An Open Letter to the President of the Republic of Indonesia, the President of the Council of the European Union, and Leaders of European Union Member States: Regarding the Impact of Oil Palm Plantation Namely Forest Destruction, Land Grabbing, Human Rights Violation, Corruption and Environmental Disasters.

We are leaders of indigenous people’s organizations, farmers’ unions, civil society organizations, traditional communities, farmers, laborers, human rights defenders and environmental activists.

We read and receive many contradictory messages and statements that seem to ignore the impact of the palm oil industry in the form of deforestation, land grabs, human rights violation, labor exploitation, corruption, socio-economic and political problems and ecological problems. There are efforts to conceal these issues, including by claiming oil palm plantation are forests. Some statements supported by several academicians have also accused several Non-Governmental Organization (NGO) of negative campaigns against oil palm in Indonesia. ¹

We hereby would like to state and assert that, in fact, the palm oil plantation and industry have indeed destroyed and eliminated forests on a large scale² and they continue to destroy forests and peat lands until now.³ We have also lost our village lands⁴ (because our management rights to the land have been occupied by oil palm plantations), our food sources, livelihood, sources of herbal medicine, rare vegetation and germ plasm, as well as our collective ways of life based on our local wisdom, and connections with our ancestral places integral to our identity and cultural heritage. On the ground, we experience conflicts, harassment, criminalizations and human rights violations, the denial of labor rights and socio-economic and environmental problems. Our customary territories now suffer long term ecological disasters, such as droughts, forest fires, water pollution and the decline of fish stocks, loss of food security all of which diminish the quality of life of the local people, especially women and children.

For us, forests are not only timber stands and economic resources, but also our homes. Forests are the source of biodiversity that is bonded in one comprehensive ecosystem: human, nature and its Creator. The destruction and elimination of forest will not only destroy and eliminate our source of life, but also our ecosystem and place to live, now and


³ Check out the latest video of Greenpeace’s findings about forest destruction in Papua https://media.greenpeace.org/archive/Web-video-CLEAN-Palm-Oil-Supplier-Destroy-Young-Deforestation-in-Papua-27M2IFJXASBK6.html

⁴ See the Institute for Ecosoc research report as outlined in the book “transmigrasi dan Kemitraan Plasma Menopang Industri Perkebunan Sawit” (’’Transmigration and Plasma Partnerships Support the Palm Oil Industry’’) (2017)
for posterity. With the removal of forests our traditions, languages and traditional rituals vanish. All of this happens because of land clearing for large scale oil palm plantation controlled by local and foreign investors.

We are hunters and foragers, farmers and farm laborers, creating our food with our hands, knowledge and self-sufficient organizations. We have become disempowered economically because our economic systems have been relegated by the plantation-oriented economic system controlled by companies. In addition to that, our socio-cultural systems that support our collective living have been forcibly transformed into one that is individualistic and dependent on money. This has created social vulnerability and often sparked serious and prolonged social conflicts.

The companies promise compensations, damages and CSR (corporate social responsibility). But all of those cannot replace the value of our lost forests and lands, as well as the harmonious living with nature and our neighbours. The CSR projects cannot make up for our loss and suffering.

We are of the opinion that social justice and ecological sustainability are treated as words rather than obligations for action, not regarded as actual responsibilities of the corporations. Our rights in the estate-smallholder farming contract, part of the plantation licence requirements, are often not fulfilled. This is a legal violation since the obligation to fulfil the rights of the community has been prescribed in the Plantation Law (39/2014). But in reality, the companies often used this “nucleus-plasma” partnership model as a way to take over our forests and community lands.\(^5\)

We have experienced how this economic model of palm oil plantation has ignored the principles of justice and robbed us of our rights (men, women, the elderly, children and future generations) to continue to exist on our own land. The palm oil companies have appropriated all and we are now forced to work as informal laborers for palm oil industries. Our rights as (male and female) laborers are also ignored, our strength is drained but we are given wages below the minimum standard, we are discriminated against, the women are not given menstrual leave, are vulnerable to sexual harassment, are not provided with decent toilets, are provided poor quality food and water, are not given the freedom of expression, of opinion and of association, are vulnerable to diseases and work accidents, are not provided with health insurance neither for when they are sick or injured in work accidents, and to add to this, they are vulnerable to sudden termination of employment.\(^6\)

We, small-scale farmers and planters are also marginalized in the whole supply chain of the palm oil industry. As small-scale planters, we cannot determine the price because it is controlled by the companies. We also have not received any protection of land tenure because of the difficulty of obtaining such recognition by the government.

