



Oil Palm, Biodiversity and Indonesian Law

Part 1: Legal Review

October 2010

Wildlife Conservation Society - Indonesia Program

For further information contact:

Arum Pawestri Handayani
WCS Indonesia Program
Jalan Burangrang No. 18
Bogor, 16151, Indonesia
a.handayani@wcsip.org

Oil Palm, Biodiversity and Indonesian Law

Part 1: Legal Review

Table of Contents

1. Introduction	4
a. Oil palm in Indonesia	4
b. Biodiversity in Indonesia	4
c. Promoting sustainable palm oil	4
d. Future perspectives/directions in Oil Palm.....	5
2. Methods	6
a. The purpose of this report	6
b. How to use this report	6
3. Legal implications of oil palm cultivation.....	7
a. Indonesia's legal framework	7
b. Sectoral power.....	7
c. Devolved power	7
d. Environmental Law	8
e. Oil palm cultivation and the law	8
i. <i>Company establishment</i>	9
ii. <i>Permit Process 1: Location Permit ('Ijin Lokasi')</i>	9
iii. <i>Permit Process 2: IUP & AMDAL</i>	10
iv. <i>Permit Process 3: Forest Conversion</i>	12
v. <i>Permit Process 4: HGU</i>	14
vi. <i>Plantation establishment 1: Blocking</i>	15
vii. <i>Plantation establishment 2: Land Clearing</i>	15
viii. <i>Plantation establishment 3: Planting and Operation</i>	16
f. Local laws & processes	17
g. RSPO and the law	17
i. <i>Principle 1 : Commitment to transparency</i>	18
ii. <i>Principle 2: Compliance with Applicable Laws and Regulations</i>	18
iii. <i>Principle 4: Use of appropriate best practices by growers and millers</i>	19
iv. <i>Principle 5 Environmental responsibilities</i>	20
v. <i>Principle 7 Responsible development of new plantings</i>	22
h. Forthcoming legislation	23
Further Reading	25
References	26
Appendix 1: Synopses of key laws and regulations	27
a. Laws ('Undang-Undang'; UU).....	27
i. <i>Constitution of the Republic of Indonesia, 1945</i>	27
ii. <i>Basic Agrarian Law 5/1960</i>	27
iii. <i>Conservation Law 5/1990</i>	27
iv. <i>Cultivation Law 12/1992</i>	28
v. <i>Forestry Law 41/1999</i>	28
vi. <i>Plantation Law 18/2004</i>	29
vii. <i>Local Governance Law 32/2004</i>	30
viii. <i>Environmental Protection Law 32/2009</i>	30

ix	<i>Company Law 40/2007</i>	31
b.	Government Regulation (<i>'Peraturan Pemerintah'</i> ; PP).....	32
i	<i>PP 26/2008, concerning national spatial planning</i>	32
ii	<i>PP 10/2010 concerning changing forest function</i>	32
iii	<i>PP 15/2010, concerning spatial planning</i>	33
c.	Presidential Decrees (<i>'Keputusan Presiden'</i> ; KePres).....	33
i	<i>Presidential Decree 32/1990 concerning protected area management</i>	33
d.	Ministry Regulations (<i>'Peraturan Menteri'</i> ; PerMen).....	33
i	<i>Ministry of Agriculture 26/2007 concerning plantation permits</i>	33
ii	<i>Ministry of Agriculture 14/2009 concerning peat land utilization</i>	34
e.	Ministerial Decrees (<i>'Keputusan Menteri'</i> ; KepMen).....	34
i	<i>Ministry of Forestry 146/2003, concerning release of forest</i>	34
	Appendix 2: Direct and indirect laws associated with the cultivation of oil palm	36
	Appendix 3: Hierarchy of legislation associated with the Plantation Law (18/2004)	37

1. Introduction

a. Oil palm in Indonesia

Oil palm was first introduced to Indonesia from its native west Africa in 1948 (Hartley 1988). The area cultivated grew slowly at first, and then rapidly from the late 1960s onwards. In the 30 years between 1967 and 1997 the area of oil palm then grew at an average of almost 11% a year, from 106,000 ha to over 2.5 million ha (Casson 1999). By 2010 the total area designated as palm oil plantation in Indonesia has now reached almost 8 million hectares.

Currently Indonesia is the world's largest producer of crude palm oil in the world, followed by Malaysia; together these two countries account for over 80% of global production (ISTA Mielke 2010). Around 50% of Indonesia's production comes from commercial plantations, 8% from government owned plantations and the remainder produced by small-holders (IPOC 2010). In 2009 Indonesia produced almost 21 million tons of crude palm oil, of which 16 million tonnes was exported; earning over USD\$10 billion in gross revenue (IPOC 2010).

b. Biodiversity in Indonesia

Indonesia is one of the most biologically diverse countries in the world and home to 17% of all the world's bird species, 12% of all the mammals, 16% of all the reptiles and amphibians and 33% of all insects. The wildlife of Indonesia faces many threats however. Indonesia currently has 1,127 threatened species, the fourth highest total in the world, including the most threatened mammal species and the second most threatened bird species (IUCN 2010). Much of the threat comes from loss and conversion of natural forest areas. It has been estimated that from 1950 to 2000 around 40% of Indonesia's forests were cleared (Global Forest Watch 2010). From 2000 to 2005 Indonesia then lost 2% of its forests every year (FAO 2009), giving it one of the world's highest annual deforestation rates (FAO 2006). By 1997 around 7 million ha of forest had been approved for conversion to estate crop plantations (Global Forest Watch 2010) and by 2004 it was considered that two-thirds of all currently productive oil palm plantations involved forest conversion (WRM 2004).

c. Promoting sustainable palm oil

With the increase in establishment of oil palm plantation across the tropics, fears were raised about the potential environmental impacts, particularly from natural forest clearance. This in turn led to calls for the creation of an accreditation standard for sustainably produced palm oil. In response to this call, the Roundtable on Sustainable Palm Oil (RSPO 2010) was formed in 2004 from a collaboration of oil palm producers, processors, traders, consumers, derived product manufacturers, banks and investors, environmental, social and developmental NGOs. The RSPO promotes the growth and use of sustainable oil palm products through the creation of a set of voluntary standards, made up of eight 'Principles' & 39 'Criteria', designed to ensure best practice from plantation establishment, through the supply chain, to the end market (RSPO 2010).

Current RSPO members are responsible for around 40% of the world's palm oil grown and processed (not all of what the members grow and process is certified, however; RSPO 2010). RSPO certified oil palm is believed to create a 'farm-gate' price premium of around \$10-50 per tonne. Currently only around 5% of palm oil exported from Indonesia is RSPO certified (RSPO 2010) but the volume appears to be increasing.

RSPO accreditation standards are market-driven and do not have a legal basis in Indonesia. For this reason there are instances where compliance with RSPO conflicts or poorly integrates with other legal requirements on growers in Indonesia and it is within this context that they are considered here.

d. Future perspectives/directions in Oil Palm

The Indonesian government and the Indonesian Oil Palm Growers Association is beginning to respond to market demands and international pressure to increase the sustainability of oil palm grown in the country. In May 2010 the Indonesian President, Susilo Bambang Yudhoyono, declared a policy to develop oil palm plantations only on 'degraded land' instead of forest or peat land. While the Agriculture Minister announced in mid-2010 that by January 2011 all Indonesian palm oil growers *must comply* with a new environmental certification system to be known as Indonesian Sustainable Palm Oil (ISPO). Guidelines for the standard have already been published (in draft), but no detail has yet been forthcoming regarding the legal basis with which this system will apparently be made 'compulsory'

2. Methods

a. The purpose of this report

This report aims to provide a reference to the national laws and regulations that relate to the cultivation of oil palm in Indonesia, and the mitigation of its environmental impacts.

The report is deliberately focused on those aspects of the process that interact with environmental legislation, or which have environmental protection considerations inherent in their process.

The report was prepared following a detailed review of the laws, regulations and processes behind the establishment and operation of oil palm plantations in Indonesia, with reference to agriculture, forestry, nature conservation, environmental protection and other regulations as applicable. It is not an exhaustive review of *all* laws and regulations that are applicable to establishing and operating an oil palm plantation, as many such regulations are not relevant in this context (such as areas of tax or employment law).

The report also seeks to highlight legal obstacles and inconsistencies and to identify ‘problem’ areas of the law. In this respect it is intended largely as a ‘primer’, and will be used in a series of discussion forums in the coming months to gather wider stakeholder input. The legal review will then be revised and incorporated into a more detailed analysis of legal barriers, gaps and inconsistencies produced in mid-2011, including the results of the stakeholder discussions. As a consequence of this process, the review presented here is very much intended as a ‘live’ document, for which any comments, corrections or opinions are very much welcomed.

b. How to use this report

The report contains a narrative account of the Indonesian laws and regulations applicable to establishing and operating an oil palm plantation, and compiling with RSPO standards (Section 3). This is followed by appendices summarising key laws and regulations (Appendix 1-3). Key legal instruments are highlighted in the narrative and linked to the synopses in Appendix 1. If the report is viewed as an electronic copy, these links can be followed by simply clicking on the relevant law or regulation. Synopses are given in English, based on translations of the Indonesian language original. Links to the original Indonesian language versions are given in the section ‘Further Reading’.

This law review is made available for information purposes only: It does not constitute legal advice, nor is it intended to do so. Readers in need of legal advice on any specific issue raised in this review should contact a professional qualified to practice in that area of law.

