



Indonesian palm oil smallholders and the EUDR

IMPACTS AND WAYS FORWARD

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Cover image: A worker collects oil palm kernels in Sumatra, Indonesia, by John Novis/
Greenpeace.

List of abbreviations

CPO	Crude Palm Oil
EU	European Union
EUDR	European Union Regulation on Deforestation-free Products
FFB	Fresh Fruit Bunches
ILUC	Indirect Land Use Change
ISPO	Indonesia Sustainable Palm Oil
NGO	Non-Governmental Organisation
RED	Renewable Energy Directive
RSPO	Round Table on Sustainable Palm Oil
SPKS	Serikat Petani Kelapa Sawit - Oil Palm Farmers Union
STD-B	Surat Tanda Daftar Budidaya - Smallholder Registration
PKO	Palm Kernel Oil



Image: A worker transports oil palm in Sumatra, Indonesia, by John Novis/Greenpeace.

Introduction

The European Union Regulation on Deforestation-free Products (EUDR) aims to curb forest loss linked to EU consumption of seven agricultural commodities: cattle, coffee, cocoa, oil palm, soy, rubber and wood. It requires companies putting these commodities or derived products on the EU market to present a due diligence statement declaring that the products are free from deforestation and legally sourced.¹

The EUDR came into force in June 2023. Most companies in the palm oil supply chain will be obliged to implement it from 1 January 2026. Small and medium enterprises have an additional six months to comply.

Companies in the palm oil sector and others have raised concerns that the EUDR might exclude smallholders from the supply chain, affecting potentially millions of farmers' ability to earn a living, and undermining the EUDR's ability to achieve its intended purpose. Some smallholder organisations, however, see the EUDR as an opportunity.²

So, what impact will the EUDR have on palm oil smallholders? Based on conversations with palm oil companies, non-governmental organisation (NGO) experts, and Indonesian smallholder organisations, this paper outlines ways to increase smallholder participation in the EU palm oil supply chain.

- ¹ Article 3 of the EUDR reads: "Relevant commodities and products shall not be placed or made available on the market or exported, unless all the following conditions are fulfilled: (a) they are deforestation free; (b) they have been produced in accordance with the relevant legislation of the country of production (c) are covered by a due diligence statement." Among the information required for the due diligence statement are "geo-location coordinates, latitude and longitude of all plots of land where the relevant commodities and products were produced, as well as date or time range of production".
- ² See inter alia <https://spks.or.id/detail-sikap-position-of-the-spks-an-independent-oil-palm-smallholders-in-indonesia-submission-to-the-european-commission-on-the-proposal-for-the-regulation-regarding-commodities-associated-with-deforestation-and-forest-degradation> and [https://spks.or.id/file/sikap/SIARAN_PERS_EUDR_\(translated\).pdf](https://spks.or.id/file/sikap/SIARAN_PERS_EUDR_(translated).pdf)



Image: Women sow oil palm seeds in Remban, South Sumatra, Indonesia, by Aryan tama/Shutterstock

Background

What does the EUDR require companies to do re: smallholders?

In short, not much. Only EUDR Article 11 explicitly refers to smallholders, suggesting that companies consider supporting smallholders with capacity building and investments in their mitigation procedures to ensure their products are EUDR compliant.³ The introductory text of the EUDR reveals the EU's intention: *"When sourcing products, reasonable efforts should be undertaken to ensure that a fair price is paid to producers, in particular smallholders, so as to enable a living income and effectively address poverty as a root cause of deforestation."*⁴ Furthermore a review of the EUDR is foreseen by 2028 which will focus on the EUDR's impact on, inter alia, smallholders and the possibility of support for smallholders to meet EUDR requirements.⁵

3 Article 11: "Except where a risk assessment carried out in accordance with Article 10 reveals that there is no or negligible risk that the relevant products are not compliant, the operator shall prior to placing the relevant products on the market or exporting them, adopt risk mitigation procedures and measures that are adequate to achieve no or only a negligible risk. Such procedures and measures may include any of the following: (a) requiring additional information, data or documents; (b) carrying out independent surveys or audits; (c) taking other measures pertaining to information requirements set out in Article 9. Such procedures and measures may also include supporting compliance with this Regulation by that operator's suppliers, in particular smallholders, through capacity building and investments.

4 Recital 50

5 The other references to smallholders in the EUDR are generic and/or relate specifically to Article 30 that requires the EU to develop a framework for partnerships and cooperation to jointly address the root causes of deforestation. This Article spells out that partnerships shall be inclusive of smallholders. The **Strategic Framework for International Cooperation** does not provide any confidence that partnerships will be inclusive. See [here](#) for Fern's analysis of the Strategic Framework.

The EU is a decreasing market for palm oil

The EU imported around US\$7.5 billion (bn) of palm oil in 2022.⁶ It was the third largest market in internationally traded palm oil, after India and China, and the fourth largest in terms of consumption. Indonesia is the biggest producer and consumer of palm oil; consuming more than its combined exports to India and China.⁷ The EU accounts for about 12% (by value) of global consumption. In 2021, the global market was valued at US\$63.5bn.⁸

In recent years, EU imports have remained roughly stable, between 10 and 15% of world market by value, but are expected to diminish over the next decade, partly due to changes in EU energy policy. More than half of imported palm oil is for biofuel. The 2018 Renewable Energy Directive (REDII), stipulates that, by 2030, palm oil will not count towards EU Member States' obligatory greenhouse gas reduction targets.⁹ EU palm oil consumption is therefore likely to go down substantially.

While the EU is consuming less palm oil, global demand is still rising, notably in Asia and Africa – with some of the fastest recent rates of expansion seen in Pakistan and East Africa. If so-called 'Sustainable Aviation Fuel' takes off, this may have a big impact on the market as well.

Sixty per cent of the world's palm oil originates from Indonesia. The country is also the largest source of palm oil imported into the EU. Crude palm oil (CPO), palm kernel oil (PKO) (oil obtained from the oil-rich seed of the oil palm) and their derivatives are used in a wide range of food products, soaps, cosmetics and cleaning materials.

