siar.or.id/2019/07/25/pedoman-penerbitan-std-b/>

also a mandatory condition for independent oil palm plantations in the implementation of ISPO certification. Moreover, the Indonesian government already has the Sustainable Plantation Information and Performance Monitoring System (SIPKEBUN) and E-STDB to strengthen the plantation commodity database and information needed in the traceability system, especially for oil palm.

The issue lies in the implementation. This is reflected in the low issuance of STD-B certificates nationwide. As of 2023, only 2.2 percent of smallholder land has been registered and identified for traceability (Figure 35). This means that 97.8 percent of smallholder oil palm land remains unregistered and untraceable. This is also the case with the implementation of ISPO certification, which has been in place since 2011, where only 0.2 percent of total smallholder oil palm land has ISPO certification.<sup>101</sup> Furthermore, the focus on issuing STD-B certificates for oil palm commodities has made it difficult to identify progress for other commodities.

Figure 35. Percentage of STD-B Issuance Realization for Smallholder Oil Palm Plantations in 2023



Source: Directorate General of Plantation, Ministry of Agriculture 2024 (Processed by MADANI)

Another challenge in issuing STD-B for smallholder farmers in various regions is bureaucratic errors and corrupt practices. In some areas, STD-B is misunderstood as a business permit when, in fact, it is not a licensing mechanism but a government service for smallholder farmers. This bureaucratic confusion leads to STD-B issuing authority placed in the wrong agencies. For example, in West Tanjung Jabung District in Jambi and East Kotawaringin District in Central Kalimantan, the issuance of this document was initially placed under the investment and capital investment agency. This results in a longer and more complicated administrative process for smallholder farmers, as they are categorized as business permits and must go through the Online Single Submission (OSS) System. Furthermore, when categorized as a business permit, smallholder farmers are not enthusiastic about obtaining

<sup>101</sup> Redaksi InfoSAWIT. (2023, Oktober 15). Baru 0,2 Persen Petani Sawit Penerima Sertifikat ISPO. *InfoSAWIT*.

STD-B because they envision the amount of taxes they would have to pay.

Additionally, in several provinces, the Department of Plantation requests payment from farmers during the STD-B application process, which should be free of charge. For instance, officials in the Department of Plantation in Rokan Hulu District, Riau Province, collected IDR 50,000-100,000 per farmer and required them to pay property taxes before processing their documents.<sup>102</sup> However, the issuance of STD-B should not incur any fees, as all related costs are covered by the government. These practices are common in oil palm-producing regions that supply large companies, making it more difficult for smallholder farmers, who typically have limited resources, to obtain legal documents. Furthermore, the provincial Department of Plantation plays a strategic role in accelerating the issuance of STD-B, including inspecting and issuing the necessary legal documents. The relevant ministries should address corruption issues in these departments to improve the adoption rates of both ISPO and EUDR.

## The urgency to support smallholders

With the complexity of land overlap and under-achievement of STD-B, the consequence is a high likelihood of high-risk products in terms of legality and traceability. The EU has provided opportunities to support smallholders' readiness through a partnership. Improving data and information on smallholder plantations through mapping and data collection (by name, by address, by map) is a highly strategic short-term policy step. In the table below, the Author attempts to calculate the cost to map and collect data for smallholder farmers to address land overlap issues and expedite STD-B issuance.

Figure 36. Cost Calculation per Hectare for Mapping and Collecting Data on Smallholder Plantations

ACTIVITY	Unit Cost		Volume		Cost (Rp)
<b>TABULAR DATA SETUP</b>					
Socialization and Training for Data Collection - Mapping	5,000,000	Rp/Package	1	Package	5,000,000
Land Ownership Data Collection in the Village	30,000	Rp/Questionnaire	400	Questionnaire	12,000,000
Input of Village Data Collection Results	10,000	Rp/Questionnaire	400	Questionnaire	4,000,000
Recapitulation of Data Collection Results at the District Level	100,000	Rp/HOK	5	HOK	500,000
Office Stationery	3,000,000	Rp/Package	1	Package	3,000,000

<sup>102</sup> Pareira, S. P.. Center for Indonesian Policy Studies (2023). Mencapai Keterlacakan Minyak Sawit Indonesia yang Menyeluruh melalui Harmonisasi ISPO-RSPO.Hlm 25.