3. Legal implications of oil palm cultivation

a. Indonesia's legal framework

The Indonesian legal system is based largely on traditions of Roman-Dutch Civil Law, with influences of both traditional Indonesian *'Adat'* law and Islamic law. The Dutch-Roman tradition gives a strong emphasis on state control over natural resources in order to promote public welfare.

The structure of Indonesian legal system can be viewed as a pyramid, starting with the [Constitution of 1945](#) as the highest law and followed in sequential order by Law/Acts of Parliament (*'Undang-Undang'*; UU), Government Regulations (*'Peraturan Pemerintah'*; PP), Presidential Decrees (*'Keputusan Presiden'*; KePres) and Local Regulations (*'Peraturan Daerah'*; PerDa). Additionally Government Regulations often give rise to subsidiary Ministerial Regulations (*'Peraturan Menteri'*; PerMen) and Ministerial Decrees (*'Keputusan Menteri'*; KepMen) that are considered to lie at the level of their parent Government Regulation in this hierarchy.

In consequence of this pyramidal structure, 'lower' laws must comply with and defer to 'higher' laws. Unfortunately conflicts within this hierarchy are common within sectoral law in Indonesia, whereby the regulations relating to a given law become in conflict with another law, or its regulations. Several such cases are highlighted in this report.

b. Sectoral power

Starting in the 1960s, under the regime of Soeharto, Indonesia entered a new phase of natural resource exploitation. This was driven by a number of landmark sectoral laws such as the Mining Law (11/1967) and the Forestry Law (5/1967). These laws departed from the interpretation of natural resource ownership that had prevailed under the [Basic Agrarian Law \(5/1960\)](#) in the way they treated 'ownership' of natural resources as rights 'unbundled' from land title. This led to a new era of private business being granted concession rights to exploit state managed areas, often with little consideration of the interests of local people. This general approach to natural resource use has prevailed since, and is reflected in the current approach to plantation management in Indonesia, despite that it is inherently in conflict with the [Basic Agrarian Law \(5/1960\)](#).

Since 1998 Indonesia has entered into a new phase of legal reform (*'Reformasi Hukum'*) that is seeing the emphasis shift again, but the general sectoral, exploitative approach still prevails. This sectoral tradition of natural resource exploitation has led to many legal conflicts and inconsistencies in the approach adopted by different sectors, with little well considered integration. Several such cases are highlighted in this report.

c. Devolved power

A second layer of legal complexity is incurred by the devolved nature of Indonesian government, as provided for in the [Indonesian Constitution \(1945\)](#) and expanded in the Regional Autonomy Law (22/1999), later replaced by the [Local Governance Law \(32/2004\)](#). These laws seek to define the division of responsibility between tiers of government, but leave many grey areas when

compared to sectoral legislation. This inconsistency between devolution law and sectoral law occurs in relation to the cultivation of oil palm in Indonesia, and some such cases are highlighted below.

d. Environmental Law

Laws with the specific purpose of environmental protection first came into being in the 1970s, spurred in particular by the 1972 UN Conference on the Human Environment in Stockholm, Sweden. Following this conference, Indonesia started to develop national policy introducing the concept of sustainable development and environmental protection. Five years after the conference, Indonesia enacted its first Environmental Law (4/1982) and created a new ministry (the Environment Ministry; '*Kementerian Lingkungan Hidup*') to oversee the implementation of this law. A second milestone in Indonesia's legal framework regarding environmental protection was then the issuance of the [Conservation Law No. 5 of 1990](#).

With time, Environmental Law 4 of 1982 was superseded by Environmental Law No 23 of 1997, but both still suffered from the common stereotype within the Indonesian regulation system of being themselves sectoral and disconnected with other sector's legislation. Such disconnects are apparent in issues like fines and penalties; creating loop holes in which both defence attorneys and prosecutors could 'cherry pick' which laws to follow. While the most recently issued major legislation on environmental protection, the [Environmental Protection Law No. 32 of 2009](#), makes good some earlier inconsistencies, it generally falls into the same pattern of not making explicit references to environmental 'damage' arising from activities that other laws permit (such as forestry or plantation establishment, in the context of this review).

e. Oil palm cultivation and the law

The cultivation of oil palm in Indonesia is not governed by a single act or regulation, but rather lies within a complex landscape of both sectoral and autonomy law, some of it directly applicable, some of it only indirectly applicable (see Appendix 2). Cornerstones of this legal landscape, however, might be considered to lie within the [Basic Agrarian Law \(5/1960\)](#), or the [Plantation Law \(18/2004\)](#); the latter being clarified, expanded and amended by a host of government regulations and decrees (shown with their relationships in Appendix 3).

To consider the legal processes in detail we have found it most informative to present them in relation to the relevant stages involved in the establishment and management of an oil palm plantation. As presented these relate most closely to commercial-scale oil palm cultivation by private companies, but where treatment of small-holder cultivation differs we have tried to highlight this. Under each process we summarise the major direct laws and the interaction with indirect laws, particularly environmental law.

In many places where authority rests with local government heads, we have abbreviated this to 'governor/bupati' implying the authority lies with the Provincial Governor ('*Gubenor Propinsi*') or the District '*Bupati*' ('*Bupati*

Kabupaten'). In such cases, the system for identifying where the authority lies is determined by the location of the area in question; if the area lies fully within a single District ('*Kabupaten*') then the authority lies with the *Bupati*. If the area in question spans two or more *Kabupaten* *within one province* then the authority passes to the Governor. By extension, if the target area lies across *two provinces* then the authority passes to central government, but such cases are relatively rare.

This section covers legal requirements on *all* growers. Legal consideration relevant to growers *locally*, or those who opt for *voluntary* certification by RSPO are described below under sections '3.f' and '3.g' respectively. References to major acts and regulations are linked to English language synopses of those acts contained in Appendix 1.

i. Company establishment

To engage in commercial-scale oil palm cultivation in Indonesia requires a legal business entity. Those entities that are eligible are generally described in [Plantation Law \(18/2004\)](#). From the perspective of oil palm cultivation, the most relevant consideration in this respect relates to the *size* of the targeted plantation. [Ministry of Agriculture Regulation 26 \(2007\)](#) stipulates that the maximum area for any one Limited Company ('*Perusahaan Terbatas*'; PT), or 'group of companies', is 100,000 ha, but that this limitation does not apply if the entity has a majority shareholding by a cooperative ('*Koperasi*'), is partly- or wholly-owned by the state (is a State- or Locally-Owned Company; '*Badan Usaha Milik Negara*' or '*Badan Usaha Milik Daerah*'; BUMN/BUMD), or is public listed. In this report we focus on the most common form, that of a 'PT', but much of what is written applies equally to other forms of entity.

Establishing a company in Indonesia is governed by a variety of legislation including [Company Law \(40/2007\)](#), and numerous implementing regulations and decrees that detail such things as limits on foreign investment and control.

During the process of creating a company there is little direct interaction with environmental legislation, although once established there can be: The [Environment Protection Law \(32/2009\)](#) states that if a company's actions impact on the environment (broadly defined to include such activities as landscape alteration, exploitation of natural resources, or leading to pollution or environmental damage) then it should conduct a company-wide environmental impact assessment to be submitted to the head of the local government where it is operating (the provincial governor or district '*bupati*', depending on the location of operation). For a company engaged in oil palm forestry this step is considered to be addressed as part of the application for a Plantation Permit ('*Ijin Usaha Perkebunan*'; IUP) and is discussed below (Section 3.e.iii).

ii. Permit Process 1: Location Permit ('*Ijin Lokasi*')

The process of establishing a plantation begins properly with the request for a Location Permit or '*Ijin Lokasi*'. This permit grants an applicant the

‘option’ to develop a plantation within a given area, subject to time constraints and other conditions. The process is regulated by State Land Agency Decree 2 of 1999 and more recently by [Government Regulation 15/2010](#) concerning the implementation of spatial planning.

An application for *Ijin Lokasi* is made to the local bupati/governor by proposing the target area and outlining a development plan. The target area proposed should be reflected in local spatial plans as suitable for plantation development. If granted, the *Ijin Lokasi* allows the company a time frame to acquire sufficient land rights to apply for IUP (Plantation Permit; ‘*Ijin Usaha Perkebunan*’) and HGU (Right to Exploit; ‘*Hak Guna Usaha*’) over all or part of the target area (see Sections 3.e.iii and 3.e.v respectively, below).

The term of *Ijin Lokasi* is limited by the target area in question: areas of up to 25 ha are given a one-year permit; areas between 25 and 50 ha are given a two-year permit; areas over 50 ha are given three-year permits. Within this time the company must obtain tenure over a minimum of 51% of the target area. If land acquisition has reached more than 51% of the area of then an extension may be granted for a further one year. If land acquisition of at least 50% cannot be completed within the time, the land can be released to another company, or reduced and the remainder made available to other companies.

The ‘*Ijin Lokasi*’ process has no *direct* legal obligation to consider environmental impact, as that is covered by the processes of forest conversion, IUP application and management activities. As ‘*Ijin Lokasi*’ is simply an ‘option’ on an area of land, there is also little *indirect* interaction with environmental legislation.

iii. Permit Process 2: IUP & AMDAL

If the target area exceeds 25 ha, the next step in the application process is to apply for and obtain a Plantation Permit (‘*Ijin Usaha Perkebunan*’; IUP). This grants the holder the right to establish an oil palm plantation within a defined area. The process of application and evaluation is rooted in the [Plantation Law of 18/2004](#) and expanded in detail in [Ministry of Agriculture Regulation 26 of 2007](#). The applicant must prepare a written application and submit it with supporting evidence (see below) to the relevant governor/bupati in their target area. Once issued, the IUP is then valid as long as the holder fulfils all obligations specified in the permit, but can be revoked by the governor/bupati if those obligations are not fulfilled.

