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Forests

Creating Clarity

An analysis of the challenges and opportunities in the new Indonesian Sustainable Palm Oil (ISPO) certification scheme

December 2022





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ACKNOWLEDGMENTS

This report was written and edited by Kaoem Telapak and Environmental Investigation Agency UK. This document has been produced with the financial assistance of the Norwegian Agency for Development Cooperation (NORAD) and the Foreign, Commonwealth and Development Office (FCDO). The contents are the sole responsibility of Kaoem Telapak/EIA



ABOUT KAOEM TELAPAK

Kaoem Telapak (KT) is an environmental non-governmental organisation (NGO) working across forestry, agriculture, fisheries, and the rights of indigenous peoples and local communities. KT is working to strengthen governance in these broad overlapping areas, including monitoring illegal and illicit activities and communicating the findings. In 2016, KT grew out of Telapak, which was originally founded in 1996. KT is a member-based organisation.

ABOUT ENVIRONMENTAL INVESTIGATION AGENCY

The Environmental Investigation Agency (EIA) investigates and campaigns against environmental crime and abuse.

Our undercover investigations expose transnational wildlife crime, with a focus on elephants, pangolins, and tigers, and forest crimes such as illegal logging and deforestation for cash crops like palm oil. We work to safeguard the global marine ecosystem by addressing the threats posed by plastic pollution, bycatch, and commercial exploitation of whales, dolphins, and porpoises. Finally, we reduce the impact of climate change by campaigning to eliminate powerful refrigerant greenhouse gases, exposing related illicit trade, and improving energy efficiency in the cooling sector.

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Front cover:
Land clearing for palm
oil plantation in West
Kalimantan
Photo: ©Kaoem Telapak/EIA

Above:
Pristine peatland swamp in
West Kalimantan.

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Summary

In 2020, acknowledging the need to reform its current system for managing palm oil, the Government of Indonesia ratified new regulations on the Indonesian Sustainable Palm Oil (ISPO) certification scheme, widely known as the ‘new ISPO’.

Since then, Kaoem Telapak and EIA have been monitoring the implementation of the new ISPO system to assess how it is working. The Government of Indonesia states that these regulations are a significant improvement to the ISPO certification scheme and hopes that it will increase the competitiveness of Indonesian palm oil within the global market.

However, there are significant concerns on the effectiveness of the new ISPO system, notably because of vague implementation and a lack of transparency.

Publicly available information on ISPO certification is limited and there is an absence of a dedicated platform to monitor progress. The absence of such information has led to skepticism as to whether the new ISPO can resolve the deep-rooted problems in the palm oil sector in Indonesia.

In addition, these issues are amplified by the newly ratified Job Creation Law (Undang-undang Cipta Kerja, aka UUCK), widely known as the Omnibus Law.

Our research shows that the combination of the Omnibus Law and the lack of transparency in the ISPO system is allowing controversial palm oil plantations to be ISPO-certified. This includes palm oil companies listed by the Indonesian Ministry of Environment and Forestry to have their permits revoked and palm oil plantations previously deemed to be illegal as they were operating in forest areas that have now been legalised by the Omnibus Law.

The reforms made two years ago are favouring palm oil companies and placing indigenous peoples and local communities (IPLCs) at loggerheads with capital-intensive businesses. For example, the palm oil company PT Inti Kebun Sejahtera in West Papua is still ISPO-certified while ignoring the fact that its land cultivation rights permit has seemingly been obtained without the indigenous community's full consent. Getting such consent is a requirement under the new ISPO. Other palm oil companies, such as the PT Duta Palma Group, have been ISPO-certified despite a court case that has levied massive corruption allegations against the Group's owner, Surya Darmadi.

Palm oil is the most efficient oil crop compared to other vegetable oils in terms of land use. The problem with palm oil is not with the commodity itself, but rather with palm oil production practices. Often there are environmental costs, such as deforestation, biodiversity loss, and greenhouse gas emissions, as well as social costs, such as tenurial conflicts and the displacement of the forest-dependent indigenous peoples and local communities.

As the global demand for palm oil constantly increases each year, particularly in the energy sector as a biofuel, the Indonesian Government must act meaningfully to curb the problems in its palm oil sector.

We call on the Government to address those shortcomings through public participation and improvements to the ISPO scheme to leverage its full potential. If such reforms are implemented, it will bring not only economic benefits, but also better environmental and social safeguards.

Above: Pristine rainforest in Papua

Glossary

AML Agri Mutu Lestari	IPLCs Indigenous Peoples and Local Communities
APL Non-Forest Estate/Other Land Use Area (Areal Penggunaan Lain)	IUP Izin Usaha Perkebunan (Plantation Business Permit)
BSI Indonesia The British Standards Institution (BSI) Indonesia	KAN Komisi Akreditasi Nasional (KAN)
BVI Bureau Veritas Indonesia	KLI Kayu Lapis Indonesia
CAA Ciliandri Angky Abadi	KT Kaoem Telapak
CB Certification Body	MHI Mutu Hijau Indonesia
DAG Darmex Agro Group	MISB Mutu Indonesia Strategis Berkelanjutan
DPR Dewan Perwakilan Rakyat (National Parliament)	MMB Mekar Maju Bersama
EIA Environmental Investigation Agency	MoEF Ministry of the Environment and Forestry
EU The European Union	NGO Non governmental organisation
Forest Estate Land designated and enacted as forest by the Ministry of Environment and Forestry	PT Perseroan Terbatas (Limited Company)
FPIC Free, Prior, Informed Consent	P&C Principles and Criterias
GAP Good Agricultural Practice	Perpres Presidential Regulation
GAPKI Gabungan Pengusaha Kelapa Sawit Indonesia (Indonesian Palm Oil Association)	Permentan Agricultural Minister Regulation
GDP Gross Domestic Bruto	SDB Sawit Desa Bersatu
Government Government of Indonesia	SUCOFINDO Superintending Company of Indonesia
FFB Fresh fruit bunches	SGS Indonesia Société Générale de Surveillance (SGS) Indonesia
ha Hectares	SNI Sertifikasi Nasional Indonesia
HGU Hak Guna Usaha (Land Cultivation Rights Permit)	UK The United Kingdom
IKSJ Inti Kebun Sejahtera	USA The United States of America
ISPO Indonesian Sustainable Palm Oil	UUCK Undang-undang Cipta Kerja (Job Creation Law or known as Omnibus Law)



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Introduction

In 2011, Indonesia enacted the ISPO certification scheme, a national mandatory certification system for all palm oil businesses based on domestic regulations.

