



**KAMI**

## **Policy brief**

# **Achieving Sustainability in the Palm Oil Sector: Challenges and Key Interventions for Indonesia and Malaysia**

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## **Introduction**

The global demand for and production of palm oil continues to grow. Palm oil has been at the centre of controversies surrounding economic, social, and environmental challenges and opportunities. Palm oil is widely used in both the food and non-food sectors, including as biodiesel, but has also been identified as one of seven major globally traded commodities that place increasing pressures on forests across landscapes in the tropics and subtropics.<sup>1</sup> With 85% of palm oil being produced in Malaysia and Indonesia (with a significant portion by independent smallholders), these countries are often in the spotlight regarding their oil palm policies and production of sustainable palm oil.<sup>2</sup>

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<sup>1</sup> Wardell et al. 2021

<sup>2</sup> Rahman 2020; Suhada et al. 2018

Many interventions to promote sustainable production of palm oil, and transition to sustainability more broadly, exist in Indonesia and Malaysia. However, the transition to sustainability is not without challenges and specific types of interventions are more effective to address the challenges and assist with the transition. One approach to achieving sustainability is at the jurisdictional level through a jurisdictional approach, where a given political administrative unit achieves wall-to-wall sustainability. Jurisdictional approaches are a holistic attempt to address environmental and development trade-offs by operating across multiple objectives, scales, and sectors. A focus within political boundaries (national, state/province, etc.) facilitates strategic alignment of initiatives and implementation with public policies and allows governments to lead or play an active role.

As part of the EU-funded KAMI (“Sustainability of Malaysian and Indonesian palm oil”) project, this brief identifies challenges and key interventions to achieve sustainability, especially those focusing on smallholders and at the subnational jurisdictional level. Interventions are defined as incentives, disincentives, and/or enabling measures through initiatives, programs and policies with goals and aims for sustainability. This brief draws on data collected using two main methods: (1) consultations with Indonesian and Malaysian stakeholders at various levels (national, state/provincial, and district) through focus group discussions and interviews, and (2) literature reviews.

## Key challenges

The challenges identified at the sub-national jurisdictional level and for independent smallholders show that although there are differences in those identified for Indonesia and Malaysia, many overlap as well. Table 1 provides a summary of the challenges and indicates four key challenges that overlap across both countries (in bold). The key overlapping challenges include:

1. ***Conflicting interests and objectives resulting in tensions between stakeholders.*** Conflicting interests between different levels of government was highlighted in both Indonesia and Malaysia. In Indonesia, for example, there is a lack of agreement on decisions related to land use and forest conversion for other uses between the national and local governments. Similarly, in Malaysia, federal-state divide means that most land matters are under the jurisdiction of a state, but as palm oil issues have increasingly become a ‘national issue,’ with a push for national oil palm policies, states fear this will result in a further loss of control over decisions.
2. ***Lack of technical capacity or knowledge (including among smallholders).*** Both countries identified the challenges of smallholders and government agencies having limited capacity and knowledge. In Indonesia, this was highlighted specifically regarding smallholders lacking capacities to adopt good agricultural practices (e.g., proper use of high-quality seedlings, fertilizers), engage effectively in farmers’ institutions, manage their plantations for increased production, access financial sources, and legalize their lands. In Malaysia, limited budgets, the need for further development of the Malaysian Palm Oil Board’s (MPOB’s) TUNAS (*Tunjuk Ajar Nasihat Sawit*, or guidance and counselling) officers, and need to increase knowledge among smallholders on the adoption of sustainability practices were highlighted.

3. *Land legality and tenurial conflict.* The lack of tenurial rights over plantations creates barriers for smallholders having no evidence of rights and ownership to comply with Indonesian Sustainable Palm Oil (ISPO), Malaysian Sustainable Palm Oil (MSPO), and other certification schemes. As ISPO and MSPO are now mandatory, barriers to obtaining this certification will function as barriers to market access. Further, in Indonesia, lack of legal land registration can hinder smallholders' access to financial assistance from state/regional budget and other sources of funds. Further complications in Indonesia result from plantations (both smallholder and concessions) occurring on state forestlands resulting from repeated changes in land use and forest allocation policies, lack of full designation/publication of state forestlands, and failure of companies or hired contractors to properly adhere to the field guidelines when clearing the lands<sup>3</sup>.