From an environmental perspective the principal piece of supporting evidence that must be submitted with the IUP application is an Environmental Impact Assessment (‘*Analisis Mengenai Dampak Lingkungan*’; AMDAL). The need for, and method of compiling these risk assessment documents is covered by a succession of regulations including Government Regulation (27/1999), Environment Ministry Regulation 8 of 2006 and now the [Environment Protection Law \(32/2009\)](#) (which has incorporated the earlier legislation unchanged).

The AMDAL process requires that environmental and nature conservation values should be identified, and management activities proposed to maintain adverse impacts on these values. The process includes preparation of an Environmental Impact Assessment (*'Analisis Dampak Lingkungan'*; ANDAL), an Environmental Monitoring Document (*'Rencana Pemantauan Lingkungan Hidup'*; RPL) and an Environmental Management Document (*'Rencana Pengelolaan Lingkungan Hidup'*; RKL).

The completed ANDAL, RKL, and RPL are submitted to the local governor/bupati who then establishes an appraisal commission with membership coming from the Environment Impact Control Agency (*'Badan Pengendalian Dampak Lingkungan'*; BAPEDAL; the subsidiary agency of the Ministry of Environment) and inviting submission from relevant technical agencies, representatives from affected communities, business experts and environmental organizations. The commission then makes a recommendation to the governor/bupati.

Once the AMDAL is approved the applicant is granted an Environment Permit (*'Ijin Lingkungan'*) by the governor/bupati. The permit holder is then monitored for compliance by both the governor/bupati and the Environment Impact Control Agency (BAPEDAL). If the permit conditions are violated administration sanctions can be imposed including suspension or revocation of the permit. Continuing to operate without an Environment Permit then becomes a criminal offence under the [Environment Protection Law \(32/2009\)](#) carrying a potential 15 year prison sentence or maximum Rp 3 billion fine.

If the target area is *under 25 ha* a different process of permitting is followed, based on [Ministry of Agriculture Regulation 26 of 2007](#). This provides that where the proposed plantation area is less than 25 ha permission will be granted through a Plantation Business Registration Certificate (*'Surat Tanda Daftar Usaha Budidaya Perkebunan'*/STD-B) issued by the bupati/governor following a written request. This process is exempt from requiring an AMDAL (or equivalent) under [Ministry of Agriculture Regulation 26 of 2007](#) and only requires information to be submitted regarding plantation size, location, type of crop, seed source and anticipated production levels.

During the process of application for IUP/STD-B there is a possibility for an interaction with environmental laws and regulations, including those intended to safeguard peat soils and protected species and habitats. These are considered in turn below.

[Ministry of Agriculture Regulation 14 of 2009](#) provides that peat land may be used for oil palm plantations, providing the peat soils are less than 3m thick. Under this regulation, if the peat soils are under 3m then the IUP process is followed as above. If the peat soil is thicker than 3m the IUP should not be issued. This regulation however can conflict with [Presidential Decree 32/1990](#) and [Government Regulation 26 \(2008\)](#) both of which regulate all peat lands as protected areas.

Further issues may arise if a proposed plantation area supports wildlife species that are protected under [Conservation Law \(5/1990\)](#). This law provides that all listed protected species cannot be killed, injured, trapped or moved, but the law is seldom, if ever, applied in the case of a plantation being established or managed.

A final consideration in the IUP process is the requirement under the [Ministry of Agriculture Regulation 26 of 2007](#) which states that IUP holders must establish a 'community plantations' of an area at least 20% of the total area being cultivated. A number of methods can be used to achieve this including credit patterns, grants, or profit sharing arrangements ('*bagi hasil*'). There is little direct or indirect relevance to environmental protection in this provision.

iv. Permit Process 3: Forest Conversion

Before a company can begin establishing an oil palm plantation, it must secure some form of legal tenure to the land, a prerequisite for this is that the land must lie outside of the national forest estate under the [Forestry Law \(41/1999\)](#). If the target land does already lie outside (within land classed as 'APL' from the forestry perspective), then the process of forest conversion, as described in this section is not relevant. If any of the target land does lie within the national forest estate then the land must be released to become APL before the process can proceed by obtaining a decree of release from the Ministry of Forestry ('*SK Pelepasan Kawasan Hutan*'). This is a complex process which can be initiated by district, provincial or central government alone, or at the request of a company. The process is regulated by [Government Regulation 10 \(2010\)](#), incorporating the earlier Ministry of Forestry Decree 22 of 2009 and Ministry of Forestry Decree 31 of 2009. The process of forest conversion is largely independent of other regulatory steps in establishing an oil palm plantation, but where the company is the proponent it will typically start after *Ijin Lokasi* has been obtained for a prospective area, on occasion when that area includes land that is still part of the national forest estate. If local government is the proponent it can be initiated at any time, for example to make land available for plantation establishment, as part of a spatial or development plan.

Under the [Forestry Law \(41/1999\)](#) state forest is broadly categorised as either conservation areas (*Kawasan Konservasi*/KK), protection areas ('*Hutan Lindung*'; HL) or production areas ('*Hutan Produksi*'; HP). Production areas are then further subdivided into Production Forest (HP), Limited Production Forest ('*Hutan Produksi Terbatas*'; HPT), Conversion Production Forest ('*Hutan Produksi yang dapat dikonversi*'; HPK) and others. Legal processes exist to change the status of forest within one of the classifications to another (while staying within the national forest estate), and to excise *Production Forest* from the forest estate completely. In this way, Conservation and Protection Forest areas (KK and HL) *cannot* be excised directly, but technically could be through a two step process that sees them converted to Production Forest first. In this report we detail only the process for excising areas of the national forest estate already

designated as Conversion Production Forest (HPK) or designated as Production Forest (HP) or Limited Production Forest (HPT). We will not consider the process by which Conservation and Protection Forest areas (KK and HL) may be converted to Production Forest (HP).

The process of excising areas of Production Forest is most straightforward where the target area in question has already been designated as Conversion Production Forest (HPK) by both the Minister of Forestry based on a Forest Land Use Agreement (*'Tata Guna Hutan Kesepakatan'*; TGHK), and by local Government based on Provincial Spatial Planning (*'Rencana Tata Ruang Wilayah Provinsi'* RTRWP), as provided in Ministry of Forestry Regulation 50 of 2009. The status of Conversion Production Forest is usually given on the basis that the land is both already heavily degraded or cleared, and is physically suitable for plantation establishment. The conversion area in question must also be free of rights burden and license holders. The process begins by the applicant requesting release from the Minister of Forestry, who in turn grants a 'Principal Approval' (*'Ijin Prinsip'*) if the case is considered valid. The Principal Approval is valid for one year and may be extended at most two times each for a maximum period of six months. Within this time the proposed excision of the petitioned area is evaluated based on a detailed map showing the forest boundaries as agreed by the governor/bupati and the Head of Forestry Planning Agency (*'Badan Planologi Kehutanan'*) as set forth in the minutes (*'Berita Acara'*) of the application. The process of evaluation is conducted by a Working Group (*'Kelompok Kerja'*; POKJA) on Restructuring Release of Forest Areas for Plantation (*'Restrukturisasi Pelepasan kawasan Hutan'*), established by the Minister of Forestry under provisions of [Ministry of Forestry Decree 146 of 2003](#). The applicant may submit evidence supporting the application, but is not obliged to do so. The result of the Working Group's evaluation should be submitted back to the Minister of Forestry no later than six months after the POKJA was established. If the evaluation supports the release, the Minister of Forestry issues a *SK Pelepasan Kawasan Hutan* to the applicant, and the process is complete. This can then be revoked if the holders do not utilize the area for plantation activities, or do not complete the process of securing legal tenure (*'Hak Guna Usaha'*; HGU; see Section 3.e.v, below).

In the case of forest land designated as HP or HPT (i.e. not already slated for conversion by being categorised as HPK) the process is more complex and centres around an exchange of land entering the national forest estate equivalent to that being excised (*'Tukar Menukar Kawasan Hutan'*). The process starts as above, with the applicant seeking Principal Approval (*'Ijin Prinsip'*) from the Minister of Forestry, but to continue the applicant must propose *replacement land to enter the national forest* to replace the land being excised. Such land should be existing forest or suitable for forest regeneration, ideally may be contiguous with areas already within the national forest estate, the land must be free from rights or disputes, and its transfer to the national forest estate must be approved by the governor/bupati. The application is then reviewed, as above, by a Working Group (*'POKJA'*) on Restructuring Release of Forest Areas for Plantation

(*‘Restrukturisasi Pelepasan kawasan Hutan’*). Once a recommendation is received the Minister of Forestry will issue a Decree of Replacement Land Appointment (*‘SK Penunjukan Lahan Pengganti’*) a Decrees of Replacement Forest Land (*‘SK penetapan lahan pengganti sebagai kawasan hutan’*) and a Decree of Forest Release (*‘SK Pelepasan Kawasan Hutan’*), and the process is complete.

Environmental safeguards in the process of forest conversion are often considered weak. In the [Environmental Protection Law \(32/2009\)](#) it is provided that any entity is prohibited from conducting activities that damage the environment or cause pollution. This would argue for the protection of forest areas that have a high conservation or environmental value (regardless of their status). Likewise the [Conservation Law \(5/1990\)](#) gives legal safeguards to protected species and habitats. However the relevant forestry law and regulations governing conversion (as given above) allow conversion of such areas, creating a potential conflict with environmental law. These issues should be addressed by Working Group (*‘POKJA’*) on Restructuring Release of Forest Areas for Plantation (*‘Restrukturisasi Pelepasan kawasan Hutan’*) when an applicant for release or exchange is considered.