The regulation was ratified partly due to a public outcry over palm oil business practices, with the Government called on to ensure sustainability on environmental issues¹ and social issues.²

Changes have since been made to the ISPO scheme. In 2016, the Government began an ISPO strengthening process. This was initially a multi-stakeholder process, but it became more exclusive by limiting the organisations and representatives involved and the effectiveness of the process is debatable,³ in the end taking four years to complete.

The ISPO regulation was eventually revised by the Government in 2020 by enacting a new Presidential Regulation (Perpres No. 44/2020) and implementing Ministry of Agriculture Regulation (Permentan No.38/2020), widely known as the new ISPO.

At the same time, the Government issued its controversial Job Creation Law (UUCK), often known as the Omnibus Law, in late 2020, that eased barriers for businesses.⁴

In theory, the Omnibus Law was deemed not legally binding following a Constitutional Court ruling in November 2021.⁵ However, the Government has amended other laws to get around the ruling and keep using the Omnibus Law.⁶

Following the ratification of the Omnibus Law in November 2020, governance in the palm oil sector has changed significantly. The Omnibus Law changed numerous regulations in Indonesia on which the ISPO scheme is based⁷ and is seen to have benefited private companies.⁸ In particular, the Omnibus Law is feared to be a legal basis for more deforestation in Indonesia for three main reasons.

Firstly, it eliminated the obligation to maintain at least 30 per cent of a watershed area or island as forest.⁹ The forest area that must now be maintained will be only regulated by “further Government regulation”.¹⁰

Secondly, the requirement to get national parliament (DPR) approval for the conversion of forest areas where there will be a significant impact was removed. Within the Omnibus Law, getting approval for forest area conversion is now deemed sufficient by only “conducting integrated research”. Details on this “integrated research” will be also regulated by “further Government regulation”.¹¹

Lastly, the Omnibus Law allows palm oil companies to obtain their land rights permit (HGU) within indigenous protected forest areas by removing the exclusive rights of IPLCs to manage forests.¹²

Above: Palm oil plantation in West Kalimantan

Recent market trends

Palm oil is a major contributor to Indonesia’s GDP, with the country having the largest market share globally.

In 2020, palm oil from Indonesia supplied about 52.4 per cent of global needs, equating to \$17.9 billion.¹³ It is predicted that palm oil demand will increase by 1.7 per cent each year until 2050.¹⁴ This increased demand is partly attributable to the global trend for more ‘sustainable energy’,¹⁵ with Indonesia having started to increase its palm oil biofuel production.¹⁶

Despite Indonesia being the largest producer and exporter of palm oil, the Government has not set a minimum guaranteed price across the country for oil palm fresh fruit bunches (FFB), but only produced guidelines. This uncertainty causes the selling price to fluctuate for farmers¹⁷ and prices are set differently in each province.⁸ Palm oil companies, regardless, often do not pay smallholder farmers the standard price.

Such factors drive Indonesian palm oil companies’ priorities and they are often more focused on supplying the global market, which offers higher prices, compared to the domestic market.¹⁸ The result was a scarcity of palm oil for use as a cooking oil¹⁹ throughout the country between late 2021 and early 2022.²⁰

This led to President Joko Widodo suspending Indonesian palm oil exports in April 2022.²¹ The ban was lifted the following month. However, such issues shed a light upon the problems with palm oil governance in Indonesia and the ineffectiveness of the ISPO scheme in addressing such problems.

Meanwhile, consumer markets are moving towards requiring palm oil to be legal and not cause deforestation. In November 2021, the European Union (EU) proposed a new regulation that will require companies which are importing or placing their products on the EU market to ensure the products are free from deforestation and illegalities.²² The new regulation, whose text was agreed in December 2022,²³ will have an impact on Indonesia as a producing country supplying commodities that are included in the regulation, such as palm oil, cocoa, coffee, and timber.

Equally, both the UK and US initiated new regulations in 2021 focused on ensuring legality.²⁴

Indonesia risks losing its competitiveness if it cannot meet the requirements of these new regulations. While the ISPO system should in theory be able to ensure palm oil legality, the lack of transparency and proper implementation to date casts serious doubts on its ability to do so. The new ISPO also needs to be further strengthened to ensure the protection of the environment and local communities’ rights.

Given that ISPO is a mandatory regulation, it has, however, more potential leverage to force the palm oil industry to improve in comparison to other voluntary market-based certification schemes.²⁵

Below: Smallholder collecting palm oil fresh fruit brunches in East Kalimantan



The effectiveness of the new ISPO

The new ISPO has now made it mandatory for smallholders to be ISPO-certified by 2025, whereas ISPO certification has been mandatory for companies since its inception.

However, many plantations remain uncertified. As of October 2022, there were 895 ISPO certificates encompassing 5.1 million hectares (ha).²⁶ This figure covers only 45 per cent of 12.6 million ha of productive lands (land planted with mature oil palm plantations).²⁷ In total the Indonesian Government has estimated palm oil cover at 16.37 million ha,²⁸ while NGOs, such as Sawit Watch, estimate it to be much higher at 22.3 million ha.²⁹ There is, therefore, a long way to go before all plantations are ISPO-certified.

While there have been some improvements made under the new ISPO, such as the adoption of a Principle on transparency, the inclusion of Free, Prior and Informed Consent (FPIC) as a criteria and reference to independent monitors, these are undermined by a lack of implementation.

Ironically, despite a new Principle on transparency, the companies which are ISPO-certified and how the ISPO system’s governance structures are working has become even less transparent. The role of independent monitors is also not clearly set out.

With regards to FPIC being a requirement, it is rarely implemented properly. In addition, the new ISPO scheme still lacks environmental safeguards and the complaint process is used infrequently, partly due to the lack of transparency. All this leads to concerns that the new ISPO is not any more effective.

Sustainability objectives

The ISPO scheme consists of seven Principles for companies and five Principles for smallholders, with the Principles and Criterias (P&C) for smallholders being less complex than the ones for companies.