Smallholders in Indonesia

The on the ground reality is complex. There is a lack of data and a common definition. Not all smallholdings fit the mould of the tiny family run plot. Some are controlled by urban investors or rural elites who may also have quite sizeable and/or multiple farms. A 2016 study of one region identified seven different types of clusters of smallholders which will be impacted by the EUDR differently.¹⁰ There is also a distinction to be made between newcomer smallholders and those who have lived for generations on their land and often identify as Indigenous Peoples.

The different definitions of smallholders are based inter alia on the size of the plantation. SPKS (Serikat Petani Kelapa Sawit), an organisation that represents more than 76,000 independent smallholders in 21 districts within Indonesia, defines smallholders as family farms of less than 10 hectares (ha) who live on their own land.¹¹ SPKS argues that 10 ha is sufficient for a decent

6 <https://www.statista.com/statistics/873701/palm-oil-import-value-europe/>

7 UNDP Commodity Market Intelligence Update No 9: [CommodityMarketIntelligenceUpdateIX.pdf \(goodgrowthpartner-ship.com\)](#)

8 <https://www.polarismarketresearch.com/industry-analysis/palm-oil-market>

9 RED II stipulates that, by 2030, biofuels that have a high risk of indirect land use change (ILUC) may not count towards Member States' obligatory targets. Palm oil has been singled out as the only agricultural crop that carries such a risk. It may only be included in targets if certified as not contributing to ILUC or if produced by smallholders occupying less than two ha.

10 [Unpacking Indonesia's independent oil palm smallholders: An actor-disaggregated approach to identifying environmental and social performance challenges - ScienceDirect](#)

11 SPKS definition: (1) small scale plantation < 10 ha; (2) live in the rural landscape on their own land adjacent to their plantation; (3) dependent on and manage the plantation themselves; (4) members of the family as labour and rely on their own capital.

living. The Round Table on Sustainable Palm Oil (RSPO) definition counts as smallholder plots of up to 50 ha run by a family as their main source of income. Under Indonesian law, plots of less than 25 ha are classified as smallholdings, but in reality many plots larger than 25 ha are still counted.

There is also an important distinction to be made between independent smallholders, who operate as fully autonomous businesses, and scheme or plasma smallholders who have close ties with large plantation companies. Plasma schemes started in the 1970s with government-backed transmigration programmes to resettle people from overcrowded Java to less populated regions. Since February 2007, large plantation companies granted new concessions have been legally required to set up plasma schemes in which 20% of the land goes to smallholders.¹² They are generally tied to the company for 25 years while they repay development costs and sell their produce to the company at prices set by the government.¹³

Government data shows that smallholders manage about 40% of the roughly 17 million ha of Indonesian land that are cultivated for palm oil.¹⁴ The other 60% is made up of large plantations, mostly run by private sector corporations, though a few are state-owned. The data doesn't differentiate between independent smallholders and plasma or scheme smallholders. It is therefore unclear how many independent smallholders there are, and even less clear how many smallholders fit SPKS' definition of a real smallholder farmer.

**There is a lack of data
and a common definition
of smallholders
in Indonesia**

Government statistics use the term "people/community plantations" (Perkebunan Rakyat or PR). The official estimated size of "Perkebunan Rakyat" in 2022 is just over six million ha.¹⁵ NGOs estimate that of this area, only 2.3 million ha refers to smallholders whose estates are truly less than 25 ha; nearly 90% of which is located in Sumatra.¹⁶

However, according to a spatial dataset developed by Gaveau and others, based on analysing land patterns, there was approximately 5.9 million ha of palm oil plantations with smallholding characteristics in 2019.¹⁷ It is not clear why there is such a disparity between these figures, but it shows that nobody knows the number of independent smallholder farmers or where they are.

Remote-sensing data suggests that expansion of the area under cultivation by large oil palm plantations was linked with 22% of overall deforestation in Indonesia 2000-19, while oil palm smallholders accounted for seven per cent of forest loss in the country.¹⁸

- 12 Ministry of Agriculture Regulation No. 26/2007 [Microsoft Word - Permentan-26-07.rtf \(babelprov.go.id\)](#)
Although not all companies are abiding by this law. A 2022 investigation by Mongabay, in partnership with the BBC and The Gecko Project, a London-based journalism nonprofit, found that companies had failed to hand over potentially hundreds of thousands of hectares of legally required plasma land to communities. Available at <https://thegeckoproject.org/topics/plasma/>
- 13 Ministry of Agriculture Regulation No. 1/2018 [Permentan-No.1-Pedoman-Penetapan-Harga-TBS.pdf \(bpdp.or.id\)](#)
- 14 Total palm oil cover reached 17.3 million ha in 2023 while the total area covered by plantation business licences (IUPs) reached 20.4 million ha. See KAMI briefing 'Strengthening sustainable palm oil governance through the revenue sharing fund for oil palm plantations'. See: https://efi.int/sites/default/files/files/flegtredd/Terpercaya/Briefings/Brief_DBH_Sawit_revenue_sharing_fund.pdf
- 15 6,379,937 ha as documented in <https://ditjenbun.pertanian.go.id/template/uploads/2022/08/STATISTIK-UNGGU-LAN-2020-2022.pdf>
- 16 Auriga; Independent Oil Palm Cover 2020; 30 December 2021
- 17 https://zenodo.org/records/6069212#Y_uovnZBzx5
- 18 Eggen et al, University of California Press, May 2024: <https://online.ucpress.edu/elementa/article/12/1/00099/200786/Smallholder-participation-in-zero-deforestation>



Image: Women sow oil palm seeds in Remban, South Sumatra, Indonesia, by Aryan tama/Shutterstock

Even though government and NGO data are widely different, it is clear that forest conversion for palm oil has continued after the EUDR cut-off date of December 2020, although at a reduced pace. According to Mapbiomas, 115,000 ha of forest was converted to palm oil plantations in 2021; in 2022 this was reduced to 26,000 ha. Most of this conversion took place in oil palm plantation permit areas.¹⁹ Government data shows 8,900 and 2,800 ha respectively for 2021 and 2022.²⁰

Large companies say they can keep tabs on produce from plantations they directly control and from smallholders with whom they have close links. The issues come with produce from third parties such as independent smallholders. Hence, the focus of this paper is on independent smallholders.