The process of forest exchange is also weakened from an environmental protection viewpoint by the lack of rigours assessment or post-exchange monitoring. This can lead to exchange areas being unequal and inadequate in terms of ecological value and size to the areas being removed from the forest estate. Devolution exacerbates the problem, as while the permission to exchange is made by central government, the responsibility for monitoring lies with the local government, who may have different capacities or priorities.

v. Permit Process 4: HGU

The final major step in establishing an oil palm plantation is to secure land title by obtaining *‘Hak Guna Usaha’ ‘HGU’* or *‘Right to Exploit’*. This form of legal tenure is provided for in the cornerstone [Basic Agrarian Law \(5/1960\)](#) and its applicability for oil palm plantation use is given in the [Plantation Law \(18/2004\)](#). Securing such tenure fulfils the obligation given in the *‘Ijin Lokasi’* and therefore, once complete for all target areas, closes that process.

The [Basic Agrarian Law \(5/1960\)](#) provides that *Hak Guna Usaha* may be granted to any Indonesian citizen or legal entity for a period of 35 years, and can be extended for a further 25 years. The [Plantation Law \(18/2004\)](#) further provides that where the purpose of issuing the HGU is for the purpose of establishing a plantation, that the HGU can be revoked if the holder abandons the site for three years, or fails to clear and/or develop a minimum area within a given period.

An application for HGU is submitted to the Head of the Land Office at the provincial level (*‘Badan Pertanahan Nasional-Propinsi’*; BPN-Propinsi) including a range of supporting documents such as the entity’s Tax Identification Number, maps approved by the Head of the local Land

Office, company deeds (if appropriate to the entity), a copy of '*Izin Lokasi*' permit and any relevant Forest Release Permits ('*SK Pelepasan Kawasan Hutan*'). At the time of application the applicant must also pay Acquisition Rights to Land and Buildings Tax ('*Bea Perolehan Hak atas Tanah dan Bangunan*'/BPHTB). If all paperwork is in order then the HGU is issued.

Some environmental safeguards exist in the HGU process, particularly as the law obligates the holder to maintain environmental infrastructure and facilities, including maintaining soil fertility, and to prevent damage to natural resources and preserve environmental function. These provisions could be a basis for maintaining areas of high conservation value within plantation areas, if such areas are considered to be necessary to maintain environmental function. If such obligations were not met the HGU permit could theoretically be revoked.

vi. Plantation establishment 1: Blocking

Once IUP and HGU are secure the process of plantation establishment can begin on the acquired area. Among the first steps is a process of spatially planning the plantation area, known as 'Blocking'. This includes planning the timing and areas for planting but also includes the creating of work schedules, identifying equipment and labour needs, expenses etc. These steps must all be completed before land clearing and planting can begin.

The spatial design of the plantation must take account of local spatial plans following provisions in [Government Regulations 26 \(2008\)](#) and [15 \(2010\)](#). It is evaluated and approved by the bupati/governor, who will check for compliance with such local spatial plans.

The blocking process must also include plans for the allocation of 20% of the total plantation area to local communities for the establishment of community plantations (as obligated under [Ministry of Agriculture regulation 26/2007](#) and discussed above in section 3.e.iii).

vii. Plantation establishment 2: Land Clearing

In almost all cases, establishing a new plantation will require land to be cleared and prepared. Undertaking such clearance requires a Land Clearing Permit ('*Izin Pembukaan Lahan*'; IPL) to be applied for and issued by the bupati/governor, as regulated principally by [Plantation Law \(18/2004\)](#).

An application for a land clearing permit can be made once the '*Izin Lokasi*' and IUP processes have been completed, as it is not conditional on completing the HGU process. For this reason the IPL application is usually made in parallel to the HGU application.

The law provides that the land clearing process must be conducted in a way that maintains soil fertility, prevents soil erosion, and helps to maintain environmental function. Specifically the law strictly prohibits land clearing by burning. While the [Plantation Law \(18/2004\)](#) imposes administrative sanctions on permit holders that break the terms of the IPL by burning land, doing so also contravenes the [Environmental Protection Law \(32/2009\)](#) violation of which is a *criminal* offence carrying a potential

prison sentence and/or substantial fines. If the criminal action is conducted by, for, or on behalf of a business entity then criminal sanctions can be imposed on both the business entity *and* the individuals who led or gave the order to commit the criminal act.

In addition to the IPL, applicants seeking to clear land must also seek and obtain other permits, including a Heavy Tools Utilization Permit (*'Izin Penggunaan Alat Berat'*) issued by the local Head of the Plantation Agency (*'Dinas Perkebunan'*) and applicable for period in which land clearing activities will take place.

viii. Plantation establishment 3: Planting and Operation

Once the proponents of an oil palm plantation have obtained *'Izin Lokasi'*, submitted an AMDAL, obtained an IUP, secured any relevant *'SK Pelepasan Kawasan Hutan'*, obtained HGU and been granted an IPL, they can then start to think about planting some oil palm!

The operational aspects of managing a plantation are largely regulated in [Cultivation Law \(12/1992\)](#) and related regulations. This includes requirements on the source of seeds or seedlings, the use of proper cropping patterns, equipment and facilities, the control of invasive plant and animal species etc. These conditions are intended to safeguard impacts on human health and/or safety and to prevent disruption and/or damage to the natural environment. Notable aspects include the use of pesticides and the disposal of waste, considered in turn below.

Plantation managers may use chemical pesticides to control or eradicate crop pests. The use of such pesticides is regulated by Government Regulation 7 (1973) and Ministry of Agriculture Decree 7 of 2007. These laws categorise chemical pesticides by their risk and impose conditions on their use.

Disposal of waste (including waste chemical pesticides) is regulated by the [Environment Protection Law \(32/2009\)](#). This imposes strict conditions on disposal of waste depending on the category of waste and its risk. Chemical Pesticides, for example, are considered the highest level of risk (category B3 'Dangerous Toxic Materials' or *'Bahan Berbahaya Beracun'*). Violation of the [Environmental Protection Law \(32/2009\)](#) is criminal offence, as described above under Section 3.e.vii.

During the management of an oil palm plantation there may be further interaction with environmental legislation, particularly if the plantation area is found to contain wildlife species that are protected under the [Conservation Law \(5/1990\)](#). This law provides that it is a criminal offence to injure, kill, disturb, catch, buy sell or possess all listed protected species. Given that the very act of managing an oil palm plantation carries the potential to disturb any protected species present, enforcing the sanctions carried by the [Conservation Law \(5/1990\)](#) becomes in conflict with plantation laws that effectively permit such activities.

f. Local laws & processes

Based on Article 18 of the [Indonesian Constitution \(1945\)](#), Local Government has the authority to set Local Regulations (*'Peraturan Daerah'*; PERDA) through act of the local parliament (*'Dewan Perwakilan Rakyat Daerah'*; DPRD). This right is further expanded in [Local Governance Law \(32/2004\)](#). From the point of view of oil palm cultivation this allows local governments to set legally enforceable local regulations imposing additional conditions on growers. However, such regulations must always defer to national legislation so cannot be used to impose conditions that are in contravention of laws, government regulations or decrees. As the legal landscape for oil palm cultivation, forestry and environmental protection is quite comprehensive, this leaves little scope for local government to impose local regulations that are of significant substance. Instead they tend to relate to procedural issues in licensing arrangements, integration with local spatial plans or technical requirements in plantation clearance or management. Examples from two focus areas of Solok Selatan District (West Sumatra Province) and Kalimantan Tengah Province include the following:

- *Solok Selatan Local Regulation 10 of 2005*, concerning licensing for plantation businesses. This regulation provides the authority for the processes of issuing plantation permits conducted by the district. In addition it provides guidance regarding the control and supervision of plantation management activities undertaken by individuals or bodies in accordance with the standards set by the Government.
- *Kalimantan Tengah Local Regulation 3 of 2003*, concerning plantation businesses. This local regulation was revoked by Decree of the Ministry of Internal Affairs because it was not in accordance national regulations: An example of what happens when local government passes legislation that does not comply with higher legislation!
- *Kalimantan Tengah Local Regulation 7 of 2003*, concerning the prevention and control of forest and land fires. This local regulation makes local requirements on individuals or business entity for the purpose of preventing and responding to forest/land fires.
- *Kalimantan Tengah Local Regulation 8 of 2003*, concerning the Local Spatial Plan (*'Rencana Tata Ruang Wilayah'*; RTRW) of Central Kalimantan. This local regulation can be used as a reference for the determination of forest and or non-forest areas locally.

g. RSPO and the law

In this section we consider the relationship between the RSPO principles and criteria and the Indonesian regulatory landscape. This section is intended to highlight potential legal issues that may arise by a oil palm grower seeking to apply for and maintain RSPO certification. We present the RSPO standards by 'Principle', and focuses only on those criteria that are relevant to environmental protection or biodiversity conservation (Including 'Principles' 1, 2, 4, 5 & 7; RSPO 2010).

i. Principle 1: Commitment to transparency

Criterion 1.1: Oil palm growers and millers provide adequate information to other stakeholders on environmental, social and legal issues relevant to RSPO Criteria, in appropriate languages & forms to allow for effective participation in decision making.

and;

Criterion 1.2: Management documents are publicly available, except where this is prevented by commercial confidentiality or where disclosure of information would result in negative environmental or social outcomes

Companies are required to prepare a number of documents in the process of establishing and managing an oil palm plantation. These include the Article of Association of the company ('*Anggaran Dasar Perusahaan*'), the Location Permit ('*Ijin Lokasi*'), the Plantation Permit ('*Ijin Usaha Perkebunan*'; IUP), the Right to Exploit ('*Hak Guna Usaha*'; HGU), the Environmental Impact Assessment ('*Analisis Dampak Lingkungan*'/AMDAL), the Environmental Monitoring Plan ('*Rencana Pemantauan Lingkungan Hidup*'; RPL), the Environmental Management Plan ('*Rencana Pengelolaan Lingkungan Hidup*'; RKL) and other relevant documents

Under the Public Disclosure Law (14/2008), the public has right to access information regarding decisions made by public institutions. According to Article 4 of the law, public individuals have the right to: see public information in accordance to Public Disclosure Law; obtain copies of public information; distribute public information; request public information accompanied by the reason the request, and to; challenge cases in court if it information is not provided under provisions of the law.

