



TROPICAL FOREST ALLIANCE

INDONESIA REGIONAL POLICY BRIEFING #6: NAVIGATING EUDR AND ROUNDING UP RECENT UPDATES

Policy brief prepared by Access Partnership for the Tropical Forest Alliance

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About this briefing

TFA has identified the need to build awareness of relevant policy developments **in Indonesia** among corporate stakeholders related to **deforestation and the forest positive agenda**. In service of this objective, TFA commissioned Access Partnership to develop regular regional policy briefings for Indonesia, with the aim of providing comprehensive and impartial information on the policy and geopolitical context related to deforestation and the forest-positive agenda in Indonesia to help stakeholders engage with policymakers. Aspects covered by these briefs include policy developments and updates from current events related to forest protection, sustainable land use, agricultural production and trade, green finance, climate, and land rights. This is the final of the six briefings, which **functions as a short primer on how Indonesian stakeholders are viewing the European Union's Deforestation Regulation (EUDR), as well as covering latest policy and industry developments on deforestation in Indonesia**. It has been organised in the form of short sections in each of these areas.

Summary of insights

- 1. Continued reactions to the EU Deforestation Regulation (EUDR) in Indonesia:** The Indonesian government and palm oil producers have critiqued EUDR for placing Indonesian palm oil producers at a disadvantage in international markets without providing support for compliance. Critics say the new regulation discounts the significant strides Indonesia has made in addressing palm oil deforestation. Critics also note that the EUDR in its current guise could incentivize further deforestation, as it may create segregated supply chains where non-compliant producers simply abandon sustainability practices due to high costs of compliance and sell to markets with less stringent standards. Indonesia and Malaysia continue to litigate the EU at the WTO, while the EU remains steadfast in its belief that EUDR will help its member states achieve global climate aims and create a sustainable commodity market. Supply chain companies, meanwhile, can support smallholders and other producers in their supply chain to comply with new standards – EUDR or otherwise – by participating in jurisdictional approaches, committing to no-deforestation, no-peat and no-exploitation supply chains, providing finance to smallholders to adopt good, robust agricultural practices, and contributing to industry advocacy.
- 2. MoEF makes strides in socialization efforts and international partnerships:** The Ministry of Environment and Forestry (MoEF) has been extremely active in 2023, organizing a series of bespoke socialization events for sub-national plans for Forestry And Other Land Use (FOLU) Net Sink 2030 in various regions. It also initiated a national-level socialization and implementation program for the Kunming-Montreal Global Biodiversity Framework (GBF), agreed at UNCBD's 15th Conference of the Parties (COP15). Additionally, MoEF launched a new climate partnership with the U.S. Agency for International Development (USAID) for up to USD50 million, and agreed to develop a five-year action plan with the U.S. Environmental Protection Agency (EPA) on mangrove rehabilitation and waste management.
- 3. Q2, 2023 updates on deforestation policy environment in Indonesia:** A number of other interesting updates in recent months to note – (1) Indonesia has received USD46 million from the Green Climate Fund; (2) Indonesia and Philippines are in talks for a major reforestation partnership; (3) The Forest Peoples Programme has released a new report suggesting that Indonesia should incorporate political governance reform; (4) Indonesian indigenous organization AMAN has won the 2023 Skoll Award for Social Innovation; (5) The Nusantara Fund for Indigenous peoples and local communities has been launched – the first such direct indigenous funding mechanism for sustainable forestry in Indonesia; and (6) East Kalimantan's new provincial zoning plan includes provisions for further deforestation, threatening years of progress.

I. Continued reactions to the EUDR in Indonesia

Why is EUDR contentious in Indonesia?

The EU Deforestation Regulation (EUDR) continues to be the major area of policy discussion on deforestation in Indonesia. As a reminder, this new EU regulation on deforestation-free trade was drafted in December 2022, adopted by the EU Parliament in April 2023, Council in May 2023, and came into force in June 2023. It requires companies trading in commodities linked to deforestation to collect precise geographical information on where commodities have been grown and comply with mandatory due diligence rules to address deforestation risks in their supply chain.¹ It initially covers seven commodities – soy, cattle, palm oil, wood, cocoa, coffee, and rubber. The **burden is placed on buyers and traders to prove that products are legally produced and deforestation-free** (i.e., produced on land not deforested after 31 Dec 2020).