On the ground realities

Produce from independent smallholders is hard to track and trace. They supply Fresh Fruit Bunches (FFBs) to mills for the first stage of processing through several layers of intermediaries. Mills typically take in produce from farms within a fifty-kilometre radius – the distance is set by the practicalities of needing to start processing within 24-48 hours of harvesting before the fruit starts to deteriorate. Produce from many farms is put together and loaded onto the same trucks. Intermediaries mix and remix fruit from various sources and supply them to different mills, dependent on price and quality.

¹⁹ Madani; January 2024; strengthening Indonesia's readiness to navigate the EUDR through improved governance and inclusive partnership; page 19. Available at: https://madaniberkelanjutan.id/en_us/strengthening-indonesias-readiness-to-navigate-the-european-union-deforestation-free-regulation-through-improved-governance-and-inclusive-partnerships/

²⁰ ibid

This is a low trust environment in which intermediaries are reluctant to pass on information about their sources. It is reported, in some areas, that there is currently over capacity at the mills and a shortage of supply, leading to fierce competition between mills. Farmers and intermediaries frequently switch between mills to get a better price. In these circumstances, mills rarely know where their independent smallholder supply comes from. In more remote areas, many large mills enjoy a monopoly, being the only nearby option to which smallholders can sell. Independent smallholders are largely unorganised, although some are in cooperatives.

What matters most for smallholders is the price. The price they get for their FFB is often much lower than the price set by the Government because of the longer supply chain (smallholders - agents/middlemen - ramp - mills, or smallholders - agents - mills, or smallholders - ramp - mills).²¹ SPKS also notes problems in the Government set price mechanism, known as “K Index” or “Indeks K”, which they claim unfairly impose at least seven elements of the Index on smallholders.²²

Smallholder farmers' land often overlaps with the forest zone and concessions owned by companies

Legality and deforestation risks

Under Indonesian agriculture rules, plots of less than 25 ha are classified as smallholdings, which require a cultivation registration certificate called a Surat Tanda Daftar Budidaya or STD-B. Only 2.2% of smallholders have this.²³

Getting these documents is challenging due to bureaucracy, lack of staff, lack of clarity on function of STD-Bs, land conflicts, corruption and more. In some regions, STD-Bs are apparently misunderstood as a business permit.²⁴ This confusion has led to STD-B issuing authorities being placed in the wrong agencies, slowing down and complicating processes. Also, when classified as a business permit, farmers envision they would have to pay taxes, and so are more reluctant to apply for one. Additionally, there have been several provinces where the Department of Plantation requested payments from farmers for an STD-B even though it should be free.²⁵

Independent of the difficulty of getting an STD-B, a significant number of smallholder plantations can simply not get land titles or STD-Bs because of land overlap: their land is either in the forest zone or in an allocated palm oil concession area.

- 21 See <https://pis.iopri.co.id/upload/wartaIOPRI/files/230823180249.pdf#:~:text=Rendahnya%20harga%20TBS%20disebabkan%20oleh,dari%20segi%20varietas%20dan%20kematangannya.> (Bahasa)
- 22 For more details see: <https://spks.or.id/detail-berita-kebijakan-harga-tbs-produksi-pekebun-sudah-seharusnya-di-cabut> (Bahasa)
- 23 Madani; January 2024; strengthening Indonesia's readiness to navigate the EUDR through improved governance and inclusive partnership. Available at: https://madaniberkelanjutan.id/en_us/strengthening-indonesias-readiness-to-navigate-the-european-union-deforestation-free-regulation-through-improved-governance-and-inclusive-partnerships/
- 24 There is a big difference between STD-B and business licenses. For a business license, you have to do AMDAL (environment and impact assessment), pay different taxes and levies, and your license can be taken away by the government if you do not fulfil the requirements. Meanwhile, an STD-B is a public service that the government has to give to farmers for them to be able to access other government services such as replanting programmes, etc.
- 25 Madani; January 2024; Strengthening Indonesia's readiness to navigate the EUDR through improved governance and inclusive partnership; page 86. Available at: https://madaniberkelanjutan.id/en_us/strengthening-indonesias-readiness-to-navigate-the-european-union-deforestation-free-regulation-through-improved-governance-and-inclusive-partnerships/.

Oil palm production can legally only take place on land classified as ‘non-forest estate land,’²⁶ and not in the state forest domain.²⁷ There is approximately 3.1 million ha of oil palm plantations concessions within the forest zone. Of this, **2.6 million** ha has no permit and hence is illegal. Any plantation operating in the forest zone without a forest zone permit (or Pelepasan Kawasan Hutan (PKH)) is illegal.²⁸ Some point out that, however, this has become a totally grey area with a legal jungle of exceptions and amnesties about the status of these holdings and that any company that is willing to pay can dodge the rules.

Smallholder farmers’ land often overlaps not only with the forest zone, but also with concessions owned by companies. Oil palm farmers may be at some risk in this regard. An analysis by Madani shows that of the 5.9 million ha of plantations with smallholder characteristics, around 1.17 million overlaps with company concession permits.²⁹

**Most independent
 smallholders in
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 EU supply chain**

Land tenure rights are also complicated and come in different forms: ownership rights, cultivation rights, rights to build, lease rights, use rights and rights to collect forest products.³⁰ Some have village level recognition of their tenure.³¹ These rights are often linked to family possession of a plot over several generations – and some have no formal or informal rights of any description. However, for the tens of millions of Indigenous Peoples who hold their lands in accordance with customary law, their rights are mostly unregistered and unrecognised.

Few smallholders in the EU supply chain

How many Indonesian independent smallholders are there in the palm oil supply chain to the EU? The answer is relatively speaking, not that many, due to the impact of RSPO certification.