From the perspective of the [Environmental Protection Law \(32/2009\)](#) the public has the right to obtain accurate and transparent information regarding a business/activity prior to its realisation. This is expanded in Government Regulation 27 of 1999, concerning environmental impact assessments, whereby information on the business activity should be disclosed to the public *prior* to the creation of the AMDAL. This regulation also allows for public participation in the AMDAL process itself, through the contributing of suggestions, opinions and responses to the AMDAL, RPL and RKL documents.

ii. Principle 2: Compliance with Applicable Laws and Regulations

Criterion 2.1: There is compliance with all applicable local, national, and ratified international laws and regulations

By definition, this should present no conflict with Indonesian law, however it has the potential to cause issue in cases where Indonesian law itself is contradictory, or where complying with other RSPO criterion puts a proponent in potential conflict with Indonesian law (such as the case considered under Criterion 5.1 below).

Criterion 2.2: The right to use the land can be demonstrated, and is not legitimately contested by local communities with demonstrable rights

Before land can be acquired for an oil palm plantation (HGU obtained) a proponent company needs to demonstrate the existing ownership of the targeted land to the approval of the statutory National Land Agency ('*Badan Pertanahan Nasional*'; BPN), this is partly intended to avoid subsequent conflict with resident communities. Where such communities are impacted by the proposed plantation, company proponents are also expected to provide mechanisms to mitigate that conflict, such as through compensation, partnerships or participation. The need for such activity is regulated in part under most of the major applicable laws, including under Article 67 of the Forestry Law (40/2007), Article 22 of the Plantation Law (18/2004) and Article 52 of the Cultivation Law (12/1992). Following these laws to the word would ensure *Criterion 2.1* (above) is met, and ensure no land is *legitimately* contested. However, it could be argued that the laws themselves often fall short of the *spirit* of *Criterion 2.2* in that they do not always afford locally affected communities much right to 'legitimately' make a claim to the land in the first place!

Criterion 2.3: Use of the land for oil palm does not diminish the legal rights, or customary rights, of other users, without their free, prior and informed consent.

As above, where lands are encumbered by legal or customary rights, the proponent must demonstrate that these rights are understood and are not threatened or reduced. Also as above, the requirement for approval from the National Land Agency is the theoretical safeguard. Their obligation to account for such rights is contained in the National Land Agency Ministerial Regulation No 5 of 1999. Companies must undertake negotiated agreement to compensate affected communities for lost benefits and/or relinquished rights. In such cases communities must be permitted to seek legal counsel if they so choose, and can be represented through institutions or representatives of their choice. This equality of right to the law is enshrined as high as the [Constitution of 1945](#), and such things as the existence of Legal Aid ('*Bantuan Hukum*') for people who cannot afford an advocate's fees is regulated in the [Advocate Law \(18/2003\)](#). However, as with considerations under *Criterion 2.2* above, legal theory and practical reality may not always appear to be the same thing, potentially making complying with the *spirit* of the criterion a legal challenge in some situations.

iii. Principle 4: Use of appropriate best practices by growers and millers

Criterion 4.3: Practices minimise and control erosion and degradation of soils.

Fulfilling this criterion is pretty well supported by the law. A number of steps in the plantation establishment process, and their supporting legislation, take account of the need to prevent soil erosion and degradation. These include requirements to implement ground cover management plans, biomass recycling, terracing and natural regeneration

or restoration instead of replanting. On peat land area, practices are further defined under [Ministry of Agriculture Regulation 14 of 2009](#).

Criterion 4.4: Practices maintain the quality and availability of surface and ground water

Fulfilling this criterion is unlikely to present any conflict with the law. On peat soils in particular this practice is regulated in [Ministry of Agriculture Regulation 14 of 2009](#) whereby growers are required to prepare and implement water management plans intended to slow the weathering of the peat soil and to maintain water quality and flow to downstream users.

Criterion 4.5: Pests, diseases, weeds and invasive introduced species are effectively managed using appropriate Integrated Pest Management (IPM) techniques

Again, no conflict with Indonesian law. Principles of Integrated Pest Management ('*Pengendalian Hama Terpadu*') are reflected in the [Cultivation Law \(12/1992\)](#) which refers to the use of cultural, biological, mechanical or physical methods to minimize the use of chemicals. Unfortunately, anticipated further regulation expanding on these principles has not yet been forthcoming.

iv. Principle 5: Environmental responsibilities

Criterion 5.1: Aspects of plantation and mill management that have environmental impacts are identified, and plans to mitigate the negative impacts and promote the positive ones are made, implemented and monitored, to demonstrate continuous improvement

Theoretically, meeting this criterion closely follows stated requirements under the [Environment Protection Law \(32/2009\)](#), in particular the requirement to produce an Environmental Impact Assessment ('*Analisis Dampak Lingkungan*'; ANDAL) an Environmental Management Plan ('*Rencana Pengelolaan Lingkungan Hidup*'; RPL) and an Environmental Monitoring Plan ('*Rencana Pemantauan Lingkungan Hidup*'; RKL). The company must then report periodically to the Environment Impact Control Agency ('*Badan Pengendalian Dampak Lingkungan*'; BAPEDAL) and the Governor/Bupati must request and evaluate periodic environmental audits. If the company fails to conduct an environmental audit, the Minister for the Environment is authorized to carry out or appoint a third party to conduct it. While on paper this process appears complete, there is often a discrepancy in the rigour with which the original risk assessment is evaluated, compared to the subsequent monitoring reports/audits. This criterion would be strengthened if an alternative, internationally recognised standard of Environmental Risk Assessment was specified, such as International Organization for Standardization (ISO) Standard 14011 (ISO 2010).

Criterion 5.2: The status of rare, threatened or endangered species and high conservation value habitats, if any, that exist in the plantation or that could be affected by plantation or mill management, shall be identified and their conservation taken into account in management plans and operations.

From an environmental protection stand point this criterion presents the most legal challenges, as laws appear to conflict, and the lack of a legal basis for the RSPO standards is exposed. The main issues regard identifying and maintaining High Conservation Value (HCV) areas and are discussed below.

If a conscientious company takes time to identify HCV areas by detailed ground surveys, they run the risk of exceeding the time limits placed under the terms of an '*Ijin Lokasi*'. Currently these are set at three years (for a plantation exceeding 50 ha), but the current scarcity of qualified groups or consultants needed to identify HCV areas is such that this time frame is restrictive.

If HCV areas are identified during the '*Ijin Lokasi*' stage, Indonesian Law currently favours the company seeking to excise these areas from the subsequent HGU application. This is due to a number of factors: Including uncultivated areas within the HGU does not lead to a release from the need to pay tax on the *total* area; The requirement to provide 20% of a plantation area for community use is also calculated on the *total* area of the HGU (irrespective of whether it includes 'unproductive' HCV areas); finally, and crucially, leaving uncultivated areas (in this case, HCV areas) exposes a company to the risk that both the IUP and HGU can be revoked as a result of the company's 'failure' to fully exploit the land allocated (as 'HCV' carries no legal status in Indonesia). While there are currently few cases of this, the risk may still be considered unacceptable by proponent companies.

As a result of these legal constraints, companies may well seek to ensure that any HCV areas identified during the '*Ijin Lokasi*' phase are not included in the HGU. This allows the company to remain RSPO compliant, but does nothing to protect the HCV area, which the local government is free to reallocate to another company (a non-RSPO one).

If protected species are found within the plantation area during the course of operations these should be reported to the local Department of Forestry, Natural Resource Management Office ('*Balai Konservasi Sumber Daya Alam*'; BKSDA), they can advise on action that can be taken to mitigate impacts or in some cases, to relocate the species in question.

Criterion 5.3: Waste is reduced, recycled, re-used and disposed of in an environmentally and socially responsible manner.

Complying with this criterion is unlikely to present any conflict with Indonesia law. Disposal of waste is most comprehensively covered in the [Environmental Protection Law \(32/2009\)](#) and related regulations. Companies are required to identify and document waste and pollution and to implement waste management and disposal plans. These plans should

seek to improve the efficiency of resource utilization and recycling potential waste. Disposal of hazardous waste, such as chemical pesticides is more rigorously treated in both the [Environmental Protection Law \(32/2009\)](#) and regulation such as Government Regulation No 7/1973 on the circulation, storage and use of chemical pesticides.

Criterion 5.5: Use of fire for waste disposal and for preparing land for replanting is avoided except in specific situations, as identified in the ASEAN guidelines or other regional best practice.

