



# The Application of Environmental Law Principles in the European Union Free Deforestation (EUDR) and Impacts on Indonesian Palm Oil

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**Abstract.** The European Union Deforestation Regulation (EUDR) represent a significant step towards addressing global deforestation and forest degradation particularly palm oil. This study explores the implications of the EUDR for the Indonesian palm oil industry, a significant global producer. The primary objective of this research is to analyze the implications of the European Union Deforestation Regulation (EUDR) on the Indonesian palm oil industry, focusing on how the principles of environmental law embedded in the EUDR influence industry practices and policies. Specifically, this study aims to assess both the positive and negative impacts of the EUDR on Indonesian palm oil producers, including the potential for driving sustainable practices and the challenges faced by smallholder farmers, such as increased production costs and compliance burdens. On the one hand, it can drive the adoption of more sustainable practices, such as reducing deforestation and challenges for smallholder farmers and increase production costs. To mitigate potential negative impacts and maximize the benefits. Additionally, this study aims to explore the necessity for Indonesia to harmonize its domestic laws with EUDR standards to facilitate

international cooperation and compliance. It will investigate the mechanisms through which Indonesia can effectively monitor and verify adherence to EUDR requirements, particularly in remote areas characterized by complex supply chains. By addressing these objectives, the research will contribute to the broader discourse on sustainable palm oil production and environmental governance, offering practical recommendations for policymakers, industry stakeholders, and local communities to navigate the challenges posed by the EUDR while maximizing its benefits for sustainable development

**Keywords:** Environmental Law Principle, European Union Free Deforestation (EUDR), Indonesian Palm Oil.

## 1. INTRODUCTION

Palm oil is one of the agricultural commodities that contributes greatly to the country's foreign exchange earnings, amounting to USD 25.61 billion with an export volume of 38.23 million tons in 2023[1]. According to data from the United States Department of Agriculture (USDA), Indonesia is the world's top palm oil producing country, with CPO forecasts reaching 45.5 million metric tons (MT) in 2022/2023. [2].Ninety percent of the global palm oil production from Indonesia and Malaysia

Positive effects of the palm oil trade have been recorded in several studies Considering rising farmer income, smallholder economic gains,, chances for employment in rural regions, improved livelihoods, and a slowing down of economic growth and income disparity.[3]

Agriculture is widely acknowledged as a significant contributor to deforestation, some researches has found the impact of specific commodities on global deforestation, and several studies have provided explicit analyses. This study approximate the degree of seven commodities. They are oil palm, soy, cattle, plantation wood fiber, cocoa, coffee, and plantation rubber which are replacing forests with using the most reliable spatially explicit data.[4] Indonesia has experienced limited success in implementing government regulations that intended to mitigate the negative effects of oil palm agriculture on forests. Some researchers found that agricultures trade for example, palm oil did not have a substantial impact on environmental degradation or climate change, or it had either a positive or negative impact.

Tropical deforestation and biodiversity loss, as well as the expansion of agricultural activities in marginal forest and jungle regions, analyzed in many developing nations such as Brazil, India, Indonesia, and Sub-Saharan Africa se the kind of human activity that nourishes and perpetuates the historical fulfil of the entire community of life on the earth.

One of the main components of the European Green Deal is the European Union Deforestation Regulation (EUDR), which implemented via Regulation European Union (EU) 2023/1115 and aims to mitigate deforestation linked to EU market operations. This regulation, which went into effect on May 31, 2023, targeted seven commodities, including palm oil. By concentrating on seven essential commodities and a variety of derivative goods like leather, chocolate, charcoal, furniture, and paper, it introduces a

paradigm change from Regulation (EU) No 995/2010. There is an 18-month grace period for major stakeholders to comply after the publication in the EU official journal, and a 24-month extension for small and medium-sized businesses (SMEs).

After 2020, the European Union Deforestation Regulation (EUDR) is intended to guarantee that the products ingested by EU citizens do not contribute to deforestation or forest degradation on a global scale. Indonesia is one of the countries that is experiencing deforestation, and the EUDR policy applies to palm oil commodities. The primary objective of this policy is to reduce the rate of deforestation, without taking into account global economic factors, such as palm oil export activities..

