

BANK

IMVO value chain working group report

**DBA's Analysis of Severe Human Rights
Issues in the Palm Oil Value Chain and
Follow-up actions.**

The Hague, August 2019

This report is the output of a collaborative effort of the Dutch Banking Agreement's working group on value chains whereby the focus is on the severe human rights issues in the palm oil value chain.

The analysis presented in this document describes the overall global value chain of the palm oil sector with a particular focus on human rights and the role of banks. It gives insight in the various steps and activities taking place in the value chain, as well as the (type of) players that are found in these steps/activities. Although oil palm is grown in many different countries and continents, most of it is grown in Indonesia and Malaysia, therefore data of these countries is used to clarify the overall value chain. The analysis and subsequent conclusions include other or wider geographies when warranted. The analysis is based on desk research and interviews (with members of the working group) and an (external) expert meeting. The objective of the analysis was to identify the human rights issues in the global palm oil value chain and prioritize the most severe issues based on an assessment of the scope, scale and irremediability of each issue. This methodology has been derived from the UN Guiding Principles on Business and Human Rights. This analysis led to several conclusions and to a number of follow up actions by the parties.

The conclusions underline that a lot of efforts are needed to comprehensively address all the identified severe human rights issues in this value chain and stresses in this regard the duty to protect and responsibility to respect human rights of respectively the government and banks under the UNGPs.

The follow-up actions which the DBA working group identified, are opportunities for immediate action by the Parties and banks involved in the process, based on the current focus and strategies of the various parties in the palm oil value chains.

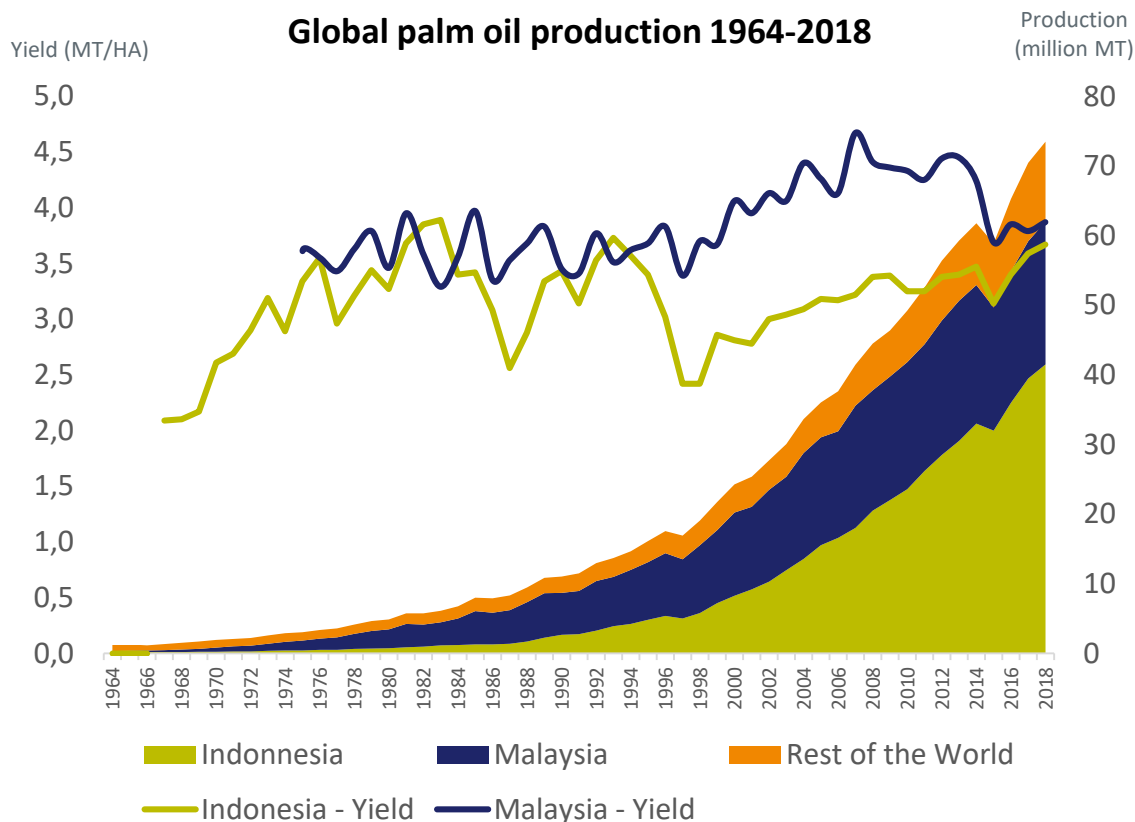
- I. An introduction to Palm Oil
- II. The Palm Oil Value Chain
- III. The Severe Human Rights Issues in Palm Oil
- IV. Conclusions
- V. Follow-up Actions and Further Outputs