This criterion does not conflict with Indonesian law. Regarding waste disposal, Government Regulation No 85 of 1999 covers aspects of the issue, but doesn't mention clearly which technologies can be used, although in practice burning technologies (incineration) can be. The [Environmental Protection Law No. 32/2009](#) also covers aspects of the issue, in particular criminal provisions. Regarding land preparation, Indonesian law clearly provides that land clearing by burning is a criminal offence (Environment Protection Law 32/2009).

v. Principle 7 Responsible development of new plantings

Criterion 7.1: A comprehensive and participatory independent social and environmental impact assessment is undertaken prior to establishing new plantings or operations, or expanding existing ones, and the results incorporated into planning, management and operations

See comments under *Criterion 5.1* above.

Criterion 7.2: Soil surveys and topographic information are used for site planning in the establishment of new plantings, and the results are incorporated into plans and operations

This criterion presents no conflict with Indonesian law, and such processes are reflected in regulations regarding the establishment of oil palm plantations.

Criterion 7.3: New planting since November 2005, have not replaced primary forest or any area required to maintain or enhance one or more high conservation values

In theory this criterion does not conflict with Indonesian law, but Indonesian law takes a very 'production-oriented' view of forest condition and function, and has no adequate definition that defines when a forest has become 'degraded' from a nature conservation perspective. In consequence of this, 'degraded' forest areas can be excised from the national forest estate even when they continue to possess high nature conservation values. Many species in Indonesia are able to tolerate some degree of forest degradation, provided the land remains essentially forest (this is a continuum; some species cannot tolerate any degradation, while other can tolerate very high levels, even among protected and endangered species).

The danger of this lack of a clear legal definition for area that are degraded (from a production perspective) but which retain high conservation values, leaves a loop hole by which a proponent of RSPO certification could claim the land they are targeting has been *legally* designated as degraded (‘non-forest’) when in fact it retains high value for nature conservation including most ecological functions of natural *primary* forest.

Criterion 7.4: Extensive planting on steep terrain, and/or marginal and fragile soil is avoided

No conflict with Indonesian law. Several pieces of legislation include references to the avoidance of plantations in physically unsuitable locations. In the case of peat soils, several legislative tools regulate plantation establishment, including [Ministry of Agriculture Regulation No 14/2009](#) concerning the utilization of peat land for oil palm cultivation. See Section 3.e.iii above for more details.

Criterion 7.5: No new plantings are established on local peoples’ land without their free, prior and informed consent, dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions.

and:

Criterion 7.6: Local people are compensated for any agreed land acquisitions and relinquishment of rights, subject to their free, prior and informed consent and negotiated agreements.

See comments under *Criterion 2.2* and *Criterion 2.3* above.

Criterion 7.7: Use of fire in the preparation of new plantings is avoided other than in specific situations, as identified in the ASEAN guidelines or other regional best practice.

Indonesian law goes further than this criterion, by specifying land clearing by burning as a criminal offence ([Environment Protection Law 32/2009](#)).

h. Forthcoming legislation

The most significant legislation that is believed to be forthcoming is regulation to enact the apparently compulsory compliance with the Indonesian Sustainable Palm Oil (ISPO) standards. Such an announcement was made by the Ministry of Agriculture in mid-2010, followed by the apparent publication of the draft standards. To date no draft legislation has been put forward that would make following these guidelines compulsory. If the situation is more clear by the time the forthcoming Gap Analysis is drafted, (see Section 2.a) we will seek to include a full consideration of these standards.

Similarly, an apparent commitment by the Indonesian President, Susilo Bambang Yudhoyono in May 2010 to develop oil palm plantations only on ‘degraded land’ instead of forest or peat land has yet to see proposed regulation to support the policy.

The likelihood of legislation to incorporate RSPO standards more fully within the law seems to be unlikely in the near future, given the current emphasis on producing an alternative, compulsory standard in the form of the Indonesian Sustainable Palm Oil (ISPO) standards.

Further Reading

Original copies of regulations referred to in this report can be obtained from the following sources:

Laws (Undang-Undang)

- Constitution of The Republic of Indonesia, 1945. www.setneg.go.id
- Basic Agrarian Law (5/1960). www.bpn.go.id
- Conservation Law (5/1990). www.dephut.go.id
- Cultivation Law (12/1992). www.deptan.go.id
- Forestry Law (41/1999). www.dephut.go.id
- Plantation Law (18/2004). www.deptan.go.id
- Local Governance Law (32/2004). www.legalitas.org
- Public Disclosure Law (14/2008). www.depkominfo.go.id
- Environmental Protection Law (32/2009). www.menlh.go.id
- Company Law (40/2007) www.bkpm.go.id

Government Regulations (Peraturan Pemerintah; PP)

- PP 26/2008, concerning national spatial planning. www.pu.go.id.
- PP 10/2010 concerning changing forest utilization function. www.dephut.go.id.
- PP 15/2010, concerning spatial planning. www.pu.go.id.

Presidential Decrees (Keputusan Presiden)

- Presidential Decree 32/1990 concerning protected area management. www.legalitas.org

Ministry Regulations (Peraturan Menteri; PerMen)

- Ministry of Agriculture 26/2007 concerning plantation permits www.deptan.go.id.
- Ministry of Agriculture 14/2009 concerning peat land utilization www.deptan.go.id.

Ministerial Decrees (Keputusan Menteri, KepMen)

- Ministry of Forestry and Agricultural Decree 376/1998. www.dephut.go.id
- Ministry of Forestry Decree 146/2003. www.dephut.go.id

Local Regulations (Peraturan Daerah)

- Solok Selatan Local Regulation 10/2005 concerning Licensing for Plantation Business. www.solselkab.go.id .
- Kalimantan Tengah Local Regulation 3/2003 concerning Plantation Business. www.depdagri.go.id
- Kalimantan Tengah Local Regulation 75/2003 concerning Prevention and Control of Forest Fire and Land Fire. www.kalteng.go.id .
- Kalimantan Tengah Local Regulation 8/2003 concerning RTRW (Rencana Tata Ruang Wilayah) of Central Kalimantan. www.kalteng.go.id .

References cited

- Casson, A. 1999. *The Hesitant Boom: Indonesia's Oil Palm Sub-Sector in an Era of Economic Crisis and Political Change*. Center for International Forestry Research, Bogor, Indonesia.
- FAO 2006. Global forest resources assessment 2005. *FAO Forestry Paper 147*. Food and Agriculture Organization Of The United Nations, Rome, Italy.
- FAO 2009. *State of the World's Forests 2009*. Food and Agriculture Organization Of The United Nations, Rome, Italy.
- Global Forest Watch 2010. *Indonesia's Forests in Brief*. www.globalforestwatch.org/english/indonesia/forests. Accessed Oct 2010.
- Hartley, C. W. S. 1988. *The oil palm (Elaeis guineensis Jacq.): Third edition*. Longman Group UK Limited, Harlow, England.
- IPOC 2010. *Indonesian Palm Oil in numbers: 2010*. Indonesian Palm Oil Commission, Jakarta, Indonesia.
- ISTA Mielke 2010. *Oil World Annual: 2010*. ISTA Mielke GmbH, Hamburg, Germany.
- IUCN 2010. *IUCN Red List of Threatened Species*. www.iucnredlist.org. Accessed October 2010.
- ISO 2010. *ISO14000/ISO14001: Environmental Management*. www.iso14000-iso14001-environmental-management.com Accessed Oct 2010.
- RSPO 2010. Roundtable on Sustainable Palm Oil, Zurich, Switzerland. www.rspo.org Accessed Oct 2010
- WRM 2004. *Palming the Forest*. *WRM Bulletin Issue No. 85*. World Rainforest Movement, Montevideo, Uruguay.

Appendix 1: Synopses of key laws and regulations

a. Laws (*'Undang-Undang'*; UU)

i Constitution of the Republic of Indonesia, 1945

Not strictly a law, but lying in a position *above* all laws. The Constitution of Republic of Indonesia is the written legal basis for the country, including all other legislation. Forest in the Constitution is included as a part of 'natural wealth'. In the constitution the use of 'natural wealth' is regulated in order that its utilization is for the prosperity of the people and is controlled by the state.

ii Basic Agrarian Law 5/1960

Natural wealth contained within earth, water and air space is controlled by State, in accordance with Article 33 of the Indonesia Constitution.

The state has authority to: organize and conduct the allotment, use, supply and maintenance of earth, water and air space; determine and regulate legal relations between people and earth, water and air space, and; to determine and regulate legal relations between persons and legal actions concerning the earth, water and air space. Land rights include: Ownership (*'Hak Milik'*), Exploitation (*'Hak Guna Usaha'*/HGU), Buildings (*'Hak Guna Bangunan'*/HGB); Use (Hak Pakai); Lease (*'Hak Sewa'*); Land Clearing (*'Hak Membuka Tanah'*); and others. Land serves the public interest. Rights may be revoked, with due compensation and procedure in accordance with existing laws and regulations.

HGU is the right to cultivate the land under state control for a period of time, and is established by government verdict. HGU is granted not longer than 35 years, but may be extended by 25 years, and may only be possessed by Indonesian citizens or legal entities.

iii Conservation Law 5/1990

Regulates the participation of the people in the conservation of biological resources and ecosystems. Biological resource conservation is defined as the wise management of biological resources such that their utilization does not diminish their diversity, quality or value. The conservation of biological resources and ecosystems is the responsibility and obligation of the government.