BASIC SPATIAL DATA SETUP					
Spatial Data Acquisition with UAV and Village Data Processing	50,000	Rp/Hectare	1200	Hectare	60,000,000
DATA INTEGRATION					
FGD on Delineation of Village Areas	100,000	Rp/Person	200	Person	20,000,000
GIS Operator and Village Field Assistant (Expert Personnel)	250,000	Rp/ HOK	50	HOK	12,500,000
<b>TOTAL</b>					Rp 117,000,000
<b>UNIT*</b>					Rp 97,500 /Hectare

*\*This unit cost can only be used for data acquisition activities above 1000 hectares*

Commodity	Total Area of Independent Smallholders in 2021(Ha)	Mapping Cost (Rp/Ha)	Total Cost (Rp)	Total Cost (EUR)
Oil palm	6,029,749	97,500	587,900,527,500	35,274,032
Coffee	1,257,789	97,500	122,634,427,500	7,358,066
Rubber	3,433,274	97,500	334,744,215,000	20,084,653
Cocoa	1,451,504	97,500	141,521,640,000	8,491,298
<b>GRAND TOTAL</b>			<b>1,186,800,810,000</b>	<b>71,208,049</b>

## G. Recommendations for Priority Areas for Governance

### Improvement through Inclusive Partnership

EUDR includes mechanisms for partnership and cooperation between the European Commission, EU member states, and producer countries to implement EUDR. These partnerships can take the form of structured dialogues, existing agreements, or joint roadmaps. EUDR emphasizes that these partnerships will be based on transparency, inclusivity, and the participation of all stakeholders.<sup>103</sup>

Good governance elements include transparency, participation, accountability, and justice or equity. Areas for governance improvement that can be addressed through the Indonesia-EU partnership to enhance Indonesia's readiness for EUDR implementation could include strengthening the regulatory framework to promote deforestation-free commodity production, accelerating legality, especially for smallholders, developing traceability systems, strengthening data, transparency, and licensing accountability, and enhancing participation and multi-stakeholder collaboration.

#### Priority Area 1: Strengthening the Regulatory Framework to Promote Deforestation-Free Commodity Production

Policy measures that can be supported to promote deforestation-free commodity production could include:

- 1) Strengthening ISPO and SVLK by adding deforestation cut-off dates;
- 2) Strengthening INPRES 5/2019 on the cessation of new permits in primary forests and peatlands to include the 9.7 million hectares of unprotected natural forests and expediting the integration of PIPPIB-protected areas into national and regional spatial plans;
- 3) Identifying and integrating High Conservation Value Areas, High Carbon Stock Areas, and other Essential Ecosystem Areas into regional spatial plans to protect natural forests in areas outside the forest zone and in existing permit areas;
- 4) Accelerating the recognition of indigenous communities and integrating indigenous areas into subnational spatial plans;
- 5) Conducting Environmental Carrying Capacity and Environmental Support Capacity studies to determine the upper limit of oil palm plantations at the subnational level and re-establishing the oil palm permit moratorium;

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<sup>103</sup> Morettini, M. (2023). *EU Deforestation Regulation – Cooperation with third countries*. EU External Action Services. Presentation June 6, 2023.

## Priority Area 2: Accelerating Legal Compliance and Traceability \_\_\_\_\_

Priority areas to promote legality and traceability could include:

- 1) Strengthening ISPO by including protection of human rights protected by international law;
- 2) Resolving land overlaps between smallholders' plantations, business permits, and the forest zone through mapping and data collection of smallholders as a short-term strategic measure;
- 3) Enhancing regional institutional capacity in issuing STD-B;
- 4) Enforcing plantation company obligations to partner with smallholders with the formation and support of farmer institutions as a short-term strategic step;
- 5) Encouraging regulations that promote partnerships between companies, intermediaries, and smallholder farmers to ensure the involvement of all supply chain actors in traceability.