Table 1: ISPO P&C³⁰

Principle	Description	Applies to	
		Companies	Smallholders
1	Compliance with rules and regulations	yes	yes
2	The use of good agricultural practices (GAP)	yes	yes
3	The management of the environment, natural resources, and biodiversity	yes	yes
4	Responsibilities towards workers’ rights	yes	no
5	Social responsibilities and community economic empowerment	yes	no
6	Application of transparency	yes	yes
7	Improving sustainable business	yes	yes

The new ISPO aims to include sustainability aspects within several of its principles, such as: compliance with rules and regulations (Principle No. 1), the use of GAP (Principle No. 2), and the management of the environment, natural resources and biodiversity (Principle No. 3).

Although the new ISPO's P&Cs have been restructured and strengthened, these changes are still not considered to be strong enough social and environmental safeguards, particularly not to stop the destruction of forests, in part due to changes made by the Omnibus Law.

Under Indonesian Law, palm oil concessions located within the Forest Estate (the land designated as forest by the Government) first have to get permission for the area to be released and become a non-Forest Estate (APL) area before the forest is cleared.

The Omnibus Law now includes provisions that enable palm oil plantations previously deemed illegal because they were operating within the Forest Estate to be legalised and so no longer face criminal sanctions³¹ – and therefore they can be considered compliant with the ISPO standard.

In August 2022, the Government identified about 75 permits from the palm oil and mining sectors which have been operating illegally within the Forest Estate that are to be granted amnesty and legalised as part of the “remedy scheme” under the Omnibus Law. The total area these cover is not clear, although it is estimated that hundreds of thousands of hectares of forest area are to be relinquished.³²

Based on the Government's assessment in 2019, there are an estimated 3.4 million ha of oil palm plantations operating within the Forest Estate.³³ Although Indonesia's latest figures show reductions in its greenhouse gas emissions from land use change, including from avoided deforestation and forest degradation,³⁴ it remains a concern that these areas could legally be released for clearing or could be retrospectively legalised and so become ISPO-certified.

The new ISPO also obliges companies to acknowledge customary land^b where they operate by undertaking consultation and upholding the principle of Free, Prior and Informed Consent (FPIC). In most cases, companies have never done this properly and social conflicts in the palm oil sector remain rampant across the country,³⁵ a situation it is feared will continue under the new ISPO.

Governance

The ISPO is led by the ISPO Committee and supervised by the ISPO Steering Council. The Steering Council is led by the Ministry of Economic Affairs and comprises ministers from relevant sectors and the head of the National Standardisation Body. The Committee is headed by the Minister of Agriculture and consists of representatives from the Government, associations, the private sector, academics and independent monitors, who are directly appointed by the Minister of Economic Affairs.



The ISPO Committee has multiple responsibilities, including setting the ISPO's operational policies, developing and setting the P&C, developing the certification requirements and evaluating the implementation of the ISPO.³⁶ It reports on progress to the ISPO Steering Council. To help with its daily tasks, the Committee established the ISPO Secretariat in 2021, which is larger than the Committee in terms of the number of people.

Yet there is almost no public information available as to how these bodies are operating and their effectiveness. There is potential bias, conflicts of interest and feigned stakeholder participation in the ISPO Committee's

decision-making, which is a significant concern. Furthermore, although the term “independent monitor” is introduced in the new ISPO regulation, there are no details on either the role of independent monitors or the independent monitoring of the system.

The ISPO certification scheme is a third-party certification model, whereby palm oil growers must employ auditors from a third-party certification body (CB) to assess their palm oil production against ISPO's P&C. If they pass, the CB will issue an ISPO certificate which is valid for five years. During this period, annual surveillance audits will be conducted to assess ongoing compliance with the P&C.

To be an auditor, those third-party CBs must be endorsed and accredited by the National Accreditation Committee (KAN). Currently, there are 15 accredited CBs which hold a licence to conduct the ISPO certification process.³⁷

There is, however, an absence of technical provisions as to how the new ISPO P&C should be interpreted, which has led auditors to have multiple different interpretations among themselves. Different interpretations of the P&C subsequently mean that auditors differ on how they measure the compliance against the P&C and so result in various certification outcomes.

Above: Peatland burning in East Kalimantan

Transparency and public participation

Transparency has now become a major issue in the implementation of the new ISPO, despite now being a Principle.

At the time of this report's publication, there is no meaningful public participation in ISPO; its implementation is only communicated to a handful of people. Although the industry states that the number of ISPO-certified companies has reached 895,³⁸ it is difficult for the public to monitor the compliance of those companies due to a lack of information about them. The ISPO scheme currently does not have a website nor publicly available information on the companies it certifies.

Furthermore, the new ISPO has not yet set out clear and specific provisions that require CBs to publish information about their ISPO clients or public summaries of their audit reports. This has been a flaw in ISPO's implementation since its inception, despite this concern having been raised in 2017 by NGOs.³⁹ The new ISPO only requires CBs to report their certification progress to the Ministry of Agriculture.⁴⁰

Currently, out of 15 registered CBs, only 10 have published a list of their ISPO clients on their respective websites. Kaoem Telapak has sent inquiries regarding ISPO-certified companies and the status of their certification to all CBs.

PT Sucofindo and PT AJA Sertifikasi Indonesia – two of the registered CBs – did not respond, while only one certification body (Mutu Hijau Indonesia) fully provided the requested information. Two CBs provided only the list of their ISPO clients and the 10 CBs that already have their clients listed on their websites did not respond.

The refusal to provide information is a non-compliance against SNI ISO/IEC 17065, which is the basis for ISPO certification, under which CBs are required to provide public information when requested.⁴¹

In total, there were only 660 ISPO-certified companies we were able to identify, which is far lower than the 895 companies that are claimed to be ISPO-certified.

Complaint mechanism

Complaints can be submitted by independent monitors, businesses and impacted communities to the CB and corroborated with supporting documents.⁴²

Complaints should be actioned within 20 days of acceptance by the CB, through the formation of a complaint-handling team which should consist of representatives from the CB and experts.

The complainant that is not satisfied with the conclusion of the complaint-handling team can file an appeal to the ISPO committee. The committee should handle the appeal within 20 days through the formation of an appeal committee consists of representatives of ISPO committee and experts.

The complaint mechanism is, however, rarely used by the public due to the lack of information available in the public domain. Furthermore, the ISPO complaint mechanism has not yet ensured impartiality. The complaint-handling team and appeal committee are solely controlled by the CB and ISPO Committee, and therefore, the complainants have no ability to give their consent or approval for the composition of the team.