**Table 1. Challenges identified for Indonesia and Malaysia (green highlights), key challenges for each country (check marks), and key challenges for both countries (bold text)**

Challenge	Indonesia	Malaysia
Administration changes from local elections		
Budget constraint and lack of funds/financing for smallholders		
<b>Conflicting interest and objectives resulting in tensions</b>	✓	✓
Labor shortages		
Lack of commitment/political will		
Lack of direct linkages to industry for smallholders		
Lack of participation or diverse representation		
<b>Lack of technical capacity or knowledge (including smallholders)</b>	✓	✓
Lack of transparent system and/or clarity over control and oversight of sustainability policy implementation		✓
<b>Land legality and tenurial conflict</b>	✓	✓ (Sabah & Sarawak)
Limited extension services or technical assistance		
Limited synergy & lack of coordination		✓
Plantations on degraded lands, low yields	✓	
Weak monitoring, reporting & verification capacity	✓	
<b>Weakness or gaps in legal framework and law enforcement</b>	✓	✓

## Key interventions and recommendations for improvement

### Indonesia

Three key interventions to lift jurisdictions, and especially independent smallholders, to sustainability in Indonesia are (1) clarifying land legality and tenure rights, (2) capacity building, and (3) low-carbon and green economy development at national and sub-national

<sup>3</sup> Wibowo et al. 2019

levels. Though interventions addressing these aspects already exist, there are pathways to improve their effectiveness and reach.

Addressing a major challenge for Indonesia, the **first key intervention is to clarify land legality and tenure rights**. Two mechanisms to resolve land tenure issues are underway, each with procedures for determining suitable lands: (1) granting of ownership through agrarian reform (TORA) or (2) allocation of management rights for 15-25 years to cultivate oil palm while transitioning to forest products through social forestry (*Jangka Benah* strategy) for plantations in state forestlands. Ministry of Environment and Forestry (KLHK) plays the main role in deciding and allocating forest areas that would be made available under each of the two solutions. The Ministry of Agrarian Affairs and Spatial Planning/Land National Agency (*Badan Pertanahan Nasional*, ATR/BPN) issues certificates for communities, farmers, and others under TORA program. Pathways for improving current implementation:

- Improve coordination among related institutions, national ministries, and sub-national government agencies. And working groups and taskforces established within jurisdictions for agrarian reform and social forestry should include civil society representation.
- To resolve existing land disputes and address power imbalances between smallholders, government, and companies, use innovative and flexible approaches such as (i) effective mediation, (ii) more stakeholder participation, (iii) bottom-up mechanism to verify proposed locations for social forestry, and (iv) more flexible criteria for determining “clear and clean” status of the proposed lands.
- To encourage companies to increase compliance with the requirement to identify lands for TORA to be allocated to smallholders, link the mandatory Indonesian Sustainable Palm Oil (ISPO) certification requirements and audits to this compliance.
- Strengthen capacity of government agencies at the provincial and district levels, especially in understanding the legal framework and in the development of technical skills such as land surveying, Geographic Information System (GIS) mapping, ground truthing, decision making of land allocation and monitoring the resolution process.
- Revise ISPO requirements and criteria to allow for acceptance of social forestry management rights to allow *Jangka Benah* smallholders continued access to palm oil markets even after 2025 (the mandatory ISPO certification deadline).
- Identify and communicate alternative livelihood strategies for smallholders after the *Jangka Benah* transition period.

