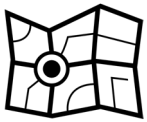


Version 1.0 | August 2017

Kalimantan Indonesia Risk Mitigation Guide

Palm Oil



This tool has been developed by NEPCon under the project “Responsible Sourcing of Soy, Palm Oil and Cattle” with support from DANIDA, Ministry of Foreign Affairs of Denmark.



**COUNTRY SPECIFIC
TOOLS**



NEPCon has adopted an “open source” policy to share what we develop to advance sustainability. This work is published under the [Creative Commons Attribution Share-Alike 3.0 license](#). Permission is hereby granted, free of charge, to any person obtaining a copy of this document, to deal in the document without restriction, including without limitation the rights to use, copy, modify, merge, publish, and/or distribute copies of the document, subject to the following conditions: The above copyright notice and this permission notice shall be included in all copies or substantial portions of the document. We would appreciate receiving a copy of any modified version.

DANIDA, the Embassy of Denmark has supported the development of this material, however DANIDA is not responsible for any views or claims presented in this material.

Kalimantan Indonesia Palm Oil Risk Mitigation Guide

NEPCo has evaluated the risks associated with the Kalimantan Indonesia palm oil supply chains across five categories:



Business Issues



Social Issues



Environmental Issues



Conversion



GMOs

The CSR risks identified concern business issues, social issues and environmental issues. This Palm Oil Risk Mitigation Guide provides advice on how to mitigate the risks identified.

Palm Oil source types and risks

There are two Palm Oil source types found in Kalimantan Indonesia. Knowing the “source type” that Palm Oil originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risks.

Small holder palm oil plantations Palm oil from small holder plantations, with one of the following ownership structures:

- Small-scale or larger-scale independent farmers
- Farmer groups or farmer managed cooperatives

- Smallholder farmer managed plots

Company managed plantations that have been leased from smallholder owned community land.

Large scale palm oil plantations

Palm oil from larger scale palm oil plantations are either company managed /company owned plantations or managed by state-owned enterprises.

We have analysed the risks for both source types and found the risks do not differ substantially between smallholders and large scale plantations.

Map your supply chains

To effectively evaluate and mitigate risks in your supply chain, it is necessary for you to know where the source originates. This will allow you to determine your source type and mitigate the risks associated with that source type. As risks have been identified with all source types, supply chain mapping is necessary to further evaluate, specify and mitigate the risks.



The **Supply Chain Mapping Tool (DD-07)** can be used to record supply chain information at a detailed level.



The **Supplier Management Form (DD-04)** can be used to maintain a complete supply chain overview.



Business Issues

The following three risks have been identified related to business issues in Kalimantan Indonesia:

1. Risk of insecure land tenure. Many different claims to the same land can be legal depending on what law, regulation or decree is used for justification. This means the same development on the same location can be both legal and illegal depending on one's legal point of reference. There is also a risk that the land title is not officially registered. Land tenure tensions are most intense in areas where land conversion has been most severe and/or where there has been a legacy of bad practice.
2. Risk that relevant licenses are issued illegally due to corruption. This includes issuance of license in areas not zoned for agriculture, allowing palm oil companies to commence development without proper licensing, and failure to enforce remediation of illegality.
3. Risk of tax evasion in relation to the payment of royalties and fees and income and profit taxes. This is due to the existence of plantations illegally operating without the required HGU license, and thus operations avoid having to pay land and building tax. Furthermore, half the land area in Indonesia is not officially registered and thus production on non-registered land is not currently being taxed. Most companies in Indonesia do not report their income to the Director General of Tax to evade payment of tax. Tax evasion is also done by stating a false amount of income, resulting in payment of a lower amount of tax.

Risk	Mitigation recommendations
Risk of insecure land tenure AND Risk that relevant licenses are issued	<ol style="list-style-type: none">1. Ensure the palm oil plantation supplier(s) has the following valid land tenure documents in place:<ul style="list-style-type: none">o Small-scale plantations less than 25 hectares:

illegally due to corruption.