The Ideology of Natural Resource Management in Indonesia is on the principle of the greatest prosperity of the people, as outlined in Article 33 of the 1945 Constitution following the amendment. The Indonesian people's prosperity and welfare are the sole objectives of the state's constitutionally granted authority to control the land, water, and all natural resources found within them.[5]

In recent years, there has been a concerted effort to decrease deforestation rates by promoting a variety of international and governmental initiatives. The United Nations Framework Convention on Climate Change (UNFCCC) initiated REDD+ (Reducing Emissions from Deforestation and Forest Degradation in Developing Countries) in 2005, which is likely the most significant international initiative. One of its objectives is to reduce greenhouse gas emissions and mitigate climate change by reducing deforestation and implementing sustainable forest management. In 2020, the Environmental Fund Management Agency was established by the Ministry of Environment and Forestry, signaling the conclusion of a series of national agencies that succeeded one another in addressing REDD+ issues.[6]

The EUDR present a significant challenge for Indonesian exporter. The regulation require exporters to provide evidence their product do not contribute to deforestation. It could be increasing competition from other suppliers who can meet the EUDR's requirements may lead to lower prices for Indonesian palm oil. Indonesia face increasing pressure to adopt sustainable practices and demonstrate compliance with international environmental standards. The regulation could lead to increased scrutiny of Indonesian palm oil and may limit market access. On the other hand, it could incentivize the adoption of more sustainable practices, such as reducing deforestation, improving labor conditions, and enhancing traceability.

The significant impact of the EUDR on the Indonesian palm oil industry, both in terms of challenges and potential opportunities. The urgency for Indonesia to adopt more sustainable palm oil production practices to maintain market access and competitiveness. The need to understand the implications of the EUDR for smallholder farmers and local communities, who are often the most affected by such regulations. he gaps in existing research, which has predominantly focused on quantitative assessments or has not adequately addressed the socio-economic dimensions of the EUDR's implementation.

To address these challenges and capitalize on the opportunities, Indonesia must prioritize sustainable palm oil production. This involves implementing stricter

environmental and social standards, improving traceability systems, and supporting smallholder farmers in adopting sustainable practices.

In order to resolve these critical issues, the proposed research will contribute to the development of more effective and equitable sustainability policies that balance economic interests with environmental protection.

## **2. METHOD**

This study implements a qualitative research methodology to investigate the effects of the European Union Deforestation Regulation (EUDR) on the Indonesian palm oil industry. The methodology entails a thorough literature review, an examination of pertinent legal documents, and case studies of Indonesian palm oil companies.[7] The data sources used in this research are obtained through secondary data, including reports and publications from international organizations, government documents, industry publications, and academic literature from international organizations, such as the United Nations, the World Bank, and the European Commission. Data analysis from comparing the EUDR's requirements with Indonesian domestic regulations and industry practices. By combining these research methods, this study aims to provide a comprehensive understanding of the EUDR's impact on the Indonesian palm oil industry and offer insights into potential strategies for sustainable development

This enables the research to offer a thorough comprehension of the EUDR's influence on the Indonesian palm oil industry and offer insights into potential strategies for sustainable development. The research also draws insights from successful implementations of compliance monitoring in other sectors, such as the health industry, to inform the development of effective approaches for monitoring and verifying compliance with EUDR requirements in the Indonesian palm oil industry

## **3. RESULT AND DISCUSSION**

### **3.1 The Application of Environmental Law Principles in the EUDR Influences palm oil Industry Policies and Practices in Indonesia**

Indonesia and Malaysia have been opposing the EUDR strategy since 2021. By emphasizing on creating a sustainable palm oil system in line with national legislation and the Sustainable Development Goals (SDGs), Indonesia has sought to overcome the European criticism.

Article 3 of the EU Deforestation Regulation (EUDR) establishes three requirements for products placed on or exported from the EU market: [8]

1. Commodities that were not deforested after December 31, 2020 should be utilized in the production of the products. The forest should not be degraded after the date on which the wood used in the products is harvested..

2. The products must comply with the relevant legislation in the country of production. This includes national laws, international law, and jurisprudence.
3. The products must be covered by a due diligence statement

Indonesia need a sustainable development program grounded in environmental law principles to not only maintain and improve local palm oil production but also to encourage progress in downstream processes and sustainable palm oil management. Article 19 of EU Regulation 2023/1115 asserts that the Union is dedicated to advancing and executing ambitious environmental and climate policies globally, in alignment with the Charter of Fundamental Rights of the European Union, specifically Article 37, which mandates the integration of a high level of environmental protection and enhancement of environmental quality into Union policies, adhering to the principle of sustainable development. This principle develop and strictly enforce regulations governing palm oil production, including land use planning but legal land use classification palm oil was not available in Indonesia.