Approximately 90% of palm oil coming into the EU is RSPO certified as sustainable, a huge amount compared to the global figure of 19% RSPO certified³². Moreover, two thirds of EU-imported RSPO certified produce is classified as Segregated RSPO Certified, meaning it is not mixed in with non-certified palm oil.³³

RSPO certified palm oil, especially segregated, mainly comes from industrial scale plantations. Relatively few independent smallholders take on the costs and complexities of obtaining certified status. Independent smallholders account for less than two per cent of RSPO

26 Areal Penggunaan Lain, APL

27 Kawasan Hutan

28 Companies with concessions in the forest zone can ask for a ‘release’ a permit to relinquish forest zone for palm oil plantations. In other words: a permit to legalise and develop the plantation. With the adoption of the Omnibus Law, the illegal plantations are given a chance to become legal.

29 Madani; January 2024; strengthening Indonesia’s readiness to navigate the EUDR through improved governance and inclusive partnership; page 19. Available at: https://madaniberkelanjutan.id/en_us/strengthening-indonesias-readiness-to-navigate-the-european-union-deforestation-free-regulation-through-improved-governance-and-inclusive-partnerships/.

30 There are ownership rights (SHM) issued by the National Land Agency (BPN Badan Pertanahan Nasional); cultivation rights; lease rights; use rights and rights to collect forest products.

31 These can be in different formats: SKT – a reference letter signed by the village, letter C – dating from before the 1960 Agrarian Act or Girik – dating from the colonial period.

32 To be exact 93% according to ‘Sustainable Palm Oil, Europe’s Business’. Available at: <https://rspo.org/new-report-shows-eu-europe-is-the-biggest-market-for-sustainable-palm-oil/>

33 Note that the data for palm kernel oil are different with only a small percentage segregated.

certified palm oil globally. Indonesia fits that pattern. In 2023, RSPO claimed there were around 25,000 certified independent smallholders in Indonesia (and around 100,000 plasma smallholders)- a small number in relation to the total oil palm smallholder population which they estimate to be 2.7 million (including plasma smallholders).³⁴

There are no statistics for the total number of Indonesian independent smallholders in the EU palm oil supply chain, but the above data taken together suggests that relatively few independent smallholders are currently present.

A point worth noting is that most independent smallholders in Indonesia don't know whether they are in the EU supply chain! They typically sell to mills through intermediaries and have no knowledge or control of where their produce goes after it reaches the mill for the first stage of processing.

How many Indonesian independent smallholders are there in the palm oil supply chain to the EU? The answer is relatively speaking, not that many, due to the impact of the Round Table on Sustainable Palm Oil certification

³⁴ RSPO Impact Report 2024, page 30 available at [RSPO_ImpactReport_2024.pdf](#)



Image: A woman working to clean palms in Pekanbaru, Riau, Indonesia, by Ahmat Jainal Abidin/Shutterstock.

Company actions

What actions are companies taking to meet EUDR requirements and what impact will that have on independent smallholders? We spoke to a number of companies occupying different niches in the palm oil supply chain (see Annex 1 for details). This section presents the companies' positions and actions. Although they expressed a wide range of sometimes opposing opinions, some broad themes emerged. These include:

- The view that the EUDR will further exclude smallholders through segregation of palm oil supplies to the EU from those to other parts of the world.
- The view that while companies supplying the EU market will find ways to comply, the EUDR will do little to tackle deforestation in the Indonesian palm oil sector because they believe most deforestation is caused by companies and producers that don't sell to the EU.
- Recognition that long-term deforestation solutions require smallholder participation.
- Concerns that the EUDR has taken attention from other aspects of sustainability, and that it may undermine existing mechanisms designed to encourage sustainable palm oil production, such as independent smallholder credits.
- Signs that suppliers of PKO and derivatives face the biggest implementation issues.

It is worth pointing out that not all companies in the palm oil supply chain are equally involved in smallholder sourcing. For the palm oil production and processing companies we spoke to, palm oil is their main business. Failure to comply could lead to hefty fines, reputational damage and potentially exclusion from the still significant EU market. Independent smallholder production is generally seen as the supply chain element they have least control over and the one at greatest risk of non-compliance. There is therefore a strong incentive to not buy from smallholders, so as to minimise risks. This is not because smallholder production is linked to deforestation, but because it is more difficult to prove it is legal and deforestation-free.

Responses from palm oil consuming companies with major operations in Europe were more mixed. They face the same penalties but are often more removed from the issue. For food and consumer goods makers, palm oil is just one ingredient in their products and often not one their brand depends on. These companies may have views on the EUDR and are obliged to follow the law, but it is not necessarily such a big deal as they largely rely on their suppliers being compliant.

Remoteness from the point of production means consumer companies have less incentive to engage in the issue of smallholder participation in the supply chain. Even so, one large food and consumer products group we talked to said it had reorganised its operations in Indonesia in recent years, cutting out layers of intermediary suppliers, to have closer, more direct links with smallholders.

It can be difficult to prove that smallholder production is legal and deforestation-free

So, what are companies doing to ensure they are EUDR-compliant?

Segregation of supply chains

For the first time, companies face the prospect of large fines (in theory up to four per cent of annual turnover) or exclusion from the EU market if they do not comply with the EUDR. If they do not fully clean their supply chain of deforestation they must at least segregate global palm oil supply chains, with a 'clean' channel of EUDR compliant produce going to the EU and a non-compliant channel for the rest of the world.

Our conversations with companies confirm that this is already happening in the palm oil supply chain. Three of the largest South-East Asia based palm oil producers and refiners said they had reconfigured or were in the process of reconfiguring refinery operations in response to the EUDR.

Why is this important?

Palm oil refineries play an important role in the supply chain. A typical refinery takes in material from tens of different mills which is then converted into refined products that go to all parts of the world. In this context, an EU rule change potentially impacts the whole supply chain even though it accounts for a relatively small share of overall consumption. If any part of a refinery's output goes to the EU, then all of it must be EUDR compliant. The same applies to the raw

materials that come from the different mills that supply the refinery. The only way to avoid this is to create different channels for products going to the EU and those going to other parts of the world.

Companies are reluctant to segregate EU supplies from those destined for other parts of the world. It is costly and complicated – but maybe easier than upgrading everything they produce to comply with the EUDR.