The EUDR faces significant opposition from the Indonesian government and palm oil producers and traders. The law is perceived to disadvantage Indonesian palm oil producers in international markets and provides no support for compliance to either producers or traders. Specifically, the following concerns have been raised:

- **“High-risk” classification penalizes Indonesian exports²:** Under proposed benchmarking systems, Indonesia would likely be classified as a “high-risk” nation for deforestation, meaning products from the seven commodity groups would be subject to **tighter scrutiny by custom authorities and require more extensive due diligence from buyers and traders, even if compliant with the regulation.** The Indonesian government is concerned that this would not only be damaging to the Indonesian palm oil industry on the international stage, it also ignores existing successful efforts by Indonesia to reduce deforestation in recent

years (by nearly three-quarters versus annual highs in the past decade) and does not recognise widely adopted palm oil certification schemes such as ISPO or RSPO. Notably, Malaysia would likely be similarly classified as a high-risk country under EUDR³

- **Excludes producer countries from meaningful dialogue:** The Indonesian and Malaysian governments have raised concerns that the EUDR has been adopted without meaningful dialogue with palm oil producing countries on issues such as risk assessments, traceability, and smallholders. Malaysian Deputy Prime Minister Datuk Seri Fadillah Yusof called the EUDR “woefully misguided”. Both countries have called on the EU to engage with producing countries through the Council of Palm Oil Producing Countries (CPOPC), to minimize the adverse impact of the EUDR.
- **Increases costs of production for palm oil without support to address deforestation:** Although Indonesia shares the original intention of the EUDR – to decouple commodity supply chains from deforestation – it notes that the EUDR currently does not provide any support to producing communities for the transition to sustainable production, with whom the cost of compliance sits directly. Indonesia President Joko Widodo voiced these sentiments at the EU-ASEAN summit in Brussels in December, saying that “partnerships should be based on equality” and “there must be no coercion”, critiquing the law’s inflexible approach to considering Indonesia’s development and exports.
- **Places smallholders at a significant disadvantage⁴:** Smallholders manage over 40% of the total oil palm plantation area in Indonesia. RSPO CEO Joseph D’cruz previously highlighted that the law risks side-lining smallholder and independent farmers who will be unable to meet compliance burdens from EUDR, unlike large members that could already meet these standards.⁵ Many smallholders have not even applied for plantation registration certificates or own title to their land, a baseline requirement.
- **Raises livelihood concerns and breeds significant anti-EU sentiment⁶:** Members of palm oil industry groups APKASINDO, ASPEKPIR, and SAMADE staged a protest in front of the EU Embassy Office in Jakarta, with the Chairman of APKASINDO terming the EUDR as “a violation of human rights”. These associations also reiterated the difficulties smallholders will face in complying with the new regulations, and the disruptions that it would bring to their livelihoods. This comes after an earlier demonstration by palm oil farmers pushing for a boycott of EU brands until the EUDR is repealed. This situation also presents significant risks to importers into the EU – smallholder associations may channel this resentment into legal action in Indonesia against importers attempting to comply with EUDR requirements that exclude them from their supply chains, citing anti-competitive practices, creating further challenges for companies caught in the crossfire between competing sovereign laws.
- **Potentially delays the Comprehensive Economic Partnership Agreement (CEPA)⁷:** This agreement seems to be aimed at getting the EU to recognise existing export standards such as those on sustainable palm oil and wood products. Indonesia’s Coordinating Economic Minister, Mr Airlangga Hartarto, stressed that Indonesia “can wait another seven years”, even after seven years of past deliberations on the free trade agreement, if concerns related to EUDR are not addressed.

What could be the consequences if EUDR proceeds as planned, according to Indonesian stakeholders?

The EUDR in its current guise, while well-intentioned, could incentivize further deforestation in Indonesia.