I - An introduction to Palm Oil

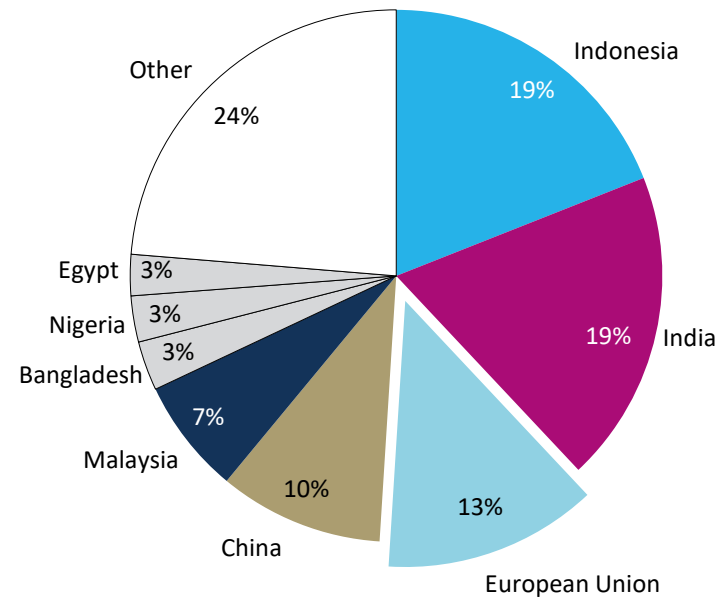
Palm Oil – General Description and Developments

Palm oil is an edible vegetable oil the production of which has increased dramatically over the last decades

Global palm oil production 1964-2018



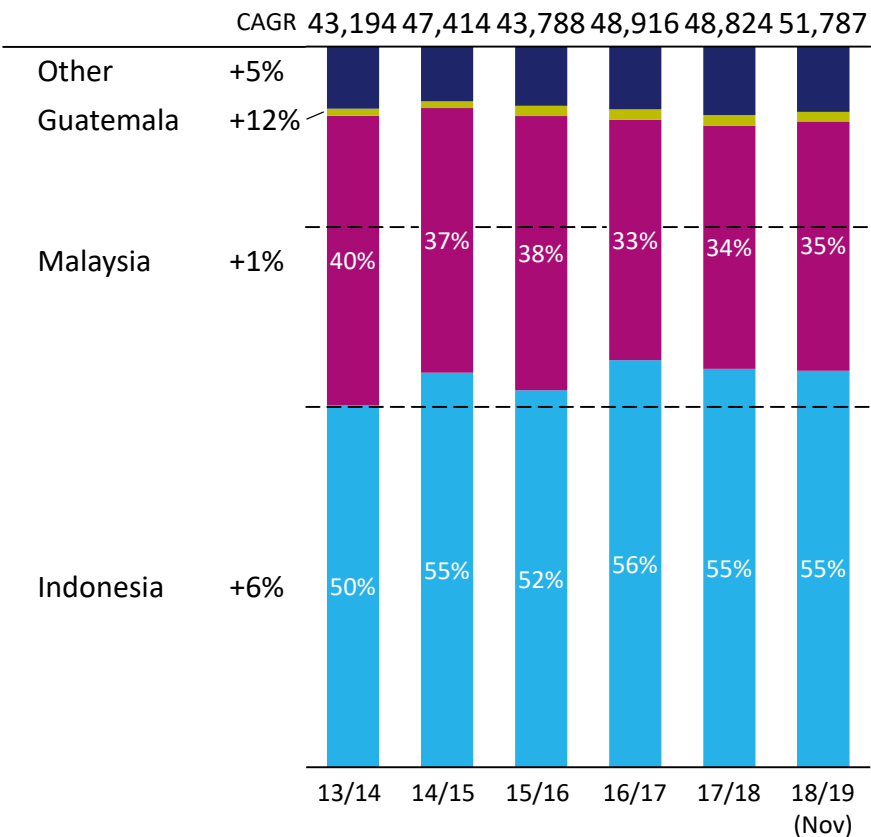
Palm oil consumption 2017
(% of global consumption)



Indonesia and Malaysia remain lead exporters of palm oil while the importer side is becoming more diffuse