A side effect of creating different supply channels for the EU and other parts of the world is that it may reduce EU leverage on what happens elsewhere. When there is one supply chain for the whole world, EU developments can have a global impact. This may be less true if the EU is doing something in isolation and the rest of the world is taking a different path.

Against that background, decisions by major refining companies to set up separate channels for palm oil destined for the EU are highly significant. One big South-East Asian producer said it was focussing supplies of refined products for the EU market in three of its many refineries in Indonesia and Malaysia. Another said production for the EU was being concentrated in two refineries.

**Independent
smallholders in the
supply chain need to
be supported to become
compliant**

In the latter case, the company had reviewed options when the EUDR emerged and had decided it was not feasible to make all of its refineries EUDR compliant within the short time. They therefore decided to focus production destined for the EU market on just two of them.

The chosen refineries were seen as relatively straight forward - although requiring considerable investment - to make EUDR compliant because they are mainly supplied by mills and plantations directly owned by the company and are less dependent on produce coming from third party mills and independent smallholders.

Even so, the company puts the number of independent smallholders involved at 85,000, who now need to be supported to become EUDR compliant.

Supporting smallholders that are in the EU supply chain to become compliant

Those independent smallholders that remain in the supply chain need to be supported to become compliant. Few are able to meet the EUDR's geolocation or legality conditions, but one company says it is helping as many as possible to be compliant in time for EUDR implementation. It says the biggest issue is demonstrating legality – smallholders generally do not have STD-B permits or land titles and, as explained above, the process of getting them is administratively complex and slow.

Another company said it had deliberately moved closer to sourcing from independent smallholders in Indonesia by simplifying and shortening its supply chains. This has enabled them to engage more deeply with smallholders. It has already mapped 35,000 smallholder

farms in previous years. Another company said they are working directly with smallholders in their supply chain to get them compliant on a mill-by-mill basis.

We heard different views on the larger practical issues in smallholder inclusion such as geolocation and legality. Some companies emphasised smallholder's difficulty in proving they have legal user rights over land. Others thought that although buyers (usually mills) may be willing to fudge the issue – accepting produce from smallholders that has probably been legally produced but may not be accompanied by the right documentation – they will not take risks over geolocation data. They believe the thing that keeps company bosses awake at night is the requirement to have the right maps and grid references showing that produce does not come from recently deforested land.

Open questions

A further issue raised by many companies was the legality of data sharing. For the EUDR to function, geolocation, production and ownership data has to pass through many different hands as the produce moves through the supply chain.

Companies were unclear if they have the right under Indonesian data protection and other rules to disclose information about a third party to another third party. The data about where produce was grown belongs to the grower, not to a company further along the supply chain, even if the EUDR requires them to disclose it to authorities. This situation is specifically stark in Indonesia where laws limit data sharing³⁵ and the Government, despite a supreme court order to do so, has refused to make concession maps public.³⁶

Companies say it is not clear which of the potentially relevant Indonesian laws they need to comply with to bring palm oil into the European Union

Legality is another minefield. The EUDR requires palm oil put on the EU market to be produced 'in conformity' with national legislation. Indonesia has hundreds of, sometimes contradictory, laws concerning the regulation of palm oil, some national in scope, others set regionally. Many are not fully enforced. Companies say it is not clear which of the potentially relevant Indonesian laws they need to comply with to bring palm oil into the EU. That's a matter of interpretation for the Commission, Member State Competent Authorities, and ultimately the courts, to determine. Companies claim they have been given too little guidance.

³⁵ There is a Geospatial Information Law (4/2011) with a new regulation specifically re sharing geo-location data which excludes companies from those with access to special data and communities without permit. There also is a Personal Data Protection Law (Law 27/2022) and laws regulating business practices, e.g. the Unfair Business Competition Law (Law No 2/2022, Law 30/2000 and Trade Ministry Regulation 1517/2022) which limit information sharing.

³⁶ Page 44: Madani; January 2024; strengthening Indonesia's readiness to navigate the EUDR through improved governance and inclusive partnership; Available at: https://madaniberkelanjutan.id/en_us/strengthening-indonesias-readiness-to-navigate-the-european-union-deforestation-free-regulation-through-improved-governance-and-inclusive-partnerships/



Image: An oil palm plantation by Rich Carey/Shutterstock.

Creating traceability systems

There appeared to be consensus among companies that efforts to support smallholders and their organisations in gathering geo-location data, mapping and setting up accountable traceability systems would be welcome. Most companies are developing/have developed their own traceability system, often working with specialised companies or NGOs.

One company mentioned working with a traceability company that has set up a mobile phone-based trading platform that enables smallholders to get better prices than they would through intermediaries, while at the same time registering geolocation data about where the product comes from.

It should be noted that in the absence of genuine traceability about the point of production, there may well be a discrepancy between the farms mapped that supply a particular mill and the farms that are actually supplying that mill.

This discrepancy can be large. We heard of one case where a mill that had engaged in intense mapping efforts and then subsequently used a real-time traceability system, found that less than 50% of the supply coming through the traceability system came from mapped farms while over 50% came from other farms.

This is because several companies have mapped or aim to map smallholder production up to the amount that matches a mill's estimated purchase of smallholder palm oil as this has long been the best they could do. But, as described above, the reality on the ground is messy and dynamic meaning that there may be plenty of other smallholder supplies that have not been mapped. Using a real time traceability system documenting the transactions for every truck entering the supply chain is likely the best way of ensuring that the mapped farmers' polygons are indeed the ones selling the palm oil to the mill.

Many producer companies are also inputting data into the Indonesian government's EUDR-instigated 'National Dashboard of Indonesian Sustainable Commodity Data and Information'³⁷ an electronic database covering all producers, showing land registration, and geolocation etc.