There are several reasons why this could be the case:

- **Creation of segregated supply chains⁸:** The exclusion of producers that do not supply fully comply with the EUDR requirements at the expense of those that do, will inevitably create segregated supply chains – one for compliant supply and one for ordinary supply (also known as two-tiered supply chains). Segregation is costly, not just at the far level but also in storage facilities and logistics supporting farmers.⁹ As a result, producers, particularly smallholders, may forgo any compliance to sustainable standards at all, and simply export to countries with weaker environmental regulations and import laws, even for lower returns. This could undo decades of effort in reducing deforestation and poverty in Indonesia. Already, Minister Hartarto has acknowledged that palm oil opportunities in other markets will be pursued. These effects would be felt not just by palm oil producers, but also timber, cocoa, coffee, beef, soy, and rubber, and across Asia, Africa, and Latin America. The creation of two-tiered supply chains has also long been argued as a criticism against commodity certification schemes that do not cover all supply of particularly commodities. Past studies on two-tiered supply chains created by commodity certification schemes have shown that they can increase deforestation risks in supply chains, particularly for small producers and traders.^{10,11} Moreover,

segregated supply chains are generally not deployed to reduce deforestation but to ensure product compliance and measure cross-contamination, which is itself practically challenging.¹²

- **Risks false certification¹³:** Another challenge created by burdensome compliance without capacity building or financial support is the possible proliferation of false certificates. This could be driven either to avoid costs of compliance or simply due to a lack of implementation capacity and financing to certify every producer that wishes to be certified. **The proliferation of false certification could undermine genuine efforts to reduce deforestation**, and it is in the EU's interest to work closely with palm oil producers to bring their standards up to scratch in a sustainable manner.
- **Favouring of EU produced rapeseed oil with knock-on effects on palm oil producers:** If palm production and import costs rise, Indonesia and Malaysia argue that EU produced rapeseed oil will become comparatively cheaper, **driving down demand for palm oil and creating a supply glut that could dent the palm oil industry's competitiveness on the global stage and divert productive lands to other commodities**. A study by APKASINDO has also shown that the EUDR has already led to a decrease in prices for smallholder farmers. Smallholders may be incentivized to produce other commodities on their lands instead of palm oil that carry their own deforestation risks.

What action has been taken by governments in response?

The Indonesian government has committed to dialogue and raised its concerns in appropriate international forums. Major outcomes of these efforts:

- **The WTO cases discussed in Brief #4 remain in progress:** Two cases were brought against EU before the World Trade Organization (WTO) in this matter, *EU – Palm Oil (Indonesia) (DS593)*¹⁴, and *EU and certain Member States – Palm Oil (Malaysia) (DS600)*¹⁵. No further updates have been issued since the previous brief. The WTO's Dispute Settlement Body (DSB) should produce **final reports on each case during or after Q3 2023**, covering whether EUDR is valid under WTO rules and recommendations to resolve the dispute and/or implement the law.
- **Indonesia and Malaysia will work with the EU through a Joint Task Force:** A joint statement from the leaders of Indonesia and Malaysia in early June affirmed the need for a strengthened collaboration between the two countries, and the need to cooperate closely to address the EU's "highly detrimental discriminatory measures against palm oil".¹⁶ Both countries subsequently sent a joint mission to Brussels to discuss the EUDR in search of a "fair and equitable resolution", which concluded with an **agreement to establish a Joint Task Force on EUDR implementation**, announced on June 29.¹⁷ The Joint Task Force will commence meetings in the first week of August, and comprise representatives from the Indonesian and Malaysian governments, the EU Commission, and relevant stakeholders including commodities associations, smallholders, workers associations, and civil society actors to enhance dialogue on supply chain traceability and transparency.
- **The EU maintains the necessity of the EUDR¹⁸:** Frans Timmermans, Vice-President of the European Commission and leader of the EU Green Deal, reaffirmed recently that the **EUDR is necessary to the meet EU's global climate aims**. He also expressed his sympathy for smallholder farmers in Indonesia and Malaysia, and talked about how the EU could "empower stakeholders" and potentially assist through capacity-building projects. Another EU official said that the EUDR would not create costly or complex obligations for smallholders, but actually account for social dimensions and the preservation of livelihoods whilst offering **market opportunities for producers who can ensure their products are deforestation-free**. Meanwhile, a position paper from over 100 international CSOs suggests that the EUDR may in fact not go far enough, with 16 suggestions to strengthen its scope.¹⁹

What can companies do to help?

While the EUDR may be imperfect, all stakeholders across commodity production value chains can continue to work on building forest-positive supply chains. In particular, supply chain companies can help minimise segregation and maximise the production of palm oil in compliance with EUDR, including by:

- **Participating in Jurisdictional Approaches (JAs)²⁰ :** JAs have proven instrumental in reducing deforestation while balancing the needs of various stakeholders in commodity production landscapes, including local governments, producers, smallholders, supply chain companies, and local communities.