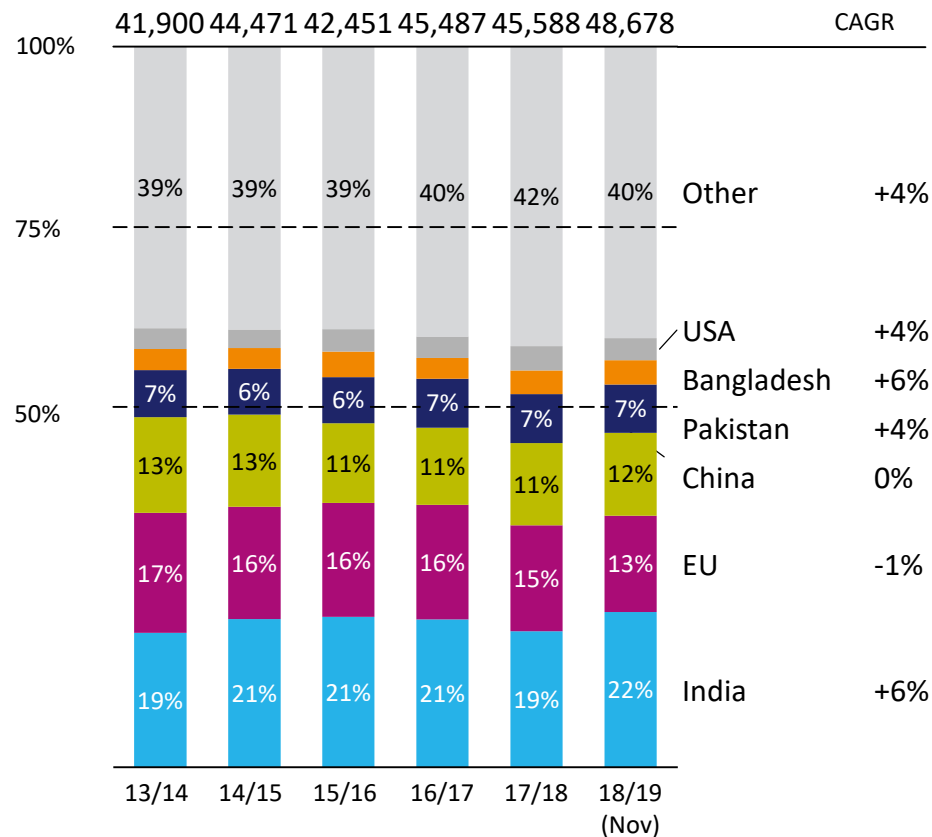
Global Palm Oil Exports 2013-2019

(Thousand Metric Tons and % breakdown)



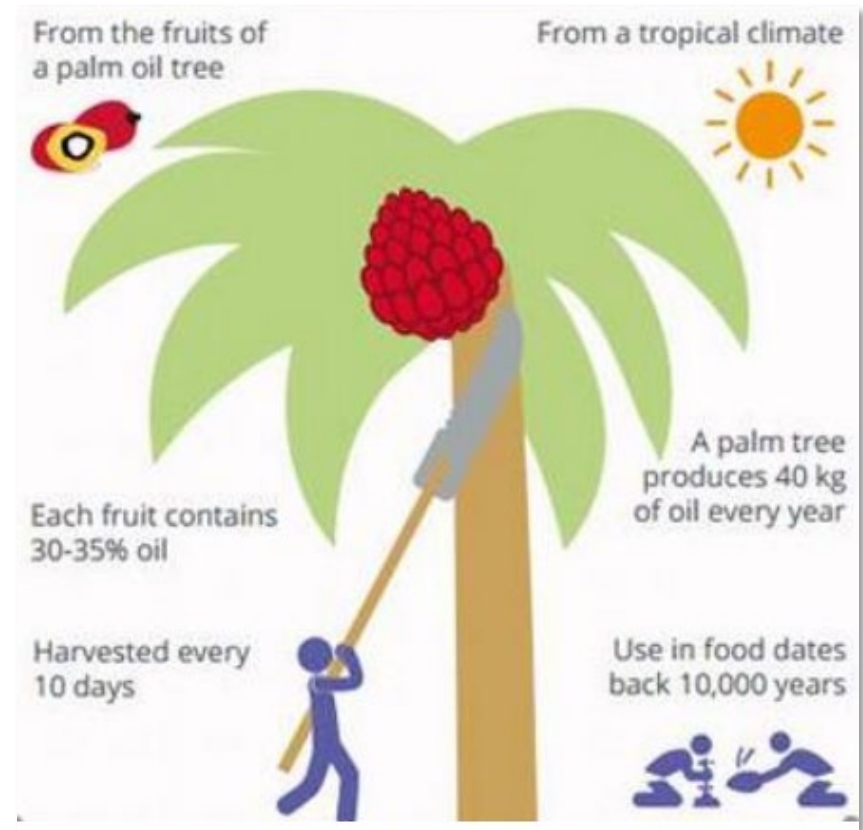
Global Palm Oil Imports 2013-2019

(Thousand Metric Tons and % breakdown)