The National Dashboard aims to be a platform for exchanging data and information regarding commodities traded on international markets, and it will be used beyond the EUDR. The platform will facilitate the collection and dissemination of information about exported products, including the geolocation of the land where the products are produced. The goals of the traceability platform are: (1) Tracing commodities, from plantations to processors to exporters and operators; and (2) Providing proof that the product is produced on a legal plantation and does not involve deforestation. It notes that detailed information regarding polygons can only be accessed by the data owner.³⁸

**Most companies are
developing/have
developed their own
traceability system**

The dashboard is still in embryo form and has lots of technical and political difficulties. There are also unresolved issues about the quality of data, data privacy and transparency. Although widely seen as a positive development, many fear it will be years before it is up and running. There are also concerns around the burden on smallholders to input data, and the increased taxes they may have to pay once their production is regularly recorded.

RSPO and mass balance and independent smallholder credits

Several companies told us that RSPO certification was at the heart of their strategies for ensuring EUDR compliance – the point being that many of the standards demanded for RSPO certification are similar to those required under the EUDR. Many companies have been supporting independent smallholders to become RSPO certified. The RSPO has responded to the EUDR by setting up a new traceability platform, PRISMA³⁹ that will allow its members to upload and trace relevant EUDR compliant information through the supply chain.⁴⁰

Many independent smallholders see RSPO procedures as too costly and complex and the financial rewards too meagre to engage with. The few that do exist are probably well placed to become EUDR compliant. They tend to be members of cooperatives and may be better positioned to get help acquiring the necessary map references.⁴¹

There are some gaps between RSPO and EUDR requirements e.g. in defining deforestation (e.g. RSPO focuses on High Carbon Stock – High Conservation Value (HCS-HCV) forests only), legality (e.g. RSPO does not require STD-B) and geolocation requirements (e.g. RSPO does not prescribe polygons, EUDR prescribes polygons for plots larger than four ha and specific six digit

37 Decree of the coordinating Minister for economic affairs of the Republic of Indonesia number 178 of 2024 concerning steering committee of the national dashboard of Indonesian sustainable commodity data and information.

38 According to a presentation by Surveyor Indonesia to various stakeholders available here: I-Trace_Consultation_Meeting_Minutes_20240530_2.pdf (efi.int)

39 PRISMA, which stands for "Palm Resource Information and Sustainability Management" to be rolled out in the end of 2024.

40 <http://www.rspo.org/wp-content/uploads/RSPO-and-the-EUDR-Implementation.pdf>

41 <http://www.rspo.org/wp-content/uploads/RSPO-and-the-EUDR-Implementation.pdf>

geolocation data for larger plots).⁴² Despite this, RSPO certified smallholders are more than halfway towards EUDR compliance and, as the RSPO argues, some of these gaps could in theory be closed when revising the RSPO Principles and Criteria (others argue that such a revision is unlikely in the near future). It is also worth noting that RSPO standards cover a wider range of topics than the EUDR.

Most RSPO certified palm oil coming into the EU is segregated— meaning it is kept separate from non-certified produce at all points of the supply chain. The RSPO also has two mechanisms designed to promote certified production in circumstances where full separation is not feasible: mass balance and tradeable credits. These are specifically relevant for smallholders.

Mass balance allows an element of mixing of certified and non-certified produce. Tradeable credits are a financial instrument, in which growers are paid a premium for certified produce that goes into the system and receive a credit for each unit of certified production. Credits are bought by companies as a means of offsetting purchases of non-certified produce. There is a dedicated system of tradeable credits for independent smallholders (and another for large plantations). The RSPO sees these mechanisms as incentivising producers to adopt more sustainable practices.

It is likely that most palm oil originating from independent smallholders currently imported into the EU is linked to either mass balance certification or independent smallholder tradeable credits.

Some companies and NGOs fear that both systems are under threat from the EUDR. The market for mass balance-produce in Europe, already in decline, is seen as likely to disappear or greatly diminish as importers switch to fully segregated palm oil to be EUDR compliant. Other Western consuming markets such as the United States of America and Australia may continue to buy mass balance certified palm oil, but there could be a price crash as the EU accounts for much of the demand.

Similar factors apply in the market for independent smallholder credits. European companies are the main purchasers, buying nearly half of all credits. However, one company we contacted thought EU consuming companies may continue to buy smallholder credits for philanthropic or corporate social responsibility reasons post EUDR; inter alia because it allows them to have direct links with smallholder organisations and vice versa. Something much valued by smallholder organisations.

Creating incentives

Although we heard indications that some consumer companies are thinking of developing contracts that require suppliers to include a set percentage of palm oil from independent smallholders, we did not get this confirmed. This would be an example of how consumer companies can influence the supply chain to increase smallholder participation. Producer companies made it clear that EUDR compliance is their priority, making demands for

⁴² RSPO and Legislation - Roundtable on Sustainable Palm Oil (RSPO)

smallholder quotas more difficult to achieve. As one (large) producer company put it: getting even 10% of production from smallholders would be difficult to achieve hand in hand with being EU compliant.

Another consumer company suggested thinking about incentives that encourage companies to source more from independent smallholders. For example, rules that require companies to say how many smallholders are in their supply chain. This would not have to be done on an individual company basis, there could be a system where groups of companies banded together to track the number of smallholders. This approach would create a good narrative for participating companies and could be useful in a sector which attracts much negative publicity. It assumes there would be a market for EUDR compliant smallholder products.

Problems with palm kernel oil

Many companies identified the PKO sector (worth roughly a tenth of the CPO market) as facing special problems in adapting to the EUDR. PKO and derivatives such as lauric acid are key ingredients for the oleochemicals industry. They are widely used in cosmetics, soaps, personal care and cleaning products. For some purposes, coconut oil is a viable alternative, but global supply of coconut oil is limited.

PKO has its own supply chain as, while the flesh of the oil palm fruit must be processed with 24-48 hours, the kernels have a much longer life, and don't need to be processed close to where they were grown. Kernels are separated from the flesh when the FFB arrive at the mill and sent to specialist kernel crushing plants. These are relatively few of these and they take in produce from much larger catchment areas. The kernels typically go through complex processing before arriving in the forms used by EU oleochemical makers.

As a result, PKO is harder to trace to the place of production than CPO. The link between the grower and the importer is also generally more tenuous. Consumer companies often buy relatively small volumes of derivative products made from large quantities of palm kernels over vast areas.