## Priority Area 3: Strengthening Data, Transparency, and Accountability in Permitting \_\_\_\_\_

RAN-KSB and RAD-KSB have incorporated elements of strengthening plantation data. However, the mere availability of data does not guarantee openness or transparency. Transparency of forestry permits and Plantation Business Permits is needed to enable effective public oversight, including preventing corruption and monitoring deforestation in commodities affected by EUDR. According to the Corruption Eradication Commission's study on the Oil Plm Commodity Governance in 2016, corruption risks arise from poor licensing mechanisms, fragmented authority and licensing processes, and lack of transparency in licensing.<sup>104</sup> Therefore, the Indonesia-EU partnership should focus on strengthening RAN-KSB by increasing transparency and accountability in licensing, including facilitating the revision of the Minister of Agriculture Regulation No. 32/2011 to classify plantation business permits and plantation plans as open information for the public.

## Priority Area 4: Strengthening Participation and Multi-Stakeholder Collaboration \_\_\_\_\_

There are already many initiatives at the subnational level that can serve as learning experiences for civil society participation and multi-stakeholder collaboration, such as initiatives in the districts participating in the Sustainable Districts Association. Indonesia-EU partnership can capitalize on this existing foundation. Inclusivity in participation needs to be enhanced by involving civil society networks, smallholders, as well as indigenous and local communities at the national and regional levels, involving civil society organizations from various spectra. This can be achieved by creating an inclusive Multi-Stakeholder

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<sup>104</sup> Corruption Eradication Commission.i. (2016). *Kajian Sistem Pengelolaan Komoditas Kelapa Sawit*. KPK.

Communication Forum at the national, provincial, and district levels, which can serve as a dialogue forum and advisory council in the partnership between the Indonesian government and the EU. This forum can be built from existing forums such as the Civil Society Communication Forum, the Indonesian Sustainable Oil Palm Forum, the National Forestry Council, and others, following inclusive multi-stakeholder engagement procedures and guidelines.

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## Appendix: Comparison of Forest, Deforestation, and Forest Degradation Definitions in Indonesian Regulations and EUDR

	Indonesia	EUDR
Forest Definition	Forest is an ecosystem unit in the form of a land area containing living natural resources dominated by trees in their natural environment, which cannot be separated from one another (Forestry Law). <sup>105</sup>	
	<p>A forest is defined as an area of land that extends over 0.25 hectares with trees that reach a height of more than 5 meters when mature and a canopy cover of more than 30%, or trees that can attain those thresholds <i>in situ</i> (MoFor, 2004).<sup>106</sup></p> <p>Forest is an area of land that extends over 6.25 hectares with trees that reach a height of more than 5 meters when mature and a canopy cover of more than 30%, or trees that can attain those thresholds <i>in situ</i> (SNI 8033:2014 and SNI 7645:2010).<sup>107</sup></p>	A forest is an area of land that extends over 0.5 hectares with trees that reach a height of more than 5 meters and a canopy cover of more than 10%, or trees that can attain those thresholds <i>in situ</i> , excluding land primarily used for agricultural or urban purposes. <sup>108</sup>

<sup>105</sup> Article 1, paragraph 2 of Law No. 41 of 1999 on Forestry.

<sup>106</sup> Indonesian National Forest Reference Level for Deforestation, Forest Degradation, and Enhancement of Forest Carbon Stock submitted to UNFCCC (2022).

<sup>107</sup> *Ibid.*

<sup>108</sup> Article 2 para 4 EU Deforestation Regulation.