We have no adequate instruction in the knowledge of plantation business management. We are also kept away from having access to capital by the financial sector. There is an oil palm fund management policy that directs funds to the development of smallholder plantations,


\(^{6}\) Results of Women’s Solidarity Research with Sawit Watch 2010 and Female Solidarity Investigation Data Kendari 2015
but the funds are instead diverted as subsidy for the development of biodiesel\(^7\), such as the those received by five large-scale oil palm companies in 2017, namely Wilmar Group, Musim Mas Group, Darmex Agro Group, First Resources and Louis Dreyfus Company (LDC)\(^8\).

We perceive and feel that the policies of the plantation business, the palm oil trade and industry have deviated a long way from, and are contrary to, the constitutional ideals of justice and social welfare. In the investors’ interest, regulations on licensing and on management of oil palm plantation funds have been lifted.

We understand that the oil palm sector contributes to the national economy with export value reaching 15% of total Indonesian exports\(^9\). However, using that figure as the sole basis for policy-making is inappropriate. The foreign exchange revenue claims are also inaccurate since much of the export earnings are actually deposited in tax haven countries. At the same time, the oil palm industry also has a major negative impact on basic rights and survival of the people, indigenous peoples, farmers, laborers and the environment.

We see that the government is serving the interests of financiers rather than the interests of communities and smallholders. Moreover, for the sake of growth and investment, licensing, tax and export facilities are generously given out to foreign investors\(^10\). As a result, the grip of the holders of capital over oil palm resources in Indonesia is so strong. All the links in the supply chain are under control of a handful of capital owner, some of them the richest people in Indonesia: from the land to the palm oil mills and processing plants all the way to the trading floor\(^11\).

They control the palm oil supply chain in Indonesia and internationally from Singapore and Malaysia\(^12\). They are foreign tycoons that have been served by the government and are considered worthy of commendations as contributors of foreign exchange revenue.

We see that the claims of foreign exchange earners are inappropriate or “careless”, because the profits are actually kept in tax haven countries. They are actually tax evaders causing losses to the state. Asian Agri Group, for example, was proven to have done just that. Some of the bosses in the oil palm industry have made a commitment to clean up the supply chain from the practices of deforestation and peat degradation, and promise to respect human rights. In fact, however, these pledges have not been implemented\(^13\).


\(^10\) TuK Indonesia study (2015) showed that there were 29 tycoons behind 25 oil palm businesses controlling more than five million hectares, among them Sinar Mas Group, Wilmar Group and Surya Damai Group. This is made possible due to state facilitation and illegalities. Wilmar and Sinar Mas Group could own more land than prescribed in the Agriculture Minister’s Regulation No. 26 of 2007 on Guidelines on Plantation Business Licenses that every corporate group can own only 100,000 hectares in every province. Companies under Wilmar Group, Darmex Agro, Musim Mas, First Resources and Louis Dreyfus Company, have also received subsidy from the Plantation Fund Management Agency.


\(^12\) According to AURIGA Foundation study by following the money (downstream-upstream tracing of profits in Indonesia and the network in neighboring countries) is is apparent that the network of chains of national oil palm profits lead to major companies based in Malaysia and Singapura, (AURIGA, 2016).

Compared to these companies, we smallholders are more tax compliant. Our income tax (Income Tax Article 22) is directly deducted from every sale and purchase transaction of our oil palm fruit bunches. Meanwhile, the oil palm companies are not compliant in paying taxes. In 2015, the corporate compliance rate is only 46.34%. The state loses potential tax revenue of IDR 18 trillion annually from non-compliance.\textsuperscript{14}

We are often accused of being "unpatriotic" by our own government, when we cry out for our rights as Indonesian citizens, which are taken from us at the advantage of investors. We know that the claims were actually started by those foreign investors who want to perpetuate and sustain their profitable business in our country.

We have repeatedly sent letters, engaged in dialogue and held rallies before government offices, the parliament, the National Commission for Human Rights and corporate offices to speak out about injustices and grievances over land grabbing, loss of livelihoods and food security, forest destruction and environmental pollution, low wage labor, corruption, criminalization, violence and human rights violations experienced by communities, farmers, laborers and activists\textsuperscript{15}.