Companies we spoke to say all these factors have the potential to make it exponentially more difficult (and costly) for PKO producers and buyers to comply with the geolocation and legality requirements of the EUDR. The problems associated with dealing with large numbers of independent smallholders are also seen as especially acute in this sector.

There is less RSPO certified PKO available than CPO. While virtually all EU-imported CPO is RSPO accredited, in 2021, the figure for PKO was 62%.⁴³ Companies say the price of RSPO certified PKO coming into the EU has soared as the oleochemical industry scrambles to get ready for the EUDR.

⁴³ https://rspo.org/wp-content/uploads/Sustainable-Palm-Oil-Europes-Business-Report_SEP2022.pdf



Image: A worker transports oil palm on a motorbike by Dika Hermawan/Shutterstock.

Conclusions and Recommendations

The EUDR can be an important tool for reducing forest destruction and ending human rights infringements and should therefore be applauded. It is clear, however, that without flanking measures, there is a risk that the EUDR will decrease Indonesian palm oil smallholders' access to the EU market. Indeed it could, in the short term, lead to "clean" EU supply chains, but do little to tackle the root causes of deforestation and reduce overall deforestation in Indonesia.

Even at this late stage, the EUDR could, however, become a lever for tackling the root causes of deforestation including the lack of clear tenure and user rights, the lack of implementation of good government policies, and the weak position of smallholders.

The most effective way would be to develop a partnership agreement between the EU and Indonesia. Article 30 of the EUDR requires the EU to develop partnerships to open up space for

dialogue and ensure effective EUDR implementation. Compliance with the EUDR's requirements, including traceability, poses formidable challenges to companies and farmers, and so requires a collaborative partnership approach between the EU, the Indonesian government, the private sector (both big and small), and civil society organisations. A large number of Indonesian NGOs have called for such a partnership.^{44,45}

In October 2024 the European Commission presented its Strategic Framework for International Cooperation.⁴⁶ Hopes that it would spell out when and how to develop commodity partnership agreements were dashed as it merely sums up and reframes existing dialogues, projects and initiatives.⁴⁷

Now neither the EU nor the Government of Indonesia seem enthusiastic about the development of a partnership agreement. The current joint Indonesia-Malaysia EU Task Force is not set up to tackle key issues, nor does it have the right people around the table. If there is no or insufficient trust or willingness to engage, then a partnership will not work. We hope and expect that this situation will change as there is a lot to gain from a strong partnership.

Even in the absence of a partnership agreement in the short term the EU should do the following:

Support mapping and transparency of smallholders. Due to the lack of data, the complexity of land overlap and the underachievement of STD-B, land titles and ISPO, many smallholders are perceived to be selling high-risk products in terms of legality and deforestation, even if that is not the case. Improving data on smallholder plantations (by name, address and map) is an important and highly strategic short-term policy step. Calculations by Madani indicate this would cost €35 million for approximately six million ha of smallholder plantations.⁴⁸ SPKS estimates minimum costs would be between €70 and 200 per farmer to make them EUDR compliant.⁴⁹ The EU should develop an initiative to strategically fund smallholders and their organisations to map their farms and prove compliance.

Support the creation of a robust national traceability system.⁵⁰ Mapping should be followed by the creation of a (preferably national) traceability system. Using Indonesia Sustainable Palm Oil (ISPO) and private sector initiatives as building blocks, the National Dashboard could help deliver that. Working together with and financially supporting the Indonesian Government to develop this system ensuring transparency, standardised protocols and supporting interoperability would be highly beneficial.

44 <https://www.fern.org/publications-insight/an-eu-indonesia-partnership-for-protecting-forests-and-respecting-rights/>

45 https://www.fern.org/fileadmin/uploads/fern/Documents/2024/Fern_An_EU-Indonesia_partnership_for_protecting_forests_and_respecting_rights.pdf

46 https://green-business.ec.europa.eu/document/download/98053bb7-bb73-4157-bf35-a9ffa35e2ee2_en?filename=Annex%20to%20Communication%20Strategic%20Framework%20for%20International%20Cooperation%20EUDR.pdf

47 <https://www.fern.org/publications-insight/european-commissions-draft-strategic-framework-for-international-cooperation-is-no-longer-comprehensive-and-skips-partnerships-focus/>

48 €72 million for all EUDR commodities. See page 87 of Madani; January 2024; Strengthening Indonesia's readiness to navigate the EUDR through improved governance and inclusive partnership; page 19. Available at: https://madaniberkelanjutan.id/en_us/strengthening-indonesias-readiness-to-navigate-the-european-union-deforestation-free-regulation-through-improved-governance-and-inclusive-partnerships/.

49 SPKS presentation at Fern webinar 5 Sept 2024. Available at <https://www.fern.org/publications-insight/eudr-in-action/>

50 For more detail on what a robust traceability system looks like, please see Transformative traceability: How robust traceability systems can help implement the EUDR and fight the drivers of deforestation <https://www.fern.org/publications-insight/transformative-traceability-how-robust-traceability-systems-can-help-implement-the-eudr-and-fight-the-drivers-of-deforestation/>

It should be noted that linking polygons to mills without collecting data to track actual transactions is probably insufficient. Hence, employing existing technology to document all transactions along the supply chain should be an important element of an effective traceability system.

It would also be helpful to operationalise a national traceability system to support smallholders to use a real-time tracking system that registers which mill they sell to (and provides the best price).

Demand increased transparency. There is a clear lack of reliable data. The government has withheld plantation land use data (HGU) despite it being declared open to the public eight years ago by the Information Commission, the Administrative Court (PTUN) and the Supreme Court. Instead, the Government went to court again in October 2023 to prohibit data sharing.⁵¹ Several laws including the Personal Data Protection Law and the Geospatial Information Laws hinder sharing of important data. Furthermore, the current National Geospatial Information network – which includes 156 thematic maps, including licensing and land tenure maps – and is essential to monitor compliance with legality and deforestation requirements are not made publicly available. The EU should ask the Indonesian Government to allow for EUDR relevant data to be available, while ensuring that data transfer does not breach fair business conduct. Without transparency, robust traceability is not possible.