Below: Palm oil plantation in West Papua



Case study

ISPO-certified companies listed for permit revocation

In January 2022, the issuance of the Decree of the Minister of Environment and Forestry regarding the revocation of forest concession permits was widely reported.⁴³ The decree includes 192 permits given to logging, plantation and mining companies⁴⁴ covering 3.13 million ha,⁴⁵ clustered into three categories namely: **has been revoked** (Annex 1), **to be revoked** (Annex 2) and **to be evaluated** (Annex 3).⁴⁶

Two weeks later, the Government founded a Task Force on Land Use and Investment Management (Satgas Penataan Penggunaan Lahan dan Penataan Investasi) to oversee the decree's progress.⁴⁷

The announcement has been praised by the public. However, it is also debated whether the MoEF has the authority to revoke all these permits. The Forest Estate areas in the permits have already been released and some companies have also gained land cultivation rights permits (HGU) and are therefore no longer under the MoEF's jurisdiction.⁴⁸

Based on formal confirmation received from the MoEF, the companies listed in Annexes 2 and 3 are "declarative" and may change upon further clarification.^c

There will be a "definitive" list of the permits to be revoked, which is being finalised and will be legally binding.⁴⁹

Upon the revocation being announced, and taking into account the progress by the Government, KT and EIA conducted desk-based research to assess its correlation with ISPO certification.

We identified that out of the 123 palm oil companies listed to have their Forest Estate release permits "revoked" by the MoEF, 24 had obtained ISPO certification (see Table 2).

Following this, we conducted internet-based research, using credible news outlets, adjudications, complaint portals, research papers and reports to assess if these 24 ISPO-certified companies had any other potential non-compliances with the ISPO P&C since 2011. (see Table 3) Given the data below, it can be seen that although these companies have been ISPO-certified, they may not be in compliance with the ISPO P&C given that they are listed to have their forest permits revoked and are also identified as potentially having other infringements.

Above: Road inside palm oil plantation in West Papua

Table 2: ISPO certified companies with permits listed in Annex 2*

No	Company name	Region	Cert. body	ISPO cert.	
				Date of issue	Date of expiry
1	PT. Agrowiyana (I)	Jambi	BVI	Sept 20	Sep 25
2	PT. Multi Prima Entakai (I)	West Kalimantan	MISB	unknown	unknown
3	PT. Patiware (d/h Perintis Makmur)	West Kalimantan	AML	unknown	unknown
4	PT. Pinang Witmas Abadi	West Kalimantan	MISB	unknown	unknown
5	PT. Sumatera Jaya Agrolestari	West Kalimantan	Mutu Cert	unknown	unknown
6	PT. Sinar Kencana Inti Perkasa	South Kalimantan	Mutu Cert	unknown	unknown
7	PT. Ketapang Subur Lestari	Central Kalimantan	MHI	12 Oct 21	11 Oct 26
8	PT. Kridatama Lancar	Central Kalimantan	SGS Indonesia	5 Feb 21	04 Feb 26
9	PT. Mulia Sawit Agro Lestari	Central Kalimantan	Mutu Cert	unknown	unknown
10	PT. Musirawas Citraharpindo	Central Kalimantan	MISB	unknown	unknown
11	PT. Nusantara Sawit Persada (I)	Central Kalimantan	MISB	unknown	unknown
12	PT. Nusantara Sawit Persada (II)	Central Kalimantan	MISB	unknown	unknown
13	PT. Persada Bina Nusantara Abadi	Central Kalimantan	BSI Indonesia	unknown	unknown
14	PT. Sawit Multi Utama	Central Kalimantan	SGS Indonesia	12 Aug 20	11 Aug 25
15	PT. Tirta Madu	Central Kalimantan	MHI	in process**	-
16	PT. Uni Primacom	Central Kalimantan	MISB	unknown	unknown
17	PT. Wana Sawit Subur Lestari (I)	Central Kalimantan	MISB	unknown	unknown
18	PT. Berkat Cipta Abadi (II)	Papua	Mutu Cert	unknown	unknown
19	PT. Siringo-Ringo	Papua	Mutu Cert	unknown	unknown
20	PT. Inti Kebun Sejahtera	West Papua	MHI	29 Nov 21	28 Nov 26
21	PT. Putera Manunggal Perkasa	West Papua	Mutu Cert	in process**	-
22	PT. Dharma Wungu Guna	Riau	MISB	unknown	unknown
23	PT. Duta Palma Nusantara (II)	Riau	SGS	27 Jul 18	26 Jul 23
24	PT. Letawa (I); (II)	West Sulawesi	SGS	4 Dec 19	3 Dec 24

* Source: MoEF Decree No.01 SK.01/MENLHK/SETJEN/KUM.1/1/2022, Annex 2.
** Regardless of the stage of the certification process.

Note: If there is no information on the issuance date of the certificate, it is labelled as unknown.