Policies and bad practices of the oil palm plantation industry have contributed to the occurrence of agrarian conflict of 659 cases, with 208 cases occurring in the plantation sector, covering a land area of at least 530,491.87 hectares and sacrificing 652,738 families\textsuperscript{16}. Conflicts between oil palm plantation companies and communities in particular have continued to expand, with the number of cases continuing to rise to 717 cases to date. These cases have not been resolved.\textsuperscript{17}

Therefore, we urge the Government of Indonesia to:

1. Be consistent and abide by the constitution in the administration of land and reform the governance of agrarian resources in line with the 1945 Constitution and the 1960 Agrarian Law, especially Article 33 of the 1945 Constitution which asserts that the main goal of the management of agrarian resources of this nation is the greatest prosperity and welfare of the whole people, not for a handful of people or groups.

2. Implement real agrarian reforms, provide certainty of protection, respect and fulfilment of land rights to indigenous peoples and poor farmers (men and women), and abolish the injustice in the control of agrarian resources. If the government ignores this, it means that the government violates the Constitution.

3. Immediately strengthen and issue a regulatory policy for the moratorium on the issuance permits for oil palm plantations in forests, on peat and in other areas, to allow time for a re-organization of natural resource governance, in particular the oil

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palm plantation sector. Immediately build and organize integrated land control and ownership information system (spatial and numerical), as well as land-based licensing arrangements within and between ministries/agencies in a manner that is transparent and accessible by the community.

4. We ask the President of the Republic of Indonesia to instruct the relevant ministries/agencies - with the coordination and supervision of the Corruption Eradication Commission (KPK) - to conduct a review and evaluation of various business permits for oil palm plantations and Hak Guna Usaha (HGU) based on human rights, justice and environmental sustainability. This review should be conducted transparently and accountably.

5. Immediately take decisive action against oil palm companies engaged in environmental destruction and tax evasion that are causing tremendous loss to the State.

6. Impose stringent penalty onto state apparatus and revoke permits and concessions from oil palm plantation companies that are involved in various forestry and environmental crimes, violations human rights and labor rights, and corruption. Impose sanctions on companies by mandating the restoration and rehabilitation of damaged and lost environment.

7. Immediately resolve agrarian conflicts fairly, recognise, restore and rehabilitate the rights of indigenous peoples and local communities, oil palm farmers, and oil palm plantation workers, both men and women, forest crime victims affected by the oil palm plantation industry.

8. Immediately audit the nucleus-plasma partnership program due to the fact that many companies do not fulfil the plasma obligation of the communities.

9. Immediately correct the policy of oil palm plantation fund management as mandated by Plantation Law (39/2014) and abolish the use of funds for the subsidy of biodiesel development program.

10. Immediately develop policies for and facilitate the programs for the strengthening and empowerment of oil palm small holders development based on the principles and standards of sustainability, fairness, the respect for human rights and self-reliance.

11. Immediately improve the living standards and the occupational standards of workers (men and women) in plantation companies in accordance with national and international provisions. In particular - ensure wages received are in accordance with the decent living standards for the workers and their families; - provide health insurance, including women’s reproductive health and occupational safety; - guarantee freedom of expression and association; - abolish modern forms of slavery and protect children from economic exploitation; - implement and enforce regulations adequately and effectively; - punish third parties, businesses and employers who violate workers’ rights; - restoring workers’ rights; and-build a accessible and secure complaints mechanism.
12. Ensure that police/military officers are not employed by companies for security, do not use militaristic approach in problem-solving, and are not involved in intimidation and violence against the community members and workers.

We take note of the following document “Palm Oil and Deforestation of the Rainforests”, which states that the development of the palm oil industry is a major cause of forest loss and climate change. Moreover, in the context of the revision of the EU Renewable Energy Directive (RED II), the European Parliament is proposing to end the policy of support for palm oil biodiesel as of 2021.

The Parliament’s position at this stage is only a proposal and not a decision of the EU on biofuel policy. If the EU was to adopt this proposal, the use of biofuels and bio-liquids produced from palm oil would not count towards the EU’s renewables energy targets. In other words, palm oil biofuels could continue to be used and imported into Europe, but governments would likely withdraw subsidies and other promotion schemes for palm oil based biodiesel.

The negotiations are still ongoing, and there is concern that several EU governments oppose the Parliament’s proposals. Also, the largest palm oil producing countries, Indonesia and Malaysia, are lobbying, alongside petrol companies, to overturn the proposed changes in law.