The oil is derived from the African oil palm tree, today mostly cultivated in Malaysia and Indonesia

- Oil palms, or *Elaeis*, were brought to Southeast Asia from West Africa, at the beginning of the 20th century; they flourish where heat and rainfall are abundant
- Palm oil is extracted from the pulp of the fruit, is edible and used primarily in food products
 - Palm kernel oil is extracted from the seed of the fruit and is used mainly in the manufacture of soaps and cosmetics (“home and personal care”);
 - Palm kernel expeller (i.e. what remains after pressing) is used as a feed for livestock and biofuel for generating electricity.
- A contemporary, productive oil palm is a hybrid tree breed, has an average life of 25 yrs. and bears fruit after 3 years
- Crude palm oil (CPO) is refined to remove colours, odours and flavours and then processed into olein and stearin to produce a variety of oils and fats





Palm oil is used in many consumer goods ranging from food to cosmetics and as feedstock for biofuel



End products: margarine, cereals, crisps, sweets, baked goods, soaps, washing powders, cosmetics, animal feed, bio fuel, cooking oil.

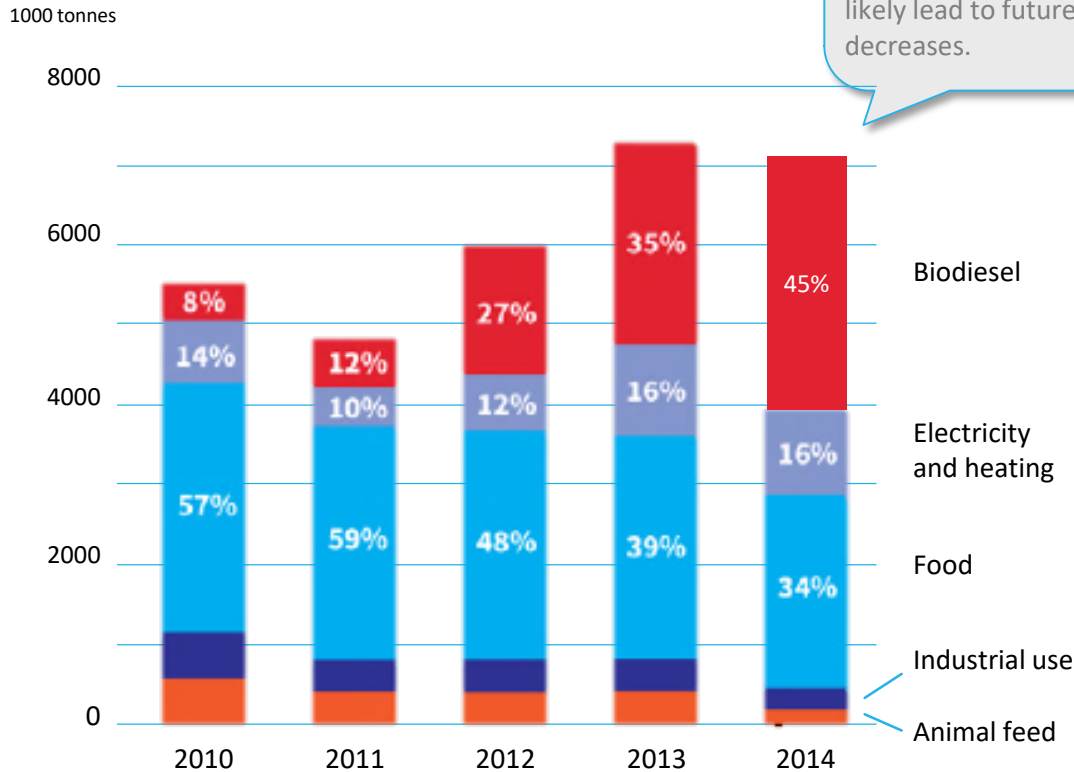
Products

Palm oil in 50% of all supermarket products

Percentage will be lower once its not limited to packaged goods and fresh products are also included

Please note that in 2017 use for biofuel was 48%. Recent policies will most likely lead to future decreases.