Table 3: Potential infringements against the ISPO P&C

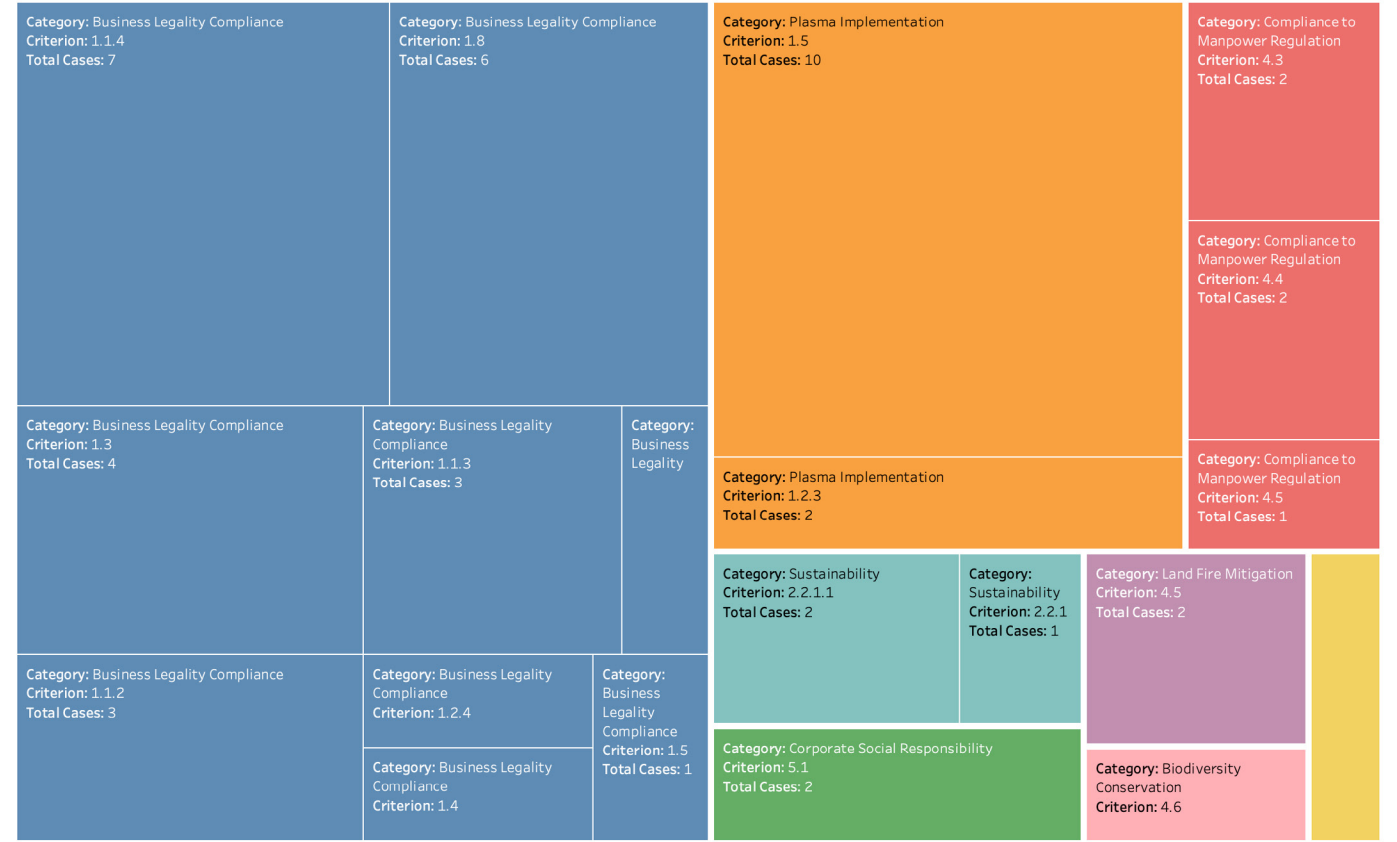
No	Company name	ISPO status	ISPO P&C	Year of pub.	P&C	ISPO P&C version
1	PT. Duta Palma Nusantara (II)	Unknown	1.1.3	2021	Business Legality Compliance ⁵⁰	2020
			1.1.4	2020	Business Legality Compliance ⁵¹	2020
			1.1.4	2021	Business Legality Compliance ⁵²	2020
			1.1.1	2022	Business Legality Compliance ⁵³	2020
			1.1.2	2022	Business Legality Compliance ⁵⁴	2020
			1.1.3	2022	Business Legality Compliance ⁵⁵	2020
			1.1.4	2022	Business Legality Compliance ⁵⁶	2020
			1.2.4	2022	Business Legality Compliance ⁵⁷	2020
2	PT. Letawa (I); (II)	Active	1.8	2017	Business Legality Compliance ⁵⁸	2015
			1.1.4	2021	Business Legality Compliance ⁵⁹	2020
3	PT. Agrowiyana (I)	Active	1.5	2012	Plasma Implementation ⁶⁰	2011
			1.5	2017	Business Legality Compliance ⁶¹	2015
			1.8	2017	Business Legality Compliance ⁶²	2015
4	PT. Inti Kebun Sejahtera	Active	1.1.2	2022	Business Legality Compliance ⁶³	2020
			1.1.2	2022	Business Legality Compliance ⁶⁴	2020
5	PT. Ketapang Subur Lestari	Active	1.8	2017	Business Legality Compliance ⁶⁵	2015
			1.8	2019	Business Legality Compliance ⁶⁶	2015
			1.1.4	2021	Business Legality Compliance ⁶⁷	2020
			1.1.4	2021	Business Legality Compliance ⁶⁸	2020
			1.1.4	2022	Business Legality Compliance ⁶⁹	2020

No	Company name	ISPO status	ISPO P&C	Year of pub.	P&C	ISPO P&C version
6	PT. Kridatama Lancar	Active	5.1	2022	Corporate Social Responsibility (CSR) ⁷⁰	2020
			1.5	2014	Plasma Implementation ⁷¹	2011
			1.2.3	2022	Plasma Implementation ⁷²	2020
			3.2	2020	Hazardous and Toxic Waste ⁷³	2020
7	PT. Sawit Multi Utama	Active	1.3	2015	Business Legality Compliance ⁷⁴	2015
8	PT. Berkat Cipta Abadi (II)	Active	2.2.1	2021	Sustainability ⁷⁵	2020
			2.2.1.1	2019	Sustainability ⁷⁶	2015
			2.2.1.1	2012	Sustainability ⁷⁷	2011
9	PT. Mulia Sawit Agro Lestari	Active	1.8	2017	Business Legality Compliance ⁷⁸	2015
			4.3	2022	Compliance to Manpower Regulation ⁷⁹	2020
10	PT. Multi Prima Entakai (I)	Active	1.5	2012	Plasma Implementation ⁸⁰	2011
			1.5	2013	Plasma Implementation ⁸¹	2011
			1.5	2014	Plasma Implementation ⁸²	2011
			1.5	2015	Plasma Implementation ⁸³	2015
11	PT. Pattiware	Unknown	1.5	2018	Plasma Implementation ⁸⁴	2015
			4.4	2021	Compliance to Manpower Regulation ⁸⁵	2020
			1.3	2017	Business Legality Compliance ⁸⁶	2015
			1.5	2013	Plasma Implementation ⁸⁷	2011
12	PT. Musirawas Citraharpindo	Active	1.3	2013	Business Legality Compliance ⁸⁸	2011
			1.8	2017	Business Legality Compliance ⁸⁹	2015
			1.5	2017	Plasma Implementation ⁹⁰	2015
13	PT. Nusantara Sawit Persada (I) & (II)	Active	4.5	2016	Land Fire Mitigation ⁹¹	2015
			4.5	2017	Land Fire Mitigation ⁹²	2015
14	PT. Persada Bina Nusantara Abadi	Active	4.5	2017	Land Fire Mitigation ⁹²	2015
15	PT. Pinang Witmas Abadi	Active	1.1.3	2021	Business Legality Compliance ⁹³	2020