To respond to the said policy brief, we hereby stated that:

1. We agree with the European Parliament’s proposed change of policy. The EU should ensure that renewable energy is only sourced from businesses that are eco-friendly, equitable and respectful of human rights. Palm oil-based biodiesel clearly does not meet these principles, as shown by the emergence of various social, economic and environmental problems.

2. In relation to all other imports of palm oil, we urge the EU to uphold and promote the highest protection for small-scale oil palm farmers who make a living from the cultivation of oil palm plants. The EU should promote labor rights for men and women working in oil palm plantations.

3. We call on the European Parliament, the European Commission and the EU Member States to improve policy standards in all its economic trade agreements, not least in relation to the use of palm oil. Its policies must adhere to human rights principles and instruments, respect and protect the rights of indigenous peoples, local communities, oil palm farmers and oil palm workers, and improve access to justice and support sustainable development without removing more forests and peatlands.

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This concludes the open letter we are submitting. Thank you for your attention and support.

Jakarta, 22th of May 2018

Our sincere regards,

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Bahtiar, Ninik Mamak, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat

Mainis Dt. Tuankabasaran, Ninik Mamak, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat
183. Gusti DT. Mangkuto, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat, Sumatera Barat
185. Syafri Dt. Maruan, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat,
187. Gusti Dt. Mangkuto, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat,
188. Fitra Naldi Dt. Kayo, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat,
189. Syafri Dt. Maruan, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat,
191. Gusti Dt. Mangkuto, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat,
192. Dirman, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah
193. Yunita, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah
194. Karti, palm oil farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
195. Nirwan, palm oil farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
196. Damak, palm oil farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
197. Bardin, farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
198. Uhing, farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
199. Adiartma, farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
200. Dehen, MH, indigenous peoples Dayak Ngaju, Kapuas, Kalimantan Tengah
201. Irwan S, Kerukunan Suku Dayak Meratus, Banjarmasin, Kalimantan Selatan
202. Robby M. Ngaki, Dewan Adat Dayak, Banjarmasin, Kalimantan Selatan
203. Heri Susanto, Yayasan Tahanjungan Tarung, Kapuas, Kalimantan Tengah
204. Raden Ledi Karsapatir Mathias, Dewan Adat Dayak, Kapuas, Kalimantan Tengah
205. Ihwan, activist, Kuala Kapuas, Kalimantan Tengah
206. Abdul Hamid, indigenous peoples Dayak Ngaju, Desa Katunjung, Kapuas, Kalimantan Tengah
207. Dumu, Lembaga Hutan Adat, Desa Pulau Kladan, Kapuas, Kalimantan Tengah
208. Ather. palm oil farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
209. Tanduk, AMAN Kapuas, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
210. Kostan Magablo, AMAN Sorong Raya, Sorong, Papua Barat
211. Mukri Friatna, activist lingkungan, Bandar Lampung
212. Norhadi Karben, Serikat Tani Manggatang Tarung, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah
213. Mardian, farmer, Desa Sembuluh, Kec. Danau Sembuluh, Kab. Seruyan, Kalimantan Tengah
214. Mairaji, community mapping activist, Palangka Raya, Kalimantan Tengah
215. Misradi, farmer, Desa Sei Ahas, Mantangai, Kab. Kapuas, Kalimantan Tengah
216. Demianus Safe, activist, Distrik Ayamaru Tengah, Kab. Maybrat, Papua Barat
218. Dirman, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
219. Yunita, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
220. Herlina Sukmawati, farmer, Desa Sei Ahas, Kapuas, Kalimantan Tengah.
221. Basri H. Darun, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
222. Asmawi, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
223. Subarjo, farmer, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
224. Riyanto, farmer, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
225. Andrianson, village government, Desa Kalumpang, Kapuas, Kalimantan Tengah.
226. Heripato, village government, Desa Kalumpang, Kapuas, Kalimantan Tengah.
228. Ambun Suteng, indigenous peoples of Dayak Ngaju, Desa Kalumpang, Kapuas, Kalimantan Tengah.
230. Werdian, farmer, Seruyan, Kalimantan Tengah.
234. Sardiyanto, farmer, Desa Sembulu, Kab. Seruyan, Kalimantan Tengah.
235. Wancino, Yayasan Kaharingan Institute Indonesia, Palangkaraya, Kalimantan Tengah.
236. Sarah Agustiorini, Kaoem Telapak, Bogor, Jawa Barat.