On the **second key intervention for capacity building**, many efforts are implemented by governments and development actors. These include: the Ministry of Agriculture’s PSR (*peremajaan sawit rakyat*) program to strengthen the organizational capacity of smallholders to form farmer groups, to adopt GAP including the use of proper seedlings and fertilizers and other methods of land clearing/preparation in place of fire. Complementing this, smallholders following GAP can seek financial support from BDPKKS (*Badan Pengelola Dana Perkebunan Kelapa Sawit*, or the Indonesian Palm Oil Plantation Fund Management Agency) to cover costs for replanting to increase productivity. Potential financial support is also available from national, local, and other sources to facilitate smallholders to enhance smallholder capacity to adhere to sustainability requirements and standards in palm oil plantation development. Pathways for improving current implementation:

- Provide continuous capacity building support (*pendampingan*) to assist smallholders in getting acquainted and complying with sustainability information and standards (e.g., ISPO) using appropriate language geared towards smallholders.
- Strengthen the focus of capacity building on fresh fruit bunches (FFB) trading and how smallholders can establish fair partnerships with companies or mills and transparent schemes for price. Governments can act as a mediator in the negotiation process and oversee how the agreements take place.
- Promote learning forums (e.g., farmer school) and adopt a train-the-trainer approach to scale up supports for smallholders and broaden the network of smallholders to interact with potential partners including mills and traders.
- Provide incentives to not only smallholders pursuing certification, but also to those already certified to maintain the motivation to keep up with the certification requirements and sustainability practices.
- Explore the potential sources of funding for supporting oil palm smallholders, not limited to national and government funds (including funds managed by BDPKPS), to broaden the geographical reach and increase capacity building effectiveness. Public-private partnerships, joint programs with non-governmental organizations (NGOs), and other development actors.

On the **third key intervention on low-carbon and green economy development**, many initiatives aimed to lift district and provincial governments to sustainability are driven by national targets, commitments and policies regarding the mitigation and adaptation of climate change, greenhouse gas (GHG) emissions reduction (i.e., nationally determined contribution, NDC), UN Sustainable Development Goals incorporated in the medium-term development plan or RPJMN, low carbon development, etc. Some jurisdictions are relatively advanced in their low-carbon and green economy related policies and programs due to participation in global platforms and declarations, such as the Governor's Climate & Forests (GCF) Task Force. Others have benefited from support provided by development partners and the presence of multi-stakeholder forums such as Sustainable Districts Association (*Lingkar Temu Kabupaten Lestari*; LTKL), encouraging them to develop innovative policies and programs to reduce deforestation and achieve socio-economic, and environmental outcomes. In the palm oil sector, national and subnational stakeholders are developing and implementing action plans for sustainable palm oil through the *Forum Kelapa Sawit Berkelanjutan Indonesia* (FoKSBI) initiative. However, very few palm oil producing provinces and districts have developed action plans and are currently implementing programs and activities<sup>4</sup> but some have incorporated relevant principles into their mid-term development plan or RPJMD. Generally, the slow progress has been due to the lack of political will to implement action plans, lack of coordination among parties, and reallocation of the limited local budgets due to the COVID-19 pandemic. Pathways for improving current implementation:

- Establish new or reactivate existing multi-stakeholder forums and ensure representation of key stakeholder to enhance coordination and collaboration across all levels of government and with other key stakeholders.

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<sup>4</sup> Based on focus group discussion organized by FOSKBI, 31 May 2022, on the evaluation of sustainable palm oil action plans as per Presidential Instruction No. 6/2019



- Align sustainability efforts among public and private actors pursuing the realization of high-level commitments (e.g., NDPE) and forge public-private partnerships to build a common understanding of various definitions, approaches, and tools, such as deforestation, high conservation value (HCV), high carbon stock (HCS), etc.
- Expand membership and functions of platforms like LTKL and *Asosiasi Pemerintah Kabupaten Seluruh Indonesia* (APKASI) to scale up impacts and allow more district to engage in dialogues and share lessons on how sustainability commitments are implemented, monitored, and incentivized.

## Malaysia

Key interventions identified for Malaysia are: (1) improving transparency and communication, (2) capacity building and training for smallholders and other actors, and (3) strengthening support for conservation initiatives related to the palm oil industry. Interventions identified here already exist, but they need to be strengthened or expanded.