- a) Simplified business license (STDB license): It is a receipt of the sale of land issued by the village head or sub-district head and plantation registration with the district government
 - o Large-scale plantations greater than 25 hectares:
 - a) Location Permit (Ijin Lokasi license) – grants an applicant the ‘option’ to develop a plantation within a given area, subject to time constraints and other conditions
 - b) Plantation Business Permit (Ijin Usaha Perkebunan (IUP) license) - This grants the holder the right to establish an oil palm plantation within a defined area
 - c) Business Rights Use Permit (Hak Guna Usaha (HGU) license) - Acquired from the local land office after a location permit is obtained. It determines land, business and building use. **Or;**
 - d) A palm oil plantation obtains One-Stop Integrated Service (PTSP) license issued by the Indonesia’s Investment Coordinating Board (BKPM). **And;**
 - e) Company-managed or company-owned plantations and state-owned enterprises obtain an Indonesian Sustainable Palm Oil (Permentan No.19/2011) ISPO certificate.
 - o Records Free Prior Informed Consent and/or a participatory social impact assessment and/or was conducted and copies of negotiated agreements are available
 - o Evidence that a dispute resolution policy is in place
2. Consult stakeholders on the following:
- o Verify if a company obtains a PTSP license with the Indonesia’s Investment Coordinating Board (BKPM)
 - o Verify if a large-scale plantation obtains an Indonesian Sustainable Palm Oil (ISPO) certificate through the ISPO website
 - o Check the validity of the HGU license with the provincial Province National Land Agency (BPN Province) Office

	<ul style="list-style-type: none"> ○ Review information on land tenure disputes and developments on indigenous and traditional peoples' land claims: <ul style="list-style-type: none"> a) NGO investigations and reports (Forest Peoples Programme, Sawit Watch, Rainforest Action Network, Global Platform of Indigenous and Community lands, Greenpeace, Friends of the Earth) b) Media reports (Mongabay.com, greenomics.org, red-monitor.org, thejakartapost.com, eyesontheforest.org) ○ Check with indigenous communities, local communities and others to confirm that customary and / or indigenous peoples' rights are upheld and there is an absence of significant disputes ○ Review the Zoological Society of London (ZSL)'s Sustainable Palm Oil Transparency Toolkit (SPOTT) tool to assess the palm oil producer's commitments to environmental and social best practice which is based on publicly available information on disclosure of their operations. For land tenure issues check palm oil producers' 'Landbank' scores: http://www.sustainablepalmoil.org/companies/ ○ To ensure the palm oil producer is not operating within an area off limits according to the Indonesian Presidential moratorium review the maps and reports produced by Global Forest Watch Commodities platform which shows the locations of almost 800 palm oil mills and the radius of its palm oil suppliers (which is on average approximately 50 kilometres): To see where the moratoria areas are you must select the layer under Forest Use then click: Indonesia Moratoria Areas: http://commodities.globalforestwatch.org/#v=map&x=-68.91&y=-0.08&l=4&lyrs=tcc%2CgfwMill <p>3. Conduct on-site verification to confirm the following:</p> <ul style="list-style-type: none"> ○ Palm oil plantations takes place within the authorized boundaries in accordance with the relevant licenses.
Risk of tax evasion in relation to the payment	<p>1. Ensure the plantation company has the following valid tax documents:</p>

of royalties and fees and income and profit taxes.

- Monthly Withholding Tax Reports - obtain copies from the company to verify taxes are correct and paid
 - Receipts for payment of sales taxes, related royalties and other required fees
 - Receipts for payment of VAT taxes
 - Sales documents/invoices - confirm that information product type, quantities etc. are correctly stated, and that sales prices are in line with market prices and quantities match the taxes paid
 - Value Added Tax and Monthly Withholding Tax Reports - obtain copies from the company to verify taxes are correct and paid
2. Confirm with the Directorate General of Tax (PBB) the operation is up-to-date in the payment of the applicable VAT taxes
 3. Volumes, and qualities given in sales and transport documents shall match the paid fees. The following documents can be used for verification:
 - The Notarial Deed
 - Annual balance sheet
 - Calculation of annual income
 - Accounts daily transaction journal
 4. Classification of volumes and qualities shall match the royalties and fees paid.