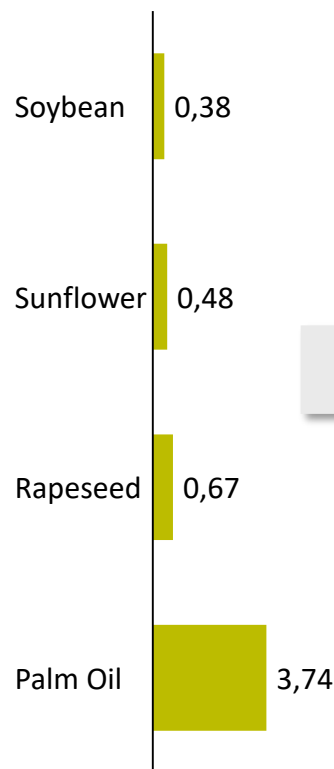
Palm Oil use in Europe



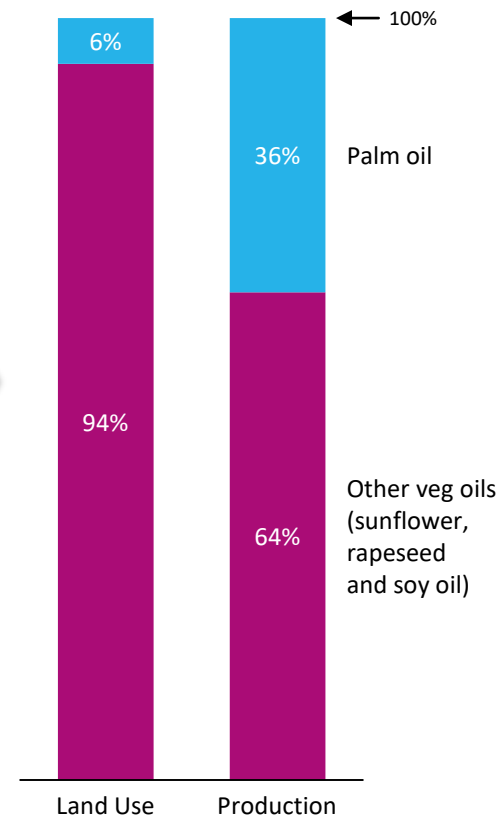
The attractiveness of palm oil comes in part from its product characteristics

- Good cooking properties; palm oil fats are solid at room temperature and therefore to solidify—as would be for the other oils—no need for hydrogenation, with associated unhealthy changes saturated/ unsaturated as consequence
- Good food ingredient esp. in baked products, thanks to smooth and creamy texture and absence of smell
- Preservative effect that extends shelf life of products
- Currently Non-Genetically Modified
- Many chemical derivatives are the basis for home and personal care products
- Highest-yielding and cleanest of all vegetable oil crops: only 6% of total land use for vegetable oils is palm oil

Yields in ton/ha/year



Production indicators



The palm oil sector is a significant source of export revenues and employment

	Malaysia	Indonesia
Total production, KPO (million tons)	2.3	5.5
Total production, CPO (million tons)	19.2	27.8
Total exports, CPO (million USD)	2.99	4.98
Total exports, palm oil fractions (million USD)	10.08	13.56
No. of jobs in the palm oil sector (millions)	0.44	3.72
No. of smallholders in the palm oil sector (millions)	0.68	1.46
Total GDP (million USD)	310,616	793,728
Agricultural GDP (million USD)	28,278	106,254
Palm oil sector GDP (million USD)	11,756	14,279
Agricultural GDP / Total GDP (in %)	9.1	13.4
Palm oil sector GDP (million USD) (in %)	3.8	1.8

When assumed that this doesn't include indirectly associated workers or informal workers, the number would be considerably higher. BDPDKS lists 4.2 million direct and 12 million indirect workers²⁾