On the **first key intervention to improve transparency and communication** with external markets and actors, Malaysia (through its ministries and institutions<sup>5</sup>) has initiatives in place to communicate and market MSPO-certified palm oil by targeting and communicating with India, China, and Middle Eastern and African countries. Mandatory implementation and enforcement of MSPO certification started on 1st January 2020. A traceability system linked to MSPO certification is present (MSPO Trace) and is being developed further, however, this system does not contain information about labour practices (human rights) monitoring. However, the government also recently ratified the International Labour Organization (ILO) Protocol 29 on Forced Labour following up on the Malaysian palm oil industry committing to ending recruitment fees for foreign workers (possibly leading to debt bondage of workers). Further, members of the Malaysia Palm Oil Association (MPOA) are also bound to the new Responsible Employment Charter that sets out multiple reforms from the private sector to demonstrate its good labour practices. Pathways for improving current implementation:

- Establishment and strengthening of multi-stakeholder partnerships, which must include NGOs, to tackle the perception of palm oil through communication and marketing.
- A robust enforcement and monitoring system needs to follow the revised MSPO criteria (setting a cut-off date of 31 Dec. 2019, strengthening requirements for new plantings, and additional criteria on the treatment of labour, including foreign and child labour) to provide evidence of proper treatment of workers and no new deforestation that is transparent and demonstrate compliance with international sustainability standards and legislations (e.g., EU proposal for deforestation-free commodities).
- Provide for opportunities and encourage states and districts to provide monitoring and evidence for their jurisdictions, to signal to international and private sector actors that the jurisdiction has a robust system in place ensuring that sustainability principles

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<sup>5</sup> Such as Ministry of Plantation Industries and Commodities (MPIC), Malaysian Palm Oil Certification Council (MPOCC), and Malaysian Palm Oil Board (MPOB)

have been followed and that the palm oil (or other commodities) have been produced in a manner that meets international sustainability requirements.

On the **second key intervention on capacity building and training for smallholders and other actors**, activities are already being implemented by government agencies and development partners including NGOs and the private sector, across Peninsular Malaysia, Sabah, and Sarawak. They focus on different aspects such as good agriculture practices, new planting, HCV areas, and managing wildlife conflicts. They have been useful and important, especially in enhancing the technical capacity of smallholders and disseminating knowledge about the details of the Roundtable on Sustainable Palm Oil (RSPO) and MSPO certification schemes to smallholders. As part of its responsibility for organizing smallholders into Sustainable Palm Oil Clusters (SPOC) and getting them ready for MSPO certification/audits, MPOB, for example, conducts workshops and training in good agriculture practices (GAP), including the use of fertilizer, harvesting program, farm mechanization operation, nurseries, fresh fruit bunches (FFB) grading skills, etc. through the assistance of TUNAS officers. Pathways for improving current intervention:

- Provide long-term support and continuous engagement with farmers and communities through capacity building initiatives to increase knowledge and trigger a change in the mindset of the farmers towards sustainability.
- Expand the MPOB TUNAS program through the addition of more staff or through funding programs that are operated by NGOs by forming partnerships with them, to increase the frequency and the geographic areas that capacity building support can reach.
- Build capacity of state and district governments through the increase of staff employed, especially at the state and district institution/agency level to better support training activities on the ground (e.g., develop sustainable development plans, form multistakeholder forums/coalitions, and enter into partnership agreements).
- Conduct capacity building and training activities using language that is easily understood by smallholders. Careful attention needs to be given to the language used in communication materials to facilitate effectiveness.

On the **third key intervention to strengthen support for conservation initiatives related to palm oil sector**, Malaysia has already established a program to fund conservation initiatives and research. As part of its commitment to conserving the environment and responding to critiques of the palm oil industry, the MPIC's Malaysian Palm Oil Green Conservation Fund (MPOGCF) target three arenas – reforestation, wildlife conservation, and communities. These projects are conducted in collaboration with stakeholders, including state government agencies such as Sabah Forestry and Wildlife Departments in Sabah, *Jabatan Perlindungan Hidupan Liar dan Taman Negara* in Malaysia Peninsular. However, funding support available with MPOGCF is not always accessible to different parties and is limited. Relatedly, the national government finds it difficult to obtain public sector funding to support smallholder programs. This is because private sector companies often prefer to sponsor and run their own programs, directly connecting with smallholders within their areas of operation. Further, some NGOs are reluctant to partner with government agencies for projects due to concerns over greenwashing. Pathways for improving current intervention:

- Expand the amount of funding available through MPOGCF and similar efforts to support more and larger-scale projects. Funds can be sourced from the national budget but also from taxes levied on the palm oil industry.
- Establish and strengthen public-private partnerships to help the government and companies align their conservation and smallholder improvement efforts and help access more financing for funds like MPOGCF from the private sector (i.e., budget enhancement).
- Support for conservation initiatives should also include support for state and district governments to receive funds not only for actionable conservation activities but also for enabling conservation-related activities (e.g., hiring of staff with technical skills, training of staff in existing regulations/legislations to enhance enforcement, and staff training on technical conservation and sustainability related aspects such as HCV and GIS mapping).
- Strengthen conservation initiatives to include enhancement and utilization of existing multistakeholder forums. Many committees and councils exist to help align efforts and goals of all stakeholders engaging in a landscape but are underutilized and underfunded.

Overall, the key interventions in Indonesia and Malaysia are in largely feasible as they are in part already implemented and are supported by operational regulations and guidelines and by the governing institutions such as, government units at different levels. Though suggested pathways for improvement do not require an overhaul of the existing initiatives, some degree of rethinking and strategizing of the implementation process will be needed. Additionally, these new changes will also need to be in line with or be incorporated into local government's development plans, financially supported by relevant sources of funds, and equipped with measurement, reporting and verification (MRV) for effective implementation. In terms of smallholders, in both Indonesia and Malaysia, capacity building of independent and organized smallholders was highlighted as a key intervention that needs to be implemented to address a key challenge (lack of capacity). Without bringing smallholders on board through increased capacity but also through participation in the various multi-stakeholder platforms, it would be difficult for a jurisdiction to address the broader challenges of deforestation and emissions reductions, especially in the palm oil sector since smallholders collectively manage large amounts of oil palm production areas.

## Towards jurisdictional sustainability

Implementation of the interventions discussed here address one or more key enabling conditions for jurisdictional approaches to be established, fostered, and successful<sup>6</sup> (1) shared understanding and trust; (2) multi-stakeholder processes and governance; (3) planning and effective implementation; (4) monitoring and reporting systems; and (5) financing. Further, these interventions also function to support other avenues to sustainability transitions as well (e.g., certification systems). For example, a major challenge for certification (e.g., ISPO, MSPO, RSPO, etc.) is land legality and acceptance in

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<sup>6</sup> Paoli et al. 2016; Nepstad 2017; Stickler et al. 2018



international markets in both Indonesia and Malaysia, which the interventions discussed here would help address.

Additionally, a jurisdictional approach offers some strategic opportunities to address the identified challenges to sustainability and these interventions. While monitoring and evidence can be provided at the national level, there are opportunities for the sub-national levels (e.g., states, provinces, and districts) to have robust systems in place to ensure that sustainability principles have been followed and the palm oil (or other commodities) produced within their jurisdictions meets international sustainability requirements. Sub-national jurisdictions could also provide and communicate necessary evidence to international and private sector actors – leading consumers and companies to feel confident of sourcing from or invest in these (low-risk) jurisdictions. Taking a jurisdictional approach to sustainability allows for the space to create multi-stakeholder platforms and forums that bring together all relevant actors and address conflicting interests (by aligning them), which also strengthens the accountability and commitment to sustainability despite changes in political administrations. Further, while implementing a jurisdictional approach, jurisdictions usually create umbrella policies and plans that align sustainability efforts across sectors and strengthen legal framework by integrating these into development planning.

However, it can take a long time for jurisdictions to put in place jurisdictional approaches – it is a slow process that requires the buy-in of the relevant stakeholders – but recognizing progress is as important as the outcomes. Thus, assessments and feasibility surveys can help determine the status of enabling conditions, help support decisions on where to invest funds based on progress or targets of forest and peatland protection, and keep jurisdictions motivated.

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**Cover photo:** Aerial view of the landscape around Halimun Salak National Park, West Java, Indonesia. Photo by Kate Evans/CIFOR.

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