Social Issues

The following four risks have been identified related to social issues in Kalimantan Indonesia:

1. Risk that some companies are engaging in illegal employment practices. It has been reported some palm oil plantations do not register all employees, preventing these workers from getting a social security card and the required medical coverage and insurance. Forced labour, child labour and debt bondage has proved to be a pervasive issue in the Indonesian palm oil sector, ultimately affecting the legal employment of many palm oil workers and company compliance with the ILO Fundamental Conventions.
2. Risk that Indonesia's health and safety requirements are breached by palm oil producers. The use of safety equipment is not common in Indonesia, and thus in many cases employees do not use safety equipment despite companies providing it. Supervisors and managers are also commonly known not to wear safety equipment; with a reported lack of enforcement or incentives to use it. Additionally, there is a lack of systematic reporting on occupational accidents and diseases by palm oil plantations.
3. Risk that indigenous and traditional peoples' rights are not upheld. The lack of security for indigenous peoples is a pervasive concern throughout Indonesia and especially in Kalimantan. Under the Law No. 39/2014 on Plantations, companies are effectively prohibited from retaining forest within their plantations and local authorities are prohibited from issuing permits where 'adat' communities have customary rights. Despite this change, continued cases of abuse, corruption, and strife persist against traditional and indigenous communities by both palm oil companies and the government.

Risk

Mitigation recommendations

Companies are engaging in illegal employment practices.

1. Verify the palm oil plantation supplier(s) have the following relevant legal employment documents in place:
 - List of employees (e.g., request the employer's payroll list)
 - Employment contract agreements for all employees (ask for a sample). The contract must include the following information:
 - The name, address, and type of business
 - Name, sex, age, and address of the worker / labourer
 - Position or type of work
 - Place of work
 - The amount of wages and payment
 - Requirement work requirements which contains rights and obligations of employers and workers / labourers
 - Start and validity period of labor agreement
 - Place and date of employment agreement was made. Signature of the parties to the employment agreement
 - Evidence of insurance (Social Security Agency for Health and Employment)
 - Salary payment receipts (ask for a sample)
 - A valid passport, work visas (limited stay permit (VITAS) and card (KITAS))
 - Evidence of passed medical exam for migrant employees
2. Consult stakeholders on the following:
 - Consult the Local Manpower and Transmigration office that all employees are registered
 - Consult the [Social Security Agency for Health and Employment](#) that all valid insurances are in place.
3. Conduct on-site verification:
 - Confirm all workers are employed according to the regulations and required contracts and:

- Hold certificates of competence required for the function that they perform
 - Are covered by mandatory insurance policies
 - Are paid a salary which is officially stated by the employer according to legal requirements
 - Are above the minimum age for both palm oil activities and hazardous work
 - Are paid at least the legally established minimum wage
 - Interview employees and ask what activity they performed, what are their working hours and how much they are paid.
4. Confirm the company does not employ unregistered workers, either on probation, or who receive government benefits for the unemployed

To ensure compliance with the ILO Fundamental Conventions:

1. Evidence of that the palm oil farm(s) have a clear policy and compliance system is in place that prohibits child labour and its worst forms and sets the minimum age for employment consistent with applicable law.
2. At least the legally established minimum salaries shall be paid for personnel involved in farm management activities.
3. Salaries shall be paid officially and declared by the employer according to requirements for personnel involved in farm management activities.
4. Minimum age shall be observed for all personnel involved in farm management activities.
5. Minimum age shall be observed for all personnel involved in hazardous work.
6. Stakeholders shall confirm that forced or compulsory labour is not involved in farm management activities.
7. There evidence and/or employees confirm the employer allows them the right to organize and collective bargain.

Health and safety requirements are breached by palm oil producers.

1. Seek evidence the palm oil plantation supplier(s) have the following valid H&S documents in place:
 - Health and Safety policies and procedures
 - Health and Safety training certificate
 - Workplace deaths records
 - Annual sustainability reports - check if the palm oil plantation regularly reports on its Occupational Safety and Health (OSH) management system
2. Consult stakeholders on the following:
 - Confirm employees are registered with the [Ministry of Health](#)
 - Consult the [Social Security Agency for Health and Employment](#) that all valid insurances are in place and being paid
 - Confirm with the training organization that provide certificate training for safety (main independent institutions that provide this certificate include: SGS, BSI, Nebosh Group) or the Ministry of Manpower and Transmigration) or the Ministry of Manpower and Transmigration that the palm oil plantations obtains a valid H&S training certificate
3. Confirm with on-site verification:
 - All safety and health regulations are followed and all required safety equipment is used
 - Interview employees to verify they have been trained about work safety and equipment use

Indigenous and traditional peoples' rights are not upheld.