No	Company name	ISPO status	ISPO P&C	Year of pub.	P&C	ISPO P&C version
16	PT. Siringo-Ringo	Active	1.4	2014	Business Legality Compliance ⁹⁴	2015
17	PT. Tirta Madu	Active	1.3	2015	Business Legality Compliance ⁹⁵	2015
			4.4	2020	Compliance to Manpower Regulation ⁹⁶	2020
			4.5	2021	Compliance to Manpower Regulation ⁹⁷	2020
18	PT. Uni Primacom	Active	1.5	2018	Plasma Implementation ⁹⁸	2015
19	PT. Wana Sawit Subur Lestari (I)	Active	1.2.3	2018	Plasma Implementation ⁹⁹	2015
			4.3	2020	Compliance to Manpower Regulation ¹⁰⁰	2020
			5.1	2020	Corporate Social Responsibility (CSR) ¹⁰¹	2020
			4.6	2018	Biodiversity Conservation ¹⁰²	2015

Note: If a news story or other report had no publication date, it is not included in the analysis

Image 2: Potential infringements against the ISPO P&C



Case study

Duta Palma: The biggest palm oil permit corruption scandal in Indonesia and ISPO certification

On 1 August 2022, Surya Darmadi was declared by the Indonesian Attorney General in Jakarta as suspected of palm oil permit corruption and money laundering on a massive scale. He reportedly paid bribes of about Rp3 trillion (c. \$20 million) to former governor of Riau province Annas Maamun to convert 35,095 ha of Forest Estate area to non-Forest Estate (APL) for oil palm plantations in September 2014.¹⁰³ The deal legalised his illegal palm oil plantations and is estimated to have caused the State a loss of about Rp86.5 trillion.¹⁰⁴

Surya Darmadi is the owner of the Darmex Agro Group (DAG)/PT Duta Palma Group, which was established in 1994 in Jakarta and focuses on palm oil plantations and

processing. His palm oil business is spread across Riau, Jambi and West Kalimantan provinces.

In Riau – its biggest plantation business – he managed plantation business through subsidiary companies, namely: PT Duta Palma Nusantara, PT Cerenti Subur, PT Wana Jingga Timur, PT Kencana Amal Tani, PT Johan Sentosa, PT Eluan Maskota, and PT Taluk Kuantan Perkasa¹⁰⁵, PT Banyu Bening Utama, PT Seberida Subur and PT Palma Satu.¹⁰⁶ Many of these companies have been ISPO-certified (see Table 3). Despite this, the ISPO Committee has done nothing in response to this case.

Right: Forest in West Papua

Table 4: Darmex Agro Group / PT Duta Palma Group Subsidiaries in Riau

No	Company name	Location	Business sector	PO Cert.	Date of issuance	Date of expiry	CB	ISPO status
1	PT Duta Palma Nusantara	Benai, Riau	Plantation & Mill	ISPO	27 Jul 18	26 Jul 23	SGS	No longer client ¹⁰⁷
2	PT Cerenti Subur	Cerenti, Riau	Plantation & Mill	ISPO	30 Nov 17	29 Nov 22	SGS	Unknown
3	PT Wana Jingga Timur	Baserah, Riau	Plantation & Mill	ISPO	06 Dec 16	05 Dec 21	SGS	Unknown*
4	PT Kencana Amal Tani	Siberida, Riau	Plantation & Mill	ISPO	30 Nov 17	29 Nov 22	SGS	Unknown*
5	PT Johan Sentosa	Bangkinang, Riau	Plantation & Mill	ISPO	19 Jul 16	18 Jul 21	SGS	Unknown*
6	PT Eluan Maskota	Kota Tengah, Riau	Plantation & Mill	ISPO	19 Jul 16	18 Jul 21	SGS	Unknown*
7	PT Taluk Kuantan Perkasa	Dumai, Riau	Mill	Unknown				
8	PT Banyu Bening Utama	Indragiri Hulu, Riau	Plantation & Mill	ISPO	05 Dec 18	04 Dec 23	SGS	Active
9	PT Seberida Subur	Indragiri Hulu, Riau	Plantation & Mill	Unknown				
10	PT Palma Satu	Indragiri Hulu, Riau	Plantation & Mill	Unknown				

*Based on the SGS ISPO-Client List as of May 2022, these companies are still listed as active clients of SGS Indonesia, despite the expiration date being overdue. Available at <https://www.sgs.com/en-id/services/indonesian-sustainable-palm-oil-ispo-certification>



Case study

FPIC failures of an ISPO-certified company

Company: PT Inti Kebun Sejahtera (PT IKSJ), a subsidiary of Ciliandry Angky Abadi (CAA)
Certification Body: PT Mutu Hijau Indonesia (MHI)

PT IKSJ is a company operating in Sorong District, West Papua Province. In total, PT IKSJ has been granted about 38,300 ha¹⁰⁸ of land for oil palm plantations in an area where the Moi tribe lives.

PT IKSJ was previously a subsidiary of Kayu Lapis Indonesia (KLI). KLI and its subsidiaries have had numerous allegations levied against them, ranging from illegal logging¹⁰⁹ to labour issues,¹¹⁰ among others. In 2020, KLI sold both PT IKSJ and the neighbouring palm oil concession PT Inti Kebun Sawit (IKS) to Ciliandry Angky Abadi (CAA),¹¹¹ although this change of ownership was not reported to the authorities as required.

Despite such issues and the overlap with the Moi tribe area, PT IKJS has been ISPO-certified since 29 November 2021.

ISPO complaint

In March 2022, KT and EIA conducted monitoring in Sorong, West Papua and found that the company was clearing areas without a land rights permit (HGU). According to the Supreme Court, an oil palm plantation can only clear land once it has both a plantation permit (IUP) and HGU,¹¹² so this is classed as illegal clearance.

In addition, it was found the company had not properly implemented the plasma scheme – under which companies are required to allocate land for palm oil to smallholders – as per its agreement.¹¹³ It was also noted that in January 2022, PT IKSJ was one of the companies listed to have its forest permit revoked by the MoEF.¹¹⁴

Following this, in July KT submitted a complaint to the certification body PT Mutu Hijau Indonesia (MHI) to see how the ISPO complaint mechanism would respond to these findings.