Under Indonesian law, plants and animals are broadly separated into two classes: those that are protected and those that are not. The species of plants and animals that are legally protected are then further separated into those considered in danger of extinction and those whose populations are rare. For protected species, it is prohibited to: i) Take, cut, possess, damage, destroy, maintain, transport, sell or purchase any plant, or part of a plant, whether it is alive or dead; ii) Move protected plants, animals or parts thereof within Indonesia or outside of Indonesia, whether alive or dead; iii) Capture, injure, kill, keep, possess, maintain, transport, sell or purchase a protected species, alive or dead, whole or parts thereof, eggs and/or nests. The utilization of non-protected plants and wildlife species can include research and development; taking species into captivity, hunting, trade, demonstrations, exchange; cultivation of medicinal plants and maintenance for pleasure.

In the law, Nature Conservation Areas (*'Kawasan Pelestarian Alam'*; KPA) consist of National Parks (*'Taman Nasional'*; TN), Forest Parks (*'Taman Hutan Rakyat'*; THR), and Natural Tourism Parks (*'Taman Wisata Alam'*; TWA). KPA have three functions, including (i) protection of environmental life support systems; (ii) preservation of plant and animal diversity, and; (iii) the sustainable utilization of biological resources and ecosystems. Activities that cultivate interest in research, science, education, culture, and tourism are permitted in National parks, Forest Parks and Nature Tourism Parks.

In terms of enforcement, this law is regulated by Government Officials (PPNS) of the forestry sector. PPNS have authority to conduct criminal investigations with respect to the conservation of biological resources and ecosystems, as described in the Criminal Procedures Law (8/1981). The highest sanction for criminal actions in the conservation sector is five years imprisonment and a fine of Rp 100,000,000.

iv Cultivation Law 12/1992

Cultivation is defined as the system of natural resource development and utilization through human effort with capital, technology, and other resources to produce goods to better meet human needs. In implementing the plan of cultivation development, government will arrange plans that are consistent with national development, taking into account the interests of the people.

Every person or legal entity that is clearing or preparing land for cultivation is obliged to follow procedures to prevent environmental damage and environmental pollution. People or legal entity can conduct breeding to find superior varieties however searching for and collecting germ plasma shall be licensed.

By this law, Government regulates the procedures, sets standards, conducts surveillance and accreditation concerning: the basic price of expenditure and income from plants and plant seeds; planting; utilization of water; plant protection; plant maintenance; harvest and post harvest procedures. Government may prohibit the procurement, distribution, and planting of certain seeds which are considered harmful to society, cultivation, natural resources and/or the environment. Cultivation systems that interfere with human health and/or threaten human safety, cause disruption and/or damage to natural resources and/or the environment are prohibited.

Utilization of land for cultivation purposes shall be adjusted with spatial plans and with due regard to the suitability and ability of land to ensure the preservation of environmental function. Government will determine a maximum area for cultivation in land not controlled by the state. Plantations can be established by individuals, cooperatives, state-owned local/national companies and private companies established under Indonesia law, with required permits.

Any legal entity who conducts cultivation with the use of services and facilities provided by government may be subjected to a levy.

v Forestry Law 41/1999

Forestry is defines as a management system that integrates and organizes forests, forest areas, and forest products. The management of the forestry sector

is the responsibility of government and is to be conducted according to principles and aims that are just, sustainable and confer prosperity to Indonesian citizens. All forests within the Republic of Indonesia, including the natural riches contained therein are controlled by the State.

Indonesian forests are divided into state forests and forests under rights. State forests are formed from traditional forests where customary laws still exist and are recognized. In Indonesia, forests have three functions: conservation, watershed protection and production. The government can designate a specific forest area for one of these specific purposes in order to best serve the public interest.

The administration of forests includes forest planning, forest management, research and development, education, training, forestry awareness and supervision. Forestry planning activities are designed to direct the other administrative activities and they must be conducted with transparency and accountability. They must also fit with regional aspirations. The actual process of forest management itself includes the sustainable utilization of forest resources, forest protection, conservation, rehabilitation, and reclamation. In the implementation of forestry, the central government concedes some authority to local governments. This process aims to improve the effectiveness of local forest management within the context of regional development and autonomy.

Communities are obligated to participate in the maintenance of forested areas and their protection from disturbance and destruction. In addition, communities must participate in forestry development and the Government must support the participation of these communities and their activities.

The utilization of forest areas is clearly regulated in this act, this includes utilization of protected forest in the form of the utilization of environmental services. Articles No 27-29 state that the utilization of protected forest can be in the form of utilization rights given to Individuals, Koperasi, BUMD, BUMN or a Private Company.

Violation of the law carries a maximum imprisonment term of ten years and/or fine of up to Rp 5,000,000,000.

vi Plantation Law 18/2004

Plantations are defined as the activities associated with the planting of certain crops (including oil palm), together with the processing and marketing, in order to create prosperity for agribusiness professionals and society. The laws extends to cover regional planning, plantation crops, human resources, institutions, relationship and integration between upstream and downstream sectors, facilities and infrastructure, and financing.

Rights of land needed for plantation establishment include right of ownership (*'Hak Milik'*), right of exploitation (*'Hak Guna Usaha'*; HGU) and others. Land exploitation title (HGU) to operate agribusiness shall be issued maximum 35 years, extendable by a further 25.

Geographic limits may be placed on the establishment of plantations in order to maintain environmental function. Plantation proponents are obliged to maintain the sustainability of the environment function and prevent damage. Prior to obtaining a Plantation Permit (*'Ijin Usaha Perkebunan'*; IUP) the proponent is

obliged to prepare an Environmental Impact Assessment (*'Analisis Mengenai Dampak Lingkungan'*; AMDAL) and to prepare statements of willingness to undertake fire mitigation during land clearing and/or cultivation. Management and marketing; research and development; human resources development; agribusiness financing; agribusiness empowerment; investigation and criminal sanction are also regulated by this law.

vii Local Governance Law 32/2004

Local government is defined as government administration by local government and local parliament (DPRD) according to autonomy principles as referred to in the Constitution of 1945.

Among other things, this law regulates the creation of local regulations, determined by the head of region after approval by local parliament (DPRD). Local regulation may submit threat of criminal confinement not exceeding than six months or a fine of not more than Rp 50,000,000.

The head of region hold authority for local financial management. Local revenue is sourced from local tax, local retribution, management of separated wealth, 'equalization funds' (*'Dana Perimbangan'*) which includes 'Revenue Sharing Funds' (*'Dana Bagi Hasil'*) and other legitimate sources. In the context of the plantation sector, *Dana Perimbangan* sourced from tax includes that from '*Bea Perolehan Atas Hak T' tanah dan Bangunan'* (BPHTB)

Inter-region cooperation, dispute resolution, urban area; village area; local development planning; supervision and guidance are also regulated by this law.

viii Environmental Protection Law 32/2009

Protection and management of the environment is defined as the systematic and integrated efforts conducted to conserve environmental function and prevent pollution of and/or damage to the environment. Achieved through planning, utilizing, controlling, maintenance, supervision and law enforcement.

Planning of protection and management of the environment is implemented in several ways, including: environmental inventory; determination of eco-regional areas; preparation of Environmental Protection and Management Plans (*'Rencana Pelindungan dan Pengolaan Lingkungan Hidup'*; RPPLH).

Drafted by a minister, governor or bupati, the RPPLH is a planning document related to the administrative level at which it was created and which should be reflected in medium and long-term development plans and natural resources utilization plans.

Other rights, obligations and prohibitions regulated by this law include: that every person has the right to a healthy environment, to obtain an environmental education, to access information, to participate, to access justice, and to propose objections and/or suggestions concerning business plans and/or activity which are considered to have the potential to affect the environment effect. That any person who proposes or fights for their rights regarding a healthy environment cannot be sued in either criminal or civil courts. That every person has an obligation to maintain the sustainability of environmental function and to control pollution and/or environment damage; that every person who conducts business has an obligation to provide accurate timely information related to the

protection and management of environmental risks, to maintain the sustainable of environmental function and to follow standards of environment care.

Ministers, governors, and bupati, as appropriate with their authority, are obliged to conduct supervision of environmental protection and management. They can delegate their authority to officers with responsibility for environmental protection and management and can apply administration sanctions.

Environmental dispute settlement shall be implemented by courts or outside of the courts, however criminal action can only be implemented in courts. Dispute settlement through the courts shall be implemented by environmental compensation and recovery; rights to sue (including by government, local government, community class actions and environmental organizations) .

This law is unique in that any person whose actions, efforts, and/or activities pose a serious threat to the environment is liable for damages without the need to collect evidence of fault. Under the criminal provisions of this law, the maximum fine is Rp 15,000,000,000) and the maximum prison term is fifteen years.

ix Company Law 40/2007

This law refers to Limited Liability Companies. All of a companies basic capital is divided into stocks/shares in order to satisfy the requirements of this law and its associated regulations. Limited Liability Companies are not personally responsible for the commitment made on behalf of the company and are not responsible for any loss exceeding the value of the companies shares. Companies must be based (domicile) in the territory of the Republic of Indonesia.

Companies can be established by two or more people given a notary public certificate written in Indonesian. Each of the companies founders own a portion of the company stocks. The Article of Association (*'Akta Pendirian'*) contains the company statutes and other terms relevant to the company's administration. Once a company is established it is required to hold Annual General Shareholder Meetings (*'Rapat Umum Pemegang Saham'*/RUPS/AGM). If the company becomes a corporation/legal entity, the company can be taken over by RUPS if necessary. Corporate social responsibility and environmental liability must be acknowledged by the company and honoured with due regard to decency and fairness.