Special care should be given to ensuring a significant part of the funds go directly to smallholders or their support organisations

Allocate, increase and improve coordination of resources. The EU announced a Team Europe Initiative for ‘deforestation-free value chains’ in December 2023, pledging €70 million from Germany, France and the Netherlands, now increased to €81 million. The EU has also set up a Team Europe Hub on deforestation-free value chains. Beyond this there are many other public and private uncoordinated initiatives towards EUDR implementation in Indonesia. More EU funds and better coordination of existing funds towards smallholder mapping, transparency, traceability, and investment in cooperatives’ equipment such as mills would create a shift towards making smallholders EUDR compliant (and proving that they were). Special care should be given to ensuring a significant part of the funds go directly to smallholders or their support organisations.

Clarify EUDR legality requirements with the Indonesian Government and Indonesian Non-State Actors in an inclusive deliberative process. This process should include defining the legal requirements to be looked at by Competent Authorities, notably concerning land and production rights and highlighting the various needs for demarcation and gazettement of territories. This could also include an assessment of the pros and cons for village level geolocation requirements.

51 Page 44: Madani; January 2024; strengthening Indonesia’s readiness to navigate the EUDR through improved governance and inclusive partnership; page 19. Available at: https://madaniberkelanjutan.id/en_us/strengthening-indonesias-readiness-to-navigate-the-european-union-deforestation-free-regulation-through-improved-governance-and-inclusive-partnerships/.

Investigate incentives or ‘carrots’ to increase smallholder participation. This could include requiring quotas from small smallholders – SPKS suggests a 30% quota; requiring companies to provide transparency on the number of smallholders participating in their supply chains and/or investing directly in smallholder farmer organisations to have their own small-scale mills that are compliant and can trade directly with small and medium enterprises in the EU.⁵²

Companies should do the following:

- Work directly with smallholders and smallholder organisations to develop direct buyer-seller relationships to create shorter supply chains which could deliver a better price for smallholders. A toolkit that allows Indonesian smallholders to demonstrate they are deforestation-free and protecting their forests was launched in June 2024, making it easier to prove compliance.⁵³
- Develop a comprehensive review of the company activities concerning smallholders, including lessons learned, to allow companies to build on and stimulate others’ activities.
- Share data, support interoperable approaches, review internal traceability systems and contribute financially to a national public traceability system/ the development of the National Dashboard that is transparent and accountable also to non-state actors.
- Support independent smallholders directly with mapping and legalisation of their tenure and user rights.
- Develop specific creative business to business approaches to increase the number of smallholders in their supply chain through quotas or other voluntary measures.
- Support independent smallholders by buying independent smallholder credits.

The EUDR can be an important tool for reducing forest destruction and ending human rights infringements. However, without flanking measures, there is a risk that the EUDR will decrease Indonesian palm oil smallholders’ access to the EU market

⁵² According to SPKS for a mill with a capacity of 1 ton / hour an investment of Rp. 1.2 billion (euro 70,000) would be required; it would be run by a cooperative with a membership of 70 small (1 to 5 ha) farmers.

⁵³ HCS-HCV Simplified Smallholder Approach Toolkit for Indonesia. Available at: <https://highcarbonstock.org/wp-content/uploads/2024/07/HCS-HCV-Simplified-Smallholder-Approach-Toolkit-for-Indonesia-26072024-English-compressed.pdf>



Image: A farmer picks oil palm fruit in Aceh, Indonesia by Dedek Rakyat Aceh/Shutterstock.

Annex 1: Methodology

Fern conducted a desk study on the activities of major players in the palm oil supply chain both at the producer/ trader side and the consumer side. Based on that, we selected ten companies to interview. Reckitt, L’Oreal and Upfield did not respond and KLK and Pepsico declined to be interviewed. Companies willing to share their perspective were Wilmar, Musim Mas, GAR, Nestlé, Ferrero, AAK and Unilever. We also interviewed MVO, a body representing the Netherlands oils and fats industry and talked with a company developing traceability software (PemPem). Furthermore, the following expert NGOs were consulted, Forest Peoples Programme, Solidaridad, European Forestry Institute and RSPO as well as a number of Indonesian NGOs and smallholder organisations.

The interviews followed the outline described in the ‘Explanatory note shared with companies’ (see below) and most of the companies were sent this outline before the interview. Interviews lasted on average one hour. A draft report was shared with the companies and NGOs interviewed and rectifications were made and comments included where considered relevant.

Explanatory note shared with companies

Fern is talking to a number of major producer and consuming companies exporting or buying palm oil from Indonesia, imported into the EU, about the practical issues and potential impacts of the EUDR on sourcing from smallholder farmers.

The information will feed into a discussion paper intended for EU policy makers, companies and NGOs. It will be a similar report in style to our report 'company promises' but with a focus on smallholders. If companies prefer, we will anonymise any information put into the public domain. We will also share drafts of anything we write with participating companies and make any necessary adjustments/corrections to the text as required before dissemination. The aim is to better understand the challenges facing companies in implementing the EUDR.

Topics for discussion:

1. General context

- Does the company see palm oil sourcing from smallholders as a priority?
- What policies/programs does the company have in place to encourage smallholder participation in the palm oil supply chain? (This can be brief as we will have read company documents that are in the public domain.)
- Roughly what proportion of company palm oil sourcing into the EU comes from smallholders pre-EUDR, if known?

2. Challenges posed by the EUDR

- What practical issues, if any, does the company face in complying with the EUDR as regards smallholders? (e.g., traceability through geolocation, demonstrating legality, other challenges?)
- Are these issues sufficiently serious to make the company reduce sourcing from smallholders or to reorganize its supply chain (e.g. by segregating EU supply from supply to other regions)
- How does the EUDR interact with other measures intended to tackle deforestation/increase sustainability? (e.g., RSPO certification or support for HCV/HCS)

3. Mitigating EUDR impacts

- What changes, if any, would the company like to see in the EUDR or its implementation to tackle the challenges
- Can/should anything be done to positively encourage sourcing from smallholders? (Examples may include quotas for supply from smallholders, easing EUDR requirements specifically for smallholders, or reinforcing the current system of RSPO independent smallholder credits.)