Companies should increase their participation in such programs and pursue opportunities to work with palm oil producers directly. As covered in previous briefs, there are at least 20 live JAs in Indonesia.

- **Committing to No Deforestation, No Peat and No Exploitation (NDPE) supply chains:** Corporate commitments to NDPE supply chains have helped drive down deforestation linked to palm production.²¹ Increased adoption of NDPE by companies at all nodes of the palm oil value chain and for additional commodities, as well as increased direct engagement with smallholders, is a significant opportunity for corporate supply chain action. Tools such as the NDPE Implementation Reporting Framework (NDPE-IRF) provide a shared and consistent view of company progress towards NDPE supply chains across the full supply base of companies.²² The NDPE-IRF was developed under the Palm Oil Collaboration Group, consisting of over 30 companies from all stages of the supply chain, including PepsiCo, Cargill, Musim Mas and Proforest.
- **Co-creating innovative financing instruments for smallholders:** Providing direct financial support to smallholder farmers or investing in programs that seek to support smallholders to improve their production standards are an extremely effective way for companies to support producers in their supply chain to become compliant with new regulation. A range of multi-donor and impact investment funds are active in Southeast Asia in supporting smallholders, presenting a good opportunity for companies to contribute, including Grow Asia's USD6 million "Grow Right" Impact Fund.²³ The fund is guided by the ASEAN Guidelines for Responsible Investment in Food, Agriculture and Forestry, which guides the development of financial products for smallholders, and new ways to increase access to finance.²⁴
- **Supporting good, robust agricultural practices:** Companies can support producers in their supply chain to acquire the skills and knowledge to comply with sustainable production standards, which many are doing already. An example is the Musim Mas Group's effort with the UN Development Programme and the Sustainable Palm Oil Initiative to provide training in Good Agriculture Practice to intensify productivity through better nursery facilities, fertilization, and daily maintenance.²⁵ Cargill Indonesia has also established the Oil Palm Teaching Farm with Institut Pertanian Bogor, enabling research in the plantation sector, and providing training to students in plantation management for a sustainable agricultural system. Cargill's Tropical Palm Learning Academy was also launched as a specialized learning institution on sustainable palm production.²⁶
- **Contributing to industry advocacy:** Finally, companies should continue to participate in international forums and working groups, including those by RSPO, TFA, the Consumer Goods Forum (CGF) and more, to look for whole supply chain solutions to deforestation and build appropriate policy recommendations. The TFA EU Working Group, for instance, convenes monthly and brings together over 35 businesses, civil society, and other organisations to discuss relevant EU laws.²⁷ The TFA's position has long been to aid the development of EU trade legislation that prioritises partnerships between producer and consumer countries, appropriate due-diligence measures, sustainable finance and investment, and robust verification systems to protect and restore damaged forests.²⁸

II. MoEF makes strides in socialization efforts and international partnerships

Indonesia's Ministry of Environment and Forestry (MoEF) has been extremely active in early 2023 in socializing national and international plans to address deforestation and developing new partnerships. Major updates include:

- **Continued socialization of FOLU Net Sink 2030 at sub-national level²⁹:** The MoEF launched a series of socialization events for sub-national plans for Forestry And Other Land Use (FOLU) Net Sink 2030 in various regions, including North Sulawesi, South Sulawesi, and Bangka Belitung. Mostly led by the Directorate General of Forestry Planning and Environmental Management, MoEF has tailored its core message and requests to suit each region. For instance, the socialization event in North Sulawesi emphasized mangrove and water resource conservation, due to the extensive mangrove forests in the province; the Southeast Sulawesi event focused on enhancing the accountability of the regional forest management apparatus through better planning and financial management.
- **National workshop on dissemination of outcomes from UNCBD's COP15³⁰:** MoEF has initiated a national-level socialization of the Kunming-Montreal Global Biodiversity Framework (GBF), which was agreed upon at the 15th Conference of the Parties (COP15) of the UN Convention on Biological Diversity (CBD) last December. According to Deputy Environment and Forestry Minister Alue Dohong, the GBF will serve as a reference for aligning Indonesia's future resource management policies. This workshop being the first step of the national level implementation of the results of COP15, the Indonesian government will take necessary measures to integrate GBF into major national strategies such as the National Medium-Term Development Plan for 2020-2024 and build a data system on biodiversity, as mandated by GBF.