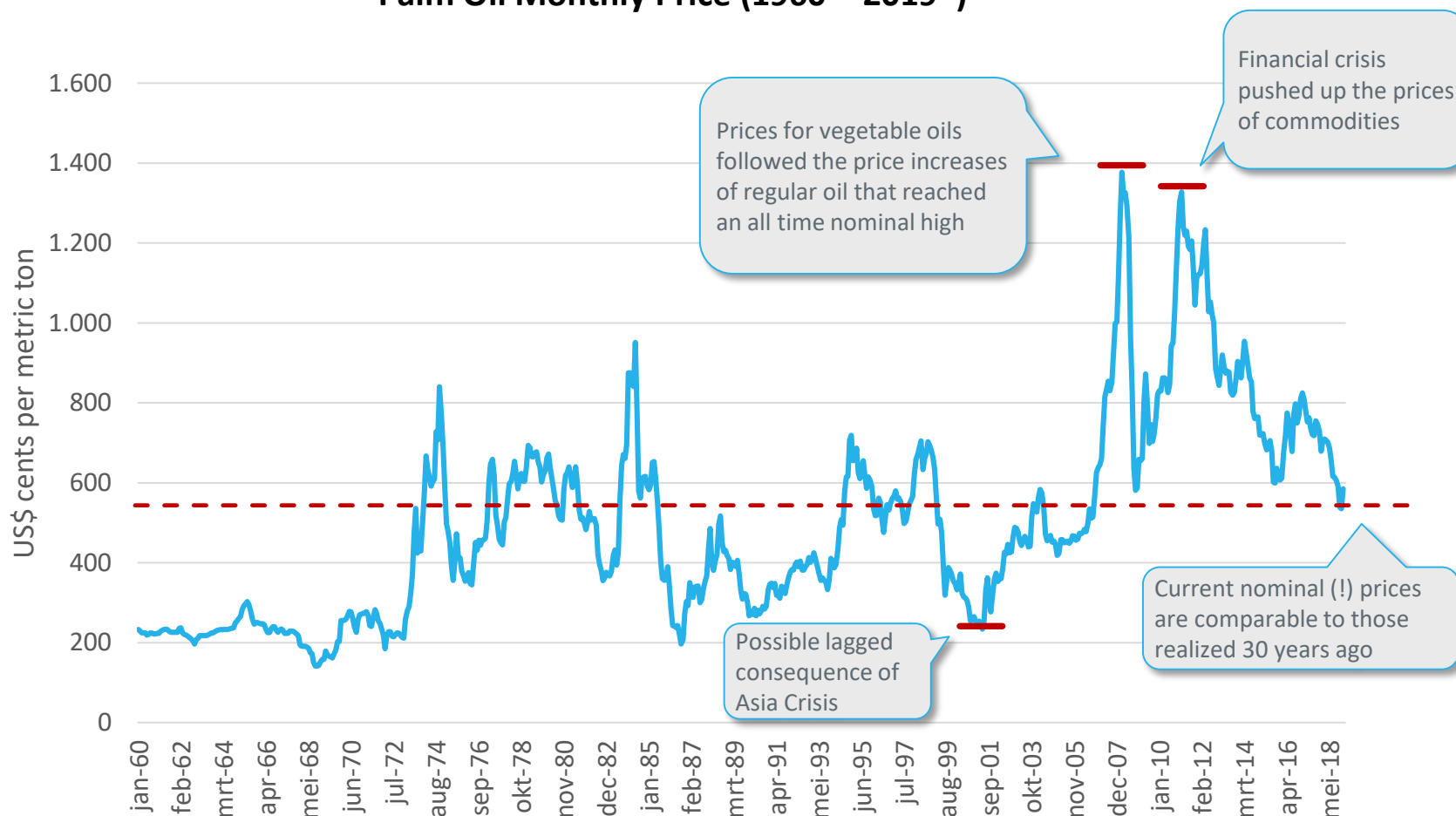
For comparison: In 2016 the exports of the Indonesian palm oil sector amounted to USD 18.6 billion (~13% of total exports – meaning it has a significant impact on the overall Balance of Payments¹⁾

Sources: Malaysia: Department of Statistics Malaysia (2015), ITC (2016). Indonesia: Central Statistical Agency (2015), Ministry of Agriculture (2015), and ITC (2016). The year 2013 was selected since it is the last year for which official statistics in both Malaysia and Indonesia are considered final. Assumed exchange rate is MYR 3.28 per USD for Malaysia, and IDR 12,000 per USD for Indonesia.



After a couple of tumultuous years the price for palm oil has returned to historical levels

Palm Oil Monthly Price (1960 – 2019*)



The public debate on the environmental and social issues surrounding Palm oil production has intensified



II - The Palm Oil Value Chain

From soil to end-consumer

The palm oil value chain indicates the various characteristics of the separate steps as well as the actors involved - legend



Financing needs

Growing
Harvest replanting finance (overcoming cash-dip)

Text highlights for financial sector which financing a value chain step generally needs

Figure shows the subsequent steps in the Value Chain

Location

85%: Indonesia, Malaysia

Integrated players

Text indicates the geographical distribution of the activities found at the respective step in the value chain

Note: names are provided for illustration purposes, not to suggest involvement in specific human rights cases.