A week after the complaint submission, PT. MHI established a Dispute Resolution Team to assess and analyse the complaint. This team comprised of two CB representatives and two expert representatives (from GAPKI – the Indonesian Palm Oil Association – and MoEF). KT was not consulted on the appointment of the dispute resolution team.

The team concluded that:

1. it acknowledged PT IKSJ had conducted land-clearing outside the HGU permit area. However, it confirmed this has taken place inside the Plantation Business Permit (IUP) area and therefore no criminal offence has taken place; rather, it is deemed an administrative one. It was stated that this has previously been remedied by PT IKSJ providing compensation



Above: Participatory mapping with Kutumun Clan

to the Klagumut clan, Titus Sawat clan and Sakarias Kutumun clan. The total area acquired and the compensation paid were 286.4 ha for Rp5,728,000, 3,632.2 ha (nominal compensation was not stated) and 237.39 ha for Rp11,86,500. The company is currently in the process of submitting an application for the HGU permit for this land

2. the implementation of the plasma scheme has been stipulated under Sorong Major Decree No.525/871 on 14 July 2014. The total plasma scheme consists of 912 households covering about 3,500 ha. The plasma scheme by the company has been mandated to the Serba Usaha Cooperative, which works in two branches: Sawit Desa Bersatu (SDB) and Mekar Maju Bersama (MMB). Both SDB and MMB have obtained the HGU permits on 12 December 2014, totalling about 1,166 ha and 850 ha respectively. The minimum cooperation time for the plasma scheme is 25 years, with financial assistance for the plasma operation to be provided by PT IKSJ.
3. PT IKSJ has obtained the forest relinquishment permit from the MoEF totaling about 19,655 ha, hence the company was not found to be converting the Forest Estate.

Field visit

Following the findings of the complaint-handling team, we organised a discussion by inviting locals and other NGOs to cross-check the information and followed up with a field visit in September 2022 to validate it.

The field visit took place in Katapop Pantai, where the Sawat clan lives, and in Klawiri village to meet the Kutumun clan. The Klagumut clan refused to engage. These clans are all part of the Moi tribe.

The Kutumun clan testified that in the 2010s, a representative from the company asked the clans to show them their territory; at that time, the communities understood it to be about the potential area for the plasma scheme.

One of the elders of the clan stressed that at the time of signing a statement to waive their customary land rights for the plasma scheme in 2021, a representative of the company only conducted a brief meeting and the community did not have a chance to assess the agreement. The community was also not given a copy of the agreement.

The community stated that it only agreed to 50 ha for plasma. However, it is stated differently in the statement which lists that 237.39 ha of customary land rights were released for plasma.¹¹⁵

In early 2022, the clan began to notice an alarmingly large area of land being cleared and since then has been demanding that PT IKSJ remap the area. So far, about 167 ha have been cleared and planted for plasma. Recently, the Kutumun clan has spread out from the main village to protect its remaining forest from being cleared by PT IKSJ. The company responded by sending a staff

member to conduct participatory mapping, but the map clarifying the plasma area has yet to be shared with the community.

Apart from the discrepancy in the area agreed for the plasma scheme, it emerged that the Kutumun clan's entire territory has been included in the company's land rights permit (HGU) area, even though the community states it never agreed to release this land to the company.¹¹⁶

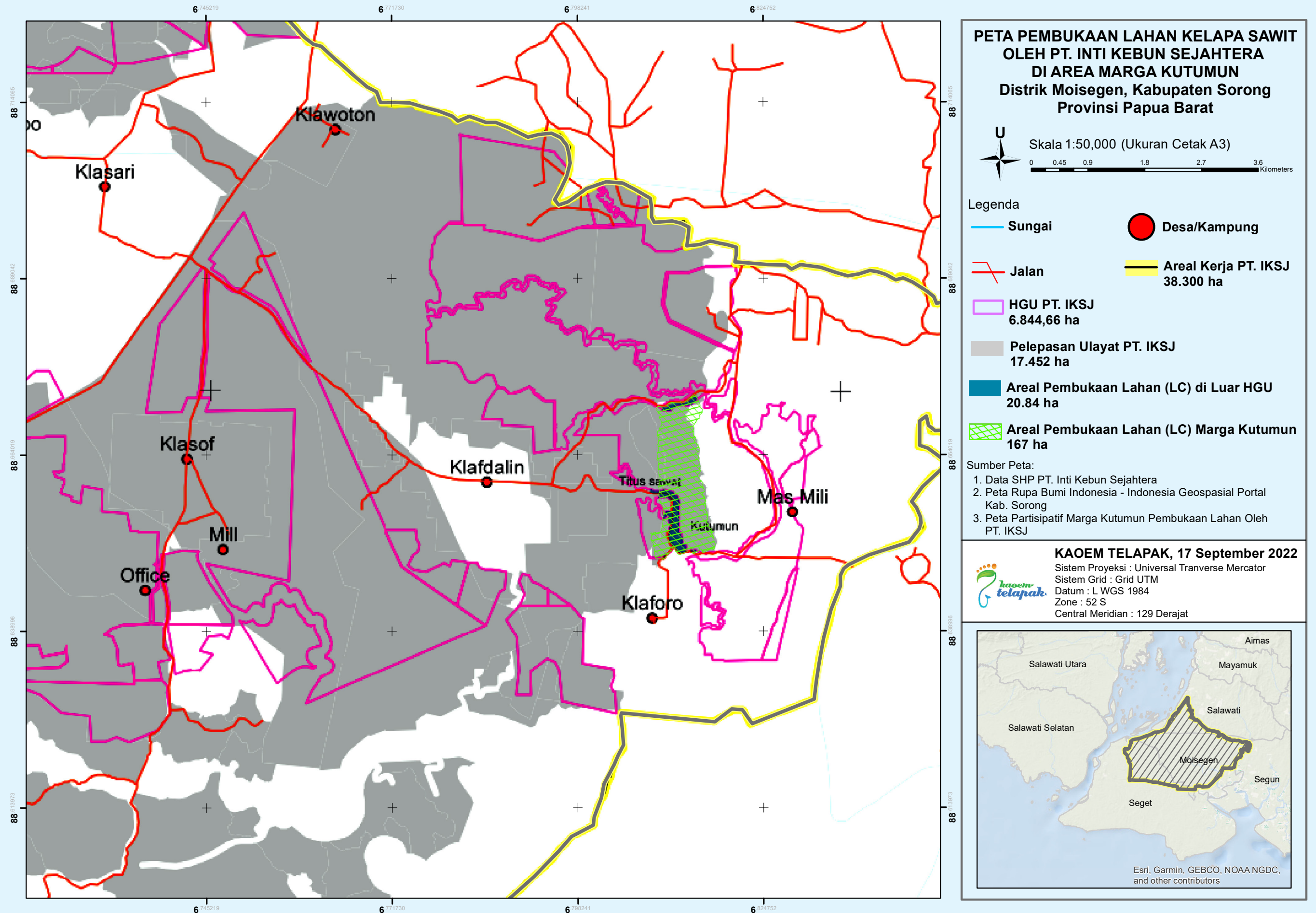
In Katapop Pantai – where the Sawat clan resides – KT met one of the elders of the clan. The clan's plasma area has mostly been cleared and some of the areas planted are now mature at 15-years-old. He stated that the price received for the oil palm fresh fruit bunches (FFB) has never changed.⁴ The price he receives for the FFB is Rp1.300 per kg, which is lower than the standard price for FFB as regulated by the local government. The Kutumun clan also relayed a similar story, that the price it receives for the FFB grown has not changed for years. Additionally, the visited communities testified that they never heard of the co-operative which is reportedly running the plasma scheme.