In addition to obtaining the legal land tenure ownership documents listed above, we recommend the following:

1. Consult stakeholders on the following:
 - Review information on land tenure disputes and developments on indigenous and traditional peoples' land claims:

- NGO investigations and reports (Forest Peoples Programme, Sawit Watch, Rainforest Action Network, Global Platform of Indigenous and Community lands, Greenpeace, Friends of the Earth)
 - Media reports (Mongabay.com, greenomics.org, red-monitor.org, thejakartapost.com, eyesontheforest.org)
 - Consult with indigenous communities, local communities, landowners and other stakeholders to find out if A) land tenure rights are clear and – where applicable – lease of the land has been agreed by all the landowners; and B) if there are any court orders or other legal decisions that mean that the company is not allowed to operate due to conflicts of land tenure
 - Assess palm oil plantations corporate CSR risk, particularly check palm oil producers' 'Landbank' scores its linked to publicly available information on disclosure of their operations
2. Conduct on-site verification to confirm:
- A participatory social impact assessment and/or conducting a Free Prior Informed Consent was conducted and there is a dispute-resolution mechanism in place
 - Indigenous communities and local communities customary and / or indigenous peoples' rights are upheld and there is an absence of significant disputes



Environmental Issues

The following two risks have been identified related to environmental issues for palm oil in Kalimantan Indonesia:

1. Risk that palm oil plantations are not complying with the relevant environment regulations and are not obtaining the legally required environmental licenses. There are numerous cases of companies not conducting an Environmental Impact Assessment (AMDAL), which per the law, companies would not then be able to obtain an Environmental License nor a concession license. But in practice these companies are managing palm oil concessions and have obtained a concession license without following the due process. These cases usually involve bribery and/or weak enforcement by the authorized person from the local government.
2. Risk that natural ecosystems along the boundaries of protected areas and high conservation value areas are being cleared to establish palm oil plantations. Sources indicate that palm oil companies disregard the relevant laws including those connected to locally protected areas (Kawasan Lindung Setempat) and/or palm oil companies operating without land tenure, proper operating licenses etc.

Risk	Mitigation recommendations
<p>Non-compliance with environment regulations and a lack of legally required environmental licenses.</p>	<ol style="list-style-type: none"> 1. Confirm the palm oil plantation has the following required valid environmental documentation: <ul style="list-style-type: none"> ○ Environmental Impact Assessment (AMDAL) ○ Environmental Monitoring Document (Rencana Pemantauan Lingkungan (RPL) ○ Environmental Management Document (Rencana Pengelolaan Lingkungan (RKL) ○ Indicative Maps for Postponement of new permit (PIPIB) ○ Land Cover Map by the Ministry of Environment and Forestry (Kementerian Lingkungan Hidup dan Kehutanan (KLHK)) 2. Consult stakeholders and/or relevant data/websites:

	<ul style="list-style-type: none"> ○ Verify all legally required environmental documents (AMDAL, RKL, RPL,) are if validated by local authority and/or through accredited relevant audit reports ○ Review the Corruption Eradication Commission (KPK) annual reports. The KPK are engaged in highly visible efforts to improve legal compliance in industrial land licensing to ensure compliance with environmental requirements and detect overlaps with protected areas and other industrial land use licenses http://www.kpk.go.id/id ○ Review the colour grading of the PROPER rating: PROPER – http://proper.menlh.go.id/portal/ Programme for Environmental Performance Rating, the PROPER rating award is an initiative by Indonesia’s Ministry of Environment. ○ Review the Zoological Society of London (ZSL)’s Sustainable Palm Oil Transparency Toolkit (SPOTT) tool to assess the palm oil producer’s commitments to environmental and social best practice which is based on publicly available information on disclosure of their operations. Check palm oil producers’ ‘environmental management’ and ‘fragile, marginal and peat soils’ scores: http://www.sustainablepalmoil.org/companies/. <p>3. Conduct on-site verification:</p> <ul style="list-style-type: none"> ○ Check that the Environmental Impact Assessment (AMADAL) was carried out and fulfils all the legal requirements and environmental controls are implemented in the field.
<p>Lack of compliance with protected areas and species regulations.</p>	<p>In addition to implementing the recommendations for the environmental regulations listed above, we recommend the following:</p> <ol style="list-style-type: none"> 1. Confirm the palm oil supply area is not overlapping any official protected areas in Indonesia and cross check locally protected areas maps linked to “Peatland Hydrological Unit” map 2. Conduct on-site verification to confirm the palm oil plantation (s): <ul style="list-style-type: none"> ○ are not within official protected areas; and ○ management plans for protected sites and species are implemented and monitored
<p>Threats to high conservation value (HCV) areas.</p>	<ol style="list-style-type: none"> 1. Confirm the palm oil plantation supplier has the following relevant has the following in place: <ul style="list-style-type: none"> ○ Biodiversity surveys and/or High Conservation Value (HCV) assessments to identify occurrence of HCV values in or adjacent to the palm oil plantation