<p><b>Forest Categories</b></p>	<p>Indonesia classifies forest land into primary forests and secondary forests. Furthermore, Indonesia categorizes forest land into 7 categories, which are:<sup>109</sup></p> <ol style="list-style-type: none"> <li>1. Primary Dryland Forest: Forests growing in dryland habitats, including lowlands, hills, mountains, or tropical highland forests, which are still intact and have not undergone human intervention or logging.</li> <li>2. Secondary Dryland Forest: Forests growing in dryland habitats, including lowlands, hills, mountains, or tropical highland forests, that have been subjected to human intervention or show signs of logging (e.g., visible traces and patches of logging).</li> <li>3. Primary Swamp Forest: Forests growing and developing in wetland habitats, such as swamps, including brackish and peat swamps. Wetland areas have unique characteristics such as low-lying coastal areas, low elevation, tidal influence in coastal regions, and areas influenced by seasons that are distant from the coast. Some areas may have peat cover and have not undergone human intervention.</li> <li>4. Secondary Swamp Forest: Forests growing and developing in wetland habitats, such as swamps, including brackish and peat swamps. Wetland areas have unique characteristics such as low-lying coastal areas, low elevation, tidal influence in coastal regions, and areas influenced by seasons that are distant from the coast. Some areas may have peat cover and have been subjected to human intervention.</li> <li>5. Primary Mangrove Forest: Forests that grow in wetland habitat dominated by mangroves, which are still intact and have not undergone human intervention.</li> <li>6. Secondary Mangrove Forest: Forests that grow in wetland habitat dominated by mangroves, which are still intact and that have been subjected to human intervention</li> <li>7. Plantation Forest: Forest cover, which is the result of human cultivation, includes all plantation forests, both plantation forests located in the timber plantation area and planted forests that are the result of reforestation located inside and outside the forest zone, which can be seen from satellite images as having a regular planting pattern in flat areas, while in hilly areas, the satellite images show a different color from the surrounding environment.</li> </ol>	<p>EUDR classifies forests into several types:</p> <ol style="list-style-type: none"> <li>1. Primary forest: Naturally regenerated forest of native tree species, where there are no clearly visible indications of human activities and the ecological processes are not significantly disturbed;</li> <li>2. Naturally Regenerating Forest: Forest predominantly composed of trees established through natural regeneration; it includes any of the following: (a) forests for which it is not possible to distinguish whether planted or naturally regenerated; (b) forests with a mix of naturally regenerated native tree species and planted or seeded trees, and where the naturally regenerated trees are expected to constitute the major part of the growing stock at stand maturity; (c) coppice from trees originally established through natural regeneration; (d) naturally regenerated trees of introduced species;</li> <li>3. Planted forest: Forest predominantly composed of trees established through planting and/or deliberate seeding, provided that the planted or seeded trees are expected to constitute more than 50 % of the growing stock at maturity; it includes coppice from trees that were originally planted or seeded;</li> <li>4. Plantation forest: Planted Forest that is intensively managed and meets, at planting and stand maturity, all the following criteria: one or two species, even age class, and regular spacing; it includes short rotation plantations for wood, fibre and energy, and excludes forests planted for protection or ecosystem restoration, as well as forests established through planting or seeding, which at stand maturity resemble or will resemble naturally regenerating forests;</li> </ol>
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<sup>109</sup> Retrieved from <https://www.big.go.id/assets/download/sni/SNI/15.%20SNI%207645-2010%20Klasifikasi%20penutup%20lahan.pdf>.



<b>Deforestation</b>	<p>Permanent change of forested areas into non-forested areas as a result of human activities.<sup>110</sup></p> <p>Gross deforestation: Change in land cover condition from the forest land cover category to the non-forest land cover category, without considering any reforestation that may occur.<sup>111</sup></p> <p>Net deforestation: Permanent reduction in forest cover, taking into account regrowth and/or afforestation<sup>112</sup></p>	<p>The conversion of forest to agricultural use, whether human-induced or not.<sup>113</sup></p>
<b>Forest Degradation</b>	<p>Change from primary forest to secondary forest.</p>	<p>Structural change in forest cover in the form of conversion from primary forest or naturally regenerated forest into plantation forest or other woody forest, or primary forest into planted forest.</p>

<sup>110</sup>Ministry of Environment and Forestry. 2020. Status Hutan dan Kehutanan Indonesia 2020.

<sup>111</sup> Buku Deforestasi Indonesia, KLHK.

<sup>112</sup> Buku Deforestasi Indonesia, KLHK.

<sup>113</sup> Article 2 para (3) of EU Deforestation Regulation.



Manusia dan Alam untuk Indonesia Berkelanjutan (MADANI Berkelanjutan) is a non-profit foundation moving to address climate crisis through research and advocacy. Founded in 2016, MADANI Berkelanjutan strives to bring about equitable and sustainable development, that balances social, economy and ecological aspects. We formulate and promote innovative solutions for the climate crisis by bridging collaborations among many parties. Currently, the work focus of MADANI Berkelanjutan includes the issues of climate and forestry, sustainable commodities, sub-national sustainable development and biofuel.

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