Where a companies shareholders or third parties incur damages or financial losses, investigations must be conducted to obtain requisite information on the company or it's board of directors/ commissioner. Investigations can be conducted by one or more shareholders, other parties, or the judiciary.

The government as organizers of the state is prohibited from conducting business activities. State owned companies (BUMN and BUMD) are the only permitted manifestation of state investment in the business world.

b. Government Regulation ('Peraturan Pemerintah'; PP)

i PP 26/2008, concerning national spatial planning

National Spatial Planning is the strategy of spatial use in the national area, becoming the guidelines for preparation of long term and middle term national development plan; spatial utilization and control the national spatial utilization; manifestation of the integration, linkage, and sectoral harmony; location determination and spatial function for investment; strategic national spatial plan; province and district/municipal spatial plan.

Policy and strategy in development of spatial patterns includes development of protected areas, cultivation areas, and national strategic areas. Policy on the development of cultivation areas seeks to improve the integrity and relevance of cultivation activities, and; to control the development of cultivation activities in order not to exceed the carrying capacity and environmental capacity.

Policy on development of strategic national areas, includes: preservation and improvement of environmental function and capacity; conservation of biodiversity; maintenance and enhancement of the function of protected areas; conservation of unique landscapes; and the preservation of national cultural heritage.

Controlling the referral to spatial plans consists of: National zoning regulations system; Permits; Incentives and disincentives; and Sanctions. Permits for spatial utilization are given by the level of government authority appropriate to the area. Incentives and disincentives to support national spatial utilization are conducted by central government to local government and society.

The violation of spatial utilization carries administrative sanction such as: written warning; temporary suspension of activities; suspension of public services; spatial location closure; revocation of permits; cancellation of permits; demolition of buildings; recovery of function/space; and/or administrative fines.

ii PP 10/2010 concerning changing forest function

Changes to the defined function of a forest area may be implemented through exchange of forest area, or release of a forest area, based on a request submitted by a ministry or ministerial level official; governor or bupati; head of a business enterprise; or chairperson of a foundation. The release of a forest area may only be implemented in a production forest which can be convertible for the interest of development outside forestry activities.

Release of forest area activities require principle approval, given for a period of no longer than 1 year by the Minister, and which may be extended at the most 2 times for a period of no longer than six months. Final approval is then issued by decrees following deliberation.

The Minister's decision on change to the forest area allocation for a provincial territory shall be integrated by the governor into the revised province territory's spatial structure plan to be stipulated in the Local Regulation.

iii PP 15/2010, concerning spatial planning

This PP regulates the preparation and determination of spatial plan; spatial planning guidance; controlling of spatial plan implementation, reimbursement of losses; incentives and disincentives, and; supervision of spatial plan.

Strategic area that divided into National, Province, and District/Municipal. National Strategic Area are given priority in the spatial planning on account of impact on the sovereignty of the state, defence and national security, economic, social, cultural, and/or environment importance, including areas that have been designated as world heritage.

The definition of strategic areas from the viewpoint of environmental function includes: places for the protection of biodiversity; protected areas that are stipulated to protect ecosystems, threatened flora and/or fauna, areas that protect water sources, area that provides protection against climatic effects; high priority areas requiring environmental improvement, and, natural disaster-prone areas;

Administrative sanctions can be imposed on violators of spatial plans, the administration sanctions include written warnings, administration fines; temporary suspension of the activities, revoked or cancelled licenses.

c. Presidential Decrees (*'Keputusan Presiden'*; KePres)

i Presidential Decree 32/1990 concerning protected area management

Covering issues related to the management of protected areas, defined as areas that: protect water catchments (including peat swamps); protect shorelines (including of river and lakes/reservoirs); nature reserves and cultural reserves (including nature reserves, marine sanctuaries, coastal mangrove forest, national parks, forest parks, nature tourism park and areas of cultural heritage) and; areas prone to natural disasters. Local government should define and map all such areas in their jurisdiction. In such protected areas, activities are only permissible that do not interfere with the protected area function and existing natural ecosystems.

d. Ministry Regulations (*'Peraturan Menteri'*; PerMen)

i Ministry of Agriculture 26/2007 concerning plantation permits

Plantation Business Permit (IUP) are issued by the competent authority to companies to conduct cultivation and integrated with processing industry activities.

Cultivation areas 25 hectare or more shall obtain a cultivation permit (IUP), if the cultivation area is less than 25 hectare it shall obtain a Letter of Cultivation Plantation Business Registration (STD-B).

Plantation firm holding IUP shall provide surrounding communities with plantation areas equalling a minimum of 20% of total area managed. IUP issued to a company are subject to a maximum area limit, but this is waived if the majority shareholder of the company is a cooperative (koperasi), the plantation company is wholly or partly state owned, or the company is public listed.

To obtain IUP companies shall make a written application to the bupati/governor (depending on authority). Partnership arrangements must be proposed. Partnerships are conducted between the company with growers, workers, and/or the community around the plantation.

Companies that have obtained a permit and will establish plantations as specified. If this obligation is not fulfilled a permit holder can be penalised by written warning. If three written warnings are ignored, the IUP can be revoked, and a recommendation made to also revoke HGU.

This law also regulates training and supervision in plantation business conducted at the local level.

ii Ministry of Agriculture 14/2009 concerning peat land utilization

Plantation companies which utilize peat lands and which had obtained IUP prior to this law shall be declared to remain valid until the HGU or other right has finish. New applications, and application for IUP in process when this regulation was issue are subject to its terms.

This regulation provides that peat lands can be used for oil palm cultivation if the following criteria are met: The area in question is not part of the national forest estate; the thickness of peat layer is less than three meters over at least 70% of the total area cultivated; the substratum is suitable for plant growth (not composed of quartz sand or sulphate acid soil), and other conditions.

If these criteria are met then the utilization of peat lands for oil palm plantation includes: planning, land clearing (without burning), water management (so as to maintain hydrological balance), planting (with conditions on density and planting method).

Supervision will be performed at least once per year by the Director General of Plantation, governor, or bupati (in accordance with their authority). If a discrepancy is found to the conditions a written warning can be issued. If three warning letter are ignored the plantation permit can be revoked and a recommendation made for the revocation of HGU.

e. Ministerial Decrees (*'Keputusan Menteri'*; KepMen)

i Ministry of Forestry 146/2003, concerning release of forest

This decree describes the process of evaluation of proposals for the release of forest areas from the national forest estate.

Following issuance of Principle Approval *'Ijin Prinsip'* by the Forestry Minister, the detailed evaluation of the application is conducted by a Working Group (*'Kelompok Kerja'*; POKJA) formed by Minister of Forestry. This group is obliged to evaluate the proposal's boundaries (both physical and administrative) and the extent of forested and non-forested land cover. The *'Ijin Prinsip'* can be cancelled if the proponent has provided insufficient detail on the site boundaries.

If the land in question is considered to contain intact forest, the application will be suspended by the Minister until the proponent can provide the substitute land from within a non-forest area that can be substituted into the forest area.

If the land in question is not forested, then the proposal can be approved through the issuance of a forest release decree. In the context of this report, the forest area then becomes a plantation area.

This decree also provides that Principle Approval holders are prohibited from transferring or selling their provisioning approval to other parties.

Appendix 2: Direct and indirect laws associated with the cultivation of oil palm

Direct laws

Plantation Law 18/2004

- Cultivation process
- Land use for plantation
- plantation permit
- Plantation business proponent

Agrarian Law 5/1960

- Land rights
- Rights of exploitation (HGU)

Conservation Law 5/1990

- Conservation of biological resources and ecosystem activity
- Community participation
- Sustainable use of biological resources and ecosystems
- Obligation of holders of land rights

Forestry Law 41/1999

- Status and function of forest
- Forest protection and natural conservation
- Changes of forest area status
- Community participation

Cultivation System Law 12/1992

- Community participation
- Government affairs & duty of assistance
- Land clearing

Land Use Law 26/2007

- Land use systems
- Spatial plans
- Just compensation

Environmental Law 32/2009

- Conservation of natural resources
- Environmental impact assessment (EIA) permits
- Strategic environmental assessment
- Spatial plan
- Environmental compensation and recovery

Indirect laws

Corporate Law 40/2007

- Legal Entities
- CSR

Investment Law 25/2007

- Indonesia legal entities
- Local workers
- Negative list

Labour Law 13/2003

- Capacity building
- Employment contracts
- Prohibited activities
- Trade unions
- Workers rights
- Salary & severance

Tax Law 42/2009

- Tax subsidies
- VAT reimbursement
- Good and services is a tax object

Tax Law 12/1994

- Tax on land and building of plantation areas

Appendix 3: Hierarchy of legislation associated with the Plantation Law (18/2004)

Government Regulation	Presidential Decree	Ministry Decree
Protection of geographic area on plantation crops producer in specific locations	Presidential Decree: application, guidance, supervision for plantation processed product	Decree: Guidelines of peat land utilization for oil palm cultivation
Plantation development area		Decree: Plantation business permit guidelines
Geographic protection area of plantation producing product in specific locations		Decree: Type of commodity crops
Guidance and integration on business of processing industry plantation products and cultivation.		Decree: Development of plantation through revitalization program
Addition or reduction on business type of processing industry plantation products		Decree: Land area for plantation and capacity for processing industry
Fund raising for human resources, research, development, and plantation promotion.		Decree: Plantation partnership patterns
		Decree: Guidelines and standards for education, training and counseling
		Decree: guidance and supervision of plantations
		Decree: Maximum and minimum area of land utilization for plantation