This case shows how an ISPO-certified company has seemingly failed to properly consult communities, undertake FPIC and implement the plasma scheme, with the result being discrepancies in what the communities and the company state was agreed.

Given the findings above, the CB should take action by involving the impacted communities in the discussion and ensuring the transparency of its process.

At the time of writing, the Kutumun clan is advocating for its land to be returned, which is labelled as HGU in the company's documents.

Below: Map of Palm Oil farming expansion by PT. Inti Kebun Sejahtera in Kutumun clan's indigenous territories



Recommendations

Based on our findings and the case studies above, we call on the parties below to take action.

To the Indonesian Government:

- Strengthen the ISPO regulations by:
 - Having a participatory approach that involves multi-stakeholders in ISPO's governance and the redesign of its standards
 - Specify the role of independent monitors and provisions on independent monitoring
 - Set specific provisions that require CBs to publish a list of their ISPO clients and public summaries of audits
 - Formulate, ratify and implement clear guidelines relating to the complaint mechanism and grievance procedures
- Make all ISPO-related information publicly available:
 - Rebuild/reinstate the ISPO website and provide public access to monitor all ISPO-certified companies' certification status
 - Publish a list of non-ISPO certified palm oil companies and make it available to the public. In addition, set a deadline for these companies to be ISPO-certified
- Conduct a plasma audit for all existing palm oil companies to make sure they have implemented this scheme effectively
- Instruct the National Land Agency (ATR/BPN) to re-assess the HGU claim for PT Inti Kebun Sejahtera in light of the impacted community, the Kutumun clan

To buyers

- Check the ISPO certification status of any companies from which they are buying palm oil and request their summary of audit reports be made public
- Re-consider trading activities with ISPO-certified companies that have permit revocations listed until further clarity is provided
- Suspend trading with the PT Duta Palma Group and its subsidiaries following the corruption scandal until further clarity is provided
- Suspend trading with PT Inti Kebun Sejahtera based on the ISPO complaint and potential HGU dispute with the community until further clarity is provided

To certification bodies:

- Publicly publish information on companies' ISPO status including, but not limited to:
 - The current status of the ISPO certificate and its supply chain model
 - The issuance and the expiration dates of the ISPO certificate
 - Summary of certification audits and annual surveillance reports
 - Beneficial ownership, FFB flows and other information as required under the ISPO Principle on transparency
- Allow independent monitoring organisations to have access to the reports and audits of ISPO-certified companies with listed permit revocation
- Re-assess the ISPO certificates for the PT Duta Palma Group (including all its subsidiaries) in light of the corruption scandal
- Re-assess the ISPO certificate for PT Inti Kebun Sejahtera in light of the potential HGU dispute with the impacted community, the Kutumun clan

To the ISPO Committee:

- Provide technical guidelines that give clarity on the ISPO Principles and Criteria to avoid multiple interpretations
- Review the ISPO certification of companies with charges brought against them, including the PT Duta Palma Group, and involve multi-stakeholders in the process
- Suspend the ISPO certification of companies with listed permit revocations until further clarity is provided
- In light of the Kutumun clan's potential HGU dispute over its land, the ISPO Committee should notify the CB to put on hold ISPO certification for PT IKSJ and conduct a comprehensive data validity check to ensure communities' voices are heard

To the National Accreditation Body (KAN):

- Monitor the compliance of certification bodies with the standards, rules and regulations as required and regulated by the new ISPO
- Set a national standard on publicly available information that must be provided by certification bodies with regard to the ISPO certification process

Right: Klawiri temporary village to be developed as a definitive village in Moisegen District, West Papua



Notes

- a.

Different FFB selling prices are due to the Regulation of Minister of Agriculture No.1/2018 which mandates each province to form their own Palm Oil FFB Pricing Team which consists of the Provincial and Districts Governments, plantation companies, farmers representatives, and other relevant agencies. The team will determine the minimum FFB price based on multiple interpretations of those indicators.
- b.

The definition of customary land according to the new ISPO, is only limited to the Indigenous territories that have been recognised and regulated by the national laws (Criterion 1.1.2). The customary land regulated by local law (district and provincial levels) is not included.
- c.

The term "declarative" is vague since it implies there is no definitive legal standing or administrative clarity with regards to those palm oil companies mentioned in the decree.
- d.

The FFB price normally changes based on the age of plants. After the palm oil reaches 25 years old, the price will decline significantly

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112	Constitutional Court Ruling No.138/2015 about the judicial review of Regulation No.39/2014 concerning Plantation
113	Interview with locals, July 2022
114	Under the MoEF Decree No.01 SK.01/MENLHK/SETJEN/KUM.1/1/2022 for about 19.655,35 ha
115	Surat Pernyataan Penguasaan atau Pemilikan dan Pelepasan Hak Adat atau Ulayat
116	Map of Land Release by Clans to PT Inti Kebun Sejahtera (PT IKSJ). Document provided by PT IKSJ.