Article 1 paragraph 3 of Law Number 32 of 2009 concerned Environmental Protection and Management contains the concept of sustainable development. Thus, the concept of sustainable development was introduced as a deliberate and planned endeavor that incorporates environmental, social, and economic factors into development strategies to guarantee the safety, capability, welfare, and quality of life of present and future generations, as well as to preserve environmental integrity.

The EUDR's designation of palm oil as a feedstock for biofuels with a high indirect land-use change (ILUC) risk has been a source of disagreement. with Indonesia arguing that this is discriminatory and protectionist[9]. This has led to diplomatic tensions between Indonesia and the EU, with Indonesia seeking to defend its palm oil industry through eco-business diplomacy.

While the EUDR primarily focuses on environmental issues, it indirectly impact social and economic aspects, such as the livelihoods of communities dependent on forests and the economic viability of forest-related industries.

Precautionary Principle has been stated in Article 46 OF EU Regulation 2023/1115. This principle states that there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

This principle requires taking preventative action to avoid or minimize environmental harm, even in the absence of full scientific certainty. In the context of the EUDR, this means taking proactive steps to prevent deforestation and forest degradation linked to commodity production.

The Job Creation Law must profoundly unify benefits across economic, social, and cultural dimensions, and it must be administered in accordance with prudent principles. The elimination of the Environmental Impact Assessment (EIA) for plantation enterprises. All commercial entities are required to maintain the function of environmental preservation, as stipulated in Article 67, Section 1 of the Plantation Law. Furthermore, Article 67, section 3 mandates the conduct of an Environmental Impact Assessment (EIA) as a prerequisite for the acquisition of a plantation business

authorization. This item was amended to eliminate the EIA requirements for the issuance of plantation business permits by omitting the stipulations of item 67 sections 3 and 4, following the implementation of the Job Creation Law.[10]

Forest Law Enforcement Governance and Trade (FLEGT) is a European policy that Indonesia has adopted that generally reflects the principles of enforcement, both in terms of state accountability and administration. The European Union initiated this policy with the objective of assisting timber-producing countries in enhancing their governance and capacity building in order to combat Illegal Logging. FLEGT also endeavors to reduce the activities associated with illicit timber consumption and prevent the entry of illegal timber products into the European Union..

### **3.2 Harmonizing Indonesia Domestic Laws With EUDR Standard**

The EUDR distinguishes between 'must criteria' under Article 29(3), which are mandatory for risk assessment, and 'may criteria' under Article 29(4), which are optional.[11]

Deforestation and forest degradation rates are considered must have criteria under the EUDR. Indonesia has implemented several regulations to address deforestation and forest degradation, including Government Regulation on Procedures for Changing the Designation and Function of Forest Area and Government Regulation 57/2016 on Peat Protection. These regulations have contributed to efforts to reduce cutting down trees and damaging forests, particularly in peatlands, but do not explicitly prohibit deforestation. [12]

Despite the fact that civil society could provide valuable on-the-ground observations about companies, the involvement of civil society in the production of environmental assessment documents is eliminated by Omnibus Law 6/2023 on Job Creation. The proportion of palm oil plantations that are responsible for the conversion of natural forests is increasing in the absence of effective policies to prevent deforestation..

On EUDR, essential criteria are commodities plantation expansion rates and trade trends. In accordance with EUDR commitments, Presidential Regulation 44/2020 on the Indonesian Sustainable Palm Oil Plantation Certification System (ISPO) is currently being revised to mandate ISPO compliance from the plantation to the manufacturing level by November 2025. Operational maps of plantation areas, which include specifications on forest, peatlands, and other land uses, as well as the location of forest operations, are legally available from ISPO. Nevertheless, the public is unable to access these models (EUDR Article 29(4)).

The administration of the Indonesian palm oil industry has been affected by the EUDR policy. In Indonesia, it has been perceived as a trade barrier, which has influenced the policy transformation of palm oil administration. The economy and labor sectors of Indonesia are impacted by this policy, which presents challenges for the palm oil industry.

Furthermore, it is crucial to mention the draft Palm Oil Law, which has been in the works since 2015 but has not yet been implemented. Critics have long contended that it violates existing laws and regulations and benefits palm oil corporations, rather than promoting the industry and assisting producers. While it is not presently designated as a legislative priority, it is expected to be reinstated..