- Conversation/High Conservation Value (HCV) management plans
 - Historical remote sensing imagery evidence to confirm no conversion of primary forest, peatlands and HCVs post 2005.
2. Consult the relevant data:
- Assess the risk of [deforestation](#) and [fires](#) use for land conversion by examining remote sensing time series images within palm oil plantation's operational boundaries
 - Review the Zoological Society of London (ZSL)'s Sustainable Palm Oil Transparency Toolkit (SPOTT) tool to assess the palm oil producer's commitments to environmental and social best practice which is based on publicly available information on disclosure of their operations. Check palm oil producers' 'environmental management' and 'fragile, marginal and peat soils' scores: <http://www.sustainablepalmoil.org/companies/>
3. Conduct on-site verification to confirm:
- Confirm management plans for protected sites, species and High Conservations Values are implemented and monitored.
 - Maps/remote sensing images (for protected areas, deforestation etc.) assessed reflect reality.



Conversion

The following risks have been identified related to conversion in Kalimantan Indonesia:

1. Risk of natural forests or ecosystems are cleared for the establishment of palm oil plantations. One of the biggest drivers of deforestation in Kalimantan is due to the growth and establishment of oil palm plantations. It is not illegal to convert forest to oil palm in Indonesia; however, the Presidential Instruction No. 8/2015 suspends the granting of new palm oil licenses in primary natural forest and peat lands. The instruction directs several ministries and government agencies to take the necessary steps per their respective authority to implement the instruction; however, the instruction is not legally binding.
2. Risk that fire is being used to clear natural ecosystems/forests for the establishment of palm oil plantations. Kalimantan is known as a hotspot for forest fires and there has been recent detection of fires activated within palm oil concession areas as indicated on the Global Forest Watch Fires mapping platform. Many palm oil farmers still consider clearing land by fire a traditional farming practice and this has not been effectively counter acted by existing fire mitigating policies due to a lack of the resources and expertise in many districts and villages.

Risk	Mitigation recommendations
Natural forests or ecosystems are cleared for the establishment of palm oil plantations <i>AND</i> Fire is being used to clear natural ecosystems/forests for	In addition to implementing the recommendations for the risks associated with land tenure, licensing and environmental regulations listed above, we recommend the following: <ol style="list-style-type: none">1. Consult relevant data and stakeholders:<ul style="list-style-type: none">o Check palm oil producers' 'environmental management' and 'fragile, marginal and peat soils' scores: http://www.sustainablepalmoil.org/companies/ and/or the company's latest annual report.

the establishment of palm oil plantations

- Assess the risk of [deforestation](#) (including peatland) for land conversion by examining remote sensing time series images within palm oil plantation's operational boundaries
 - Confirm with relevant local authorities and/or local stakeholders that no land clearance nor preparation was conducted
2. Conduct on-site verification:
- maps/remote sensing images detecting fire risk assessed reflect reality and ground truthing confirm fire has not been used for land conversion of natural ecosystems for the establishment or management of palm oil plantations.

About

Responsible Sourcing of Soy, Cattle and Palm Oil

Responsible Sourcing of Soy, Cattle and Palm Oil is a project aimed at creating awareness and capacity among Danish companies to minimise risks of social and environmental problems connected to sourcing palm oil, soy and cattle from developing countries. The project is run by NEPCon and SEGES and funded by DANIDA, Ministry of Foreign Affairs of Denmark.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

NEPCon | info@nepcon.org | www.nepcon.org