Concentration



The Harvey ball indicates the level of concentration in the specific step of the value chain – the more colour in the ball the higher the concentration of the given activity

Revenue/ton

\$100-300/ton

Numbers denote the revenues in that specific step of the value chain

Financing

Small plantations: local banks at low interest rates. Larger plantation companies: many internationally active banks

Text line indicates which (type of the) financial institution(s) is active in financing the activity

The palm oil value chain is most lucrative upstream and has various large backward integrated players



Financing needs

Growers	Mill	Refinery	Traders	Manufacturer	Retailers	Consumer
Growing Harvest replanting finance (overcoming cash-dip)	Pressing Capital expenditures Working capital	Refining Capital expenditures Working capital	Trade Trade and commodity finance	Production Corporate loans	Selling Corporate loans	Consumption

Location

85%: Indonesia, Malaysia	Indonesia Malaysia	Indonesia Malaysia	Singapore (75%), Malaysia	Country of consumption	Globally	Globally
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Concentration

30% of production comes from smallholders	Larger plantations (60%) usually have their own mills	More than 70% of refining capacity is controlled by 8 players	Trade is the most concentrated, however diminishes as separate activity	Highly fragmented	Highly fragmented	Indonesia: 19%, India: 19%, EU: 13%, China: 10%, Malaysia: 7%.

Revenue/ton

\$100-300/ton	\$10-50/ton	\$10-20/ton	RSPO: +\$20-40/ton (1,5 – 6%)
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Financing

Small plantations: local banks at low interest rates. Larger plantation companies: many internationally active banks	syndicates with some internationally active banks	many internationally active banks	The further forward in the value chain, the more internationally active banks are involved
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In Indonesia and Malaysia, production takes place by smallholders and plantation companies



- **Smallholders**
 - Independent: own/ use less than 50 ha (definition: RSPO)
 - Tied: contracted to a plantation company
 - Tied+: own both tied and independent small holdings
- **Small growers** manage 50 to 500 ha (incl. absentee landlords)
- **Plantation Companies**
 - Private
 - Government linkedown from a few hundred to more than 100k ha



Additional Notes on Finance

- For all growers: finance for (re-) planting / establishment, input finance and finance for renovation, rehabilitation and milling
- Large plantations: conduct replanting on regular basis and hence do not need additional capital finance for renovation (can finance this out of the own cash flow and or through working capital),
- Smallholders: need long term finance for renovation if using low productivity trees

Smallholders control a significant part of the planted areas but with lower productivity



Share of smallholders in production in Indonesia

Producers		Planted areas (%)	Production (%) ¹⁾
Small-holders	Tied	10%	
	Tied+	10%	
	Independent	22%	
	Total	42%	30%
Plantation companies	State owned plantations	8%	
	Private estates	50%	
	Total	58%	70%

Note: In 2014 the ten biggest integrated mills/growers accounted for more than 20% of the global palm oil production

	Prod. CPO (m tonnes)	Global Share (%)
FELDA	3,1	4,9%
GAR	2,4	3,8%
Sime Darby	2,2	3,5%
Wilmar	1,5	2,4%
KLK	1,1	1,7%
PT Salim Ivomas	1,0	1,6%
IOI	0,8	1,2%
Bumitama Agri	0,7	1,2%
PT Smart	0,7	1,2%
First Resources	0,7	1,1%
Total	14,2	22,6%

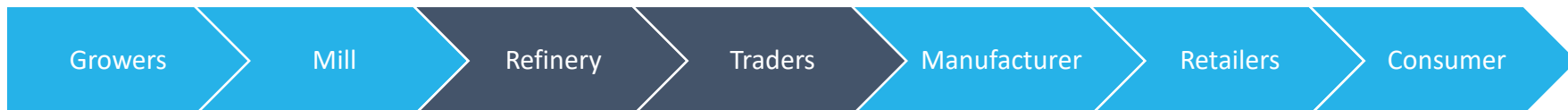
Much of the refining activity is done by a few large vertically integrated conglomerates



- **Refineries require**
 - Large upfront capital investments (hundreds of millions of dollars)
 - Stable CPO inputs
 - Good infrastructure and access to markets
- **Refinery conglomerates are supplied by**
 - Own mills and plantations
 - Large number of third party suppliers