It is uncertain whether they differentiate between primary forest and very early stage reforestation projects/secondary forest, which are of significantly lower biodiversity and climatic value. This absence of distinction is a prevalent issue in Indonesian domestic law.

The commodities imported into or the product that was exported from the EU market must have been manufactured in compliance with the pertinent legislation of the country of production, as stated in Article 3(b).

The legislative process considerably broadened the definition of legality to include the legal status of the territory of production in terms of the laws that apply in the country of production:

1. The right to use land;
2. Environmental protection;
3. Forest-related rules, such as forest management and biodiversity conservation, specifically in relation to timber exploitation;
4. Rights of third parties;
5. Labor Rights;
6. International law protect human rights;
7. The principle of free, prior, and informed consent, as outlined in the United Nations Declaration on the Rights of Indigenous Peoples;
8. Trade, customs, tax, and anti-corruption regulations.(Article 2(40)).

Regarding the evidence of the legality of product should be challenging for some exporter. This requirement carries significant implications for companies, producers and governments in producer countries that sell relevant products to the EU market:

1. Companies and producers must be able to show buyers that they are complying with the law
2. Smallholders need to be able to and have the means to comply with laws and regulations as they often face challenges in proving ownership or legal access to their land and formal authorization for relevant economic practices.
3. Governments may want to support companies and producers — in particular, smallholders — in this process.

The requirement presents an opportunity for governments in producer countries to enhance their own forest governance and achieve other environmental policy objectives while simultaneously supporting their trade with the EU market, provided that they ensure that their processes and tools are adequately prepared. For example, Indonesia and Vietnam have already initiated the development of national measures that are consistent with the EUDR's specifications..

### **3.3 Monitoring and Verifying Compliance with EUDR Requirements, Especially in Remote Areas with Complex Supply Chains In Indonesia**

Indonesia's archipelagic geography and fragmented supply chains make it difficult to effectively monitor and verify compliance. Insufficient openness and limited access to data concerning deforestation and the legality of oil palm crops. Challenges in this context impede civil society's ability to facilitate practical implementation, oversee compliance, and safeguard community rights..

Monitoring and verifying compliance with the EUDR, especially in remote areas with complex supply chains, presents significant challenges. However, a combination of technological and institutional approaches can help address these challenges such as the lack of an operational The Indonesian Sustainable Palm Oil (ISPO) accreditation scheme, which was first established in 2011, was amended in 2020.[13].

ISPO traceability system and the limited sector coverage of ISPO certification. It is a key important to revise the ISPO standard and guideline in line with relevant with EUDR standard

There are some process to monitor and verify compliance with EUDR

1. Indonesia should have Geographic Information Systems (GIS) to map and analyze spatial data, such as forest cover, land use, and infrastructure;
2. Empower government agencies responsible for environmental monitoring and enforcement;
3. Establish effective partnerships with local communities and civil society organizations;
4. Building the capacity of local communities and government officials to use and interpret data is essential.

Combining technological advancements and institutional reforms, Indonesia can effectively monitor and verify compliance with the EUDR, ensuring the sustainability of the palm oil sector and aiding worldwide initiatives to reduce deforestation.

In summary, while Indonesia has enacted regulations To prevent deforestation and forest degradation, the EUDR policy has a considerable impact on the management of the Indonesian palm oil business, leading to required policy adjustments and challenges. The ISPO system has been established to assist the industry in adhering to sustainability and legality standards, but additional support is required for independent smallholders to fulfill these requirements.

### **4. CONCLUSION**

From legal analysis, two environmental law principles in the EUDR affect the policies and actions of the Indonesian palm oil business. First, there is the precautionary principle, which says that rules should be stricter and more closely looked at when it comes to how palm oil is made in Indonesia. Second, the concept of sustainable development makes sure that the palm oil industry grows in a way that doesn't harm the environment or deforestation. It also helps the world fight climate change and deforestation.

The EUDR distinguishes between must criteria, as outlined in Article 29(3), which are required to be incorporated into risk assessment, and may criteria, as outlined in Article 29(4), which are permissible but not mandatory. It is recommended that Indonesia implement domestic legislation that establishes a commitment to the prevention of deforestation..

The research emphasizes the importance of increasing transparency, improving data availability, and strengthening collaboration between civil society, the government, and the private sector to enable effective monitoring and verification of compliance with EUDR requirements. Combination of technological and institutional approaches can help address these challenges such as the lack of an operational ISPO traceability system and the limited sector coverage of ISPO certification,

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