Additionally, a new development concept called **Biodiversity Sensitive Development** will be applied to conservation and sustainability approaches in Indonesia's development policies.

- **Partnership with USAID to support FOLU Net Sink 2030³¹**: Having previously signed an MoU to jointly support FOLU Net Sink 2030, MoEF and the U.S. Agency for International Development (USAID) have announced their intention to **enter a framework agreement in early 2023 for up to USD50 million to launch a new climate partnership**. This partnership will encourage close cooperation between both agencies and related stakeholders to support sustainable land use and the protection of forests. It will also support ongoing conservation efforts by MoEF and will foster collaboration amongst stakeholders to continue advancing sustainable, equitable management of Indonesia's extraordinary natural resources.
- **Partnership with EPA on environmental cooperation³²**: MoEF and the U.S. Environmental Protection Agency (EPA) have committed to enhance cooperation on climate change mitigation with key focus on mangrove rehabilitation and waste management. A **joint working group will be set up as part of the MoU to develop a 5-year action plan** that includes information sharing and capacity building mechanisms.

III. Q2 2023 updates on deforestation policy environment in Indonesia

Finally, we round off this briefing with regular updates from the policy landscape in Indonesia from the second quarter of 2023:

- **Indonesia has received USD46 million in recognition of successful emission reduction from the forestry sector³³**: This is part of a larger USD103.8 million results-based payment that has been approved by the Green Climate Fund. These funds will be paid out to the Indonesian Environment Fund, a fund formed with the mandate of managing environmental and climate funds in support of Indonesia's Nationally Determined Contribution (NDC) commitments. Based on strategic directives from MoEF, **these funds will be used in support of FOLU Net Sink 2030 and other measures to combat climate change**.
- **Indonesia and Philippines in talks for major reforestation partnership³⁴**: As part of an initiative by the ASEAN Business Advisory Council (ASEAN-BAC), the two countries are in discussion about a **bilateral reforestation partnership aimed at promoting net zero and expanding the global carbon market**. The project has potential to scale and involve other ASEAN members. To achieve this, the current tentative timeline includes signing an MoU during the upcoming ASEAN leadership meeting in September 2023.
- **Forest Peoples Programme calls for governance reform to combat deforestation³⁵**: In a report from earlier this year titled "Forest Politics in Indonesia: Drivers of Deforestation and Dispossession," the Forest Peoples Programme points out that in Indonesia's current governance landscape **where clientelism is pervasive, decentralization can only propel patron-client relations between local politicians and businesses with substantial presence in the region**. Therefore, the report suggests, Indonesia should incorporate political governance reform in its long-term priorities to maximize the impact of its forest governance reform.
- **Indigenous People's Alliance of the Archipelago wins 2023 Skoll Award for Social Innovation³⁶**: Indonesian indigenous organization AMAN **received the award in recognition of their work defending the land rights of indigenous people and supporting land rehabilitation**. Established in 1999, AMAN has grown into an advocacy group representing 20 million people. Its main initiatives include campaigning for pro-Indigenous legislations at national and local levels and mapping Indigenous territories.
- **Establishment of Nusantara Fund for Indigenous Peoples and Local Communities (IPLCs)³⁷**: The launch of the Fund – Indonesia's first direct funding mechanism to IPLCs – **aims to support and recognise the role of IPLCs in sustainable forest management**. International donors will provide up to USD20 million to the fund over the next decade, following on from previous commitments at COP26 to provide USD1.7 billion in support of IPLCs' conservation of forests and strengthen their land rights.³⁸
- **East Kalimantan new provincial zoning plan indicates further deforestation**: The provincial government has recently ratified its zonation plan, which indicates an additional 700,000 ha of deforestation for various land-use purposes, including palm oil and mining.³⁹ The plan has been sent to MoEF for harmonization. This is in contrast to strong progress on forest conservation efforts in the province in recent years. Regency and city governments in East Kalimantan have also recently signed incentive payment agreements for forest conservation under the World Bank's Forest Carbon Partnership Facility (FCPF) REDD+ Program with the provincial government.⁴⁰ The new **zonation plan could therefore be perceived as a reversal in progress on deforestation for East Kalimantan** and place funding and support at risk.

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