Refinery conglomerates are also involved in production and trade



	Production (% of global supply)	Share of global trading
Wilmar	2,4%	43%
Musim Mas	0,4%	18%
GAR	3,8%	14%
IOI (Malaysia)	1,2%	10%
Cargill	0,6%	4%
KLK	1,7%	2%
Astra Agro	1,9%	<2%
Asian Agri/Apical	1,0%	<2%
Total	12,9%	91%

Please note that this overview is not exhaustive! There are other large players in the value chain (such as Bunge), however these tend to be less vertically integrated

The downstream steps in the palm oil value chain are highly fragmented



Ten 'biggest' palm oil purchasers (2015)

- Highly fragmented manufacturing and retail market¹⁾
- Note that many overviews are somewhat Western centric overlooking players from emerging markets or indeed national companies
 - The vast majority of MNC's consume between 100 – 500, whereas national (e.g. Indonesian and Malaysian) companies consume < 100
 - Many overviews also often exclude bio-energy/ biofuel companies

Company	Value (x 1000 ton)
Unilever	1,500 ton (~2%)
P&G	494 ton
PepsiCo	453 ton
Nestlé	418 ton
Unigrà	315 ton
Mondeléz	289 ton
Ferrero	181 ton
Colgate-Palmolive	174 ton
Godrej	150 ton
Reckitt Benckiser	126 ton

Note that Indian company Ruchi Soya is said to consume 1,500 000 ton²⁾

Note that Unilever and Nestle have published their list of suppliers (100s) and supplying mills (1300+)

What role can banks play in preventing, mitigating and remediating violations?

Observations

- The financial sector is considered as a key enabler for the introduction of sustainable palm oil
- The role of banks is dependent on where they enter into the value chain and thus on where and what they finance in the palm oil value chain
- Banks
 - Directly finance larger plantation companies (and, therefore, only indirectly reach smallholders)
 - Provide trade finance
 - Provide corporate finance to manufacturers and retailers
 - Participate in sector initiatives

Issues raised during further discussions

- What can we do (more) together? How can we increase leverage? Can we also work together with insurance/ investors and pension funds? At which momentums and in which fora banks can do more together?
- How to connect the responsibility to respect HR and the (current) role of the banks in the value chain with tackling the human rights issues (what engagement is necessary and possible given the role they have?)
- During which stage of the due diligence does one have influence and how is this applied most effectively?

III – The Severe Human Rights Issues in Palm Oil

The methodology deployed to perform the sector wide analysis of severe issues was derived from the UNGP's

- The methodology for the sector wide analysis was grounded in the UNGPs focus on severity of impact. Although originally meant for individual companies, parties and banks chose to equally apply this model to identify and prioritize human rights impacts in the entire palm oil sector.
- This included a severity analysis based on Scale, Scope and Irremediability. Likelihood was also considered, but is more company specific and as such served little distinctive purpose at sector level.
- The iterative process fine-tuned results and ensured consensus among the banks/DBA parties.

Subsequent engagement between banks/DBA parties took place on:

- Considering impacts and (root) causes;
- Examining existing initiatives;
- Reviewing the strengths and weaknesses of these existing structures;
- Exploring ways to strengthen; and
- Identifying novel ways to address impacts.

Based on the group's findings, the discussion was narrowed down to the following:

- What conclusions can be drawn from the analysis? Which actor in or around the chain needs to behave differently? Which banks/DBA party/parties is/are best positioned to influence this actor? How is the identified bank/DBA party going to influence?

Under the UNGPs, severity of human rights impacts will be judged by their scale, scope and irremediable character

Examples

	Definition	Potentially less severe	Potentially more severe
Scale	Scale means the gravity of the impact on the human right(s).	A 14-year-old helping out behind the counter in the family store	A 10-year-old child working in artisanal mining
Scope	Scope means the number of individuals that are or could be affected.	One or two individuals	A whole community
Remediability	The ease with which those impacted could be restored to their prior enjoyment of the right(s)	A worker is fired on a discriminatory basis but can be promptly reinstated with appropriate compensation, apologies and guarantee of non-repetition	A worker contracts an incurable disease due to a lack of appropriate health and safety measures

How did this go in practice?

- A large number of severe human rights issues in the global palm oil value chain (20+) were identified, with input from experts with field level knowledge
- Through a scoring system – based on scale, scope and irremediability – the identified human rights issues were largely divided in three categories of highest (≥ 12), medium and lower (≤ 9) scores.
- The 8 human rights issues receiving highest scores were placed in the first category.
- Conclusions were formulated on the basis of the analysis
- Linked to these 8 human rights issues, the working group identified opportunities presented in the form of a number of follow-up actions based on the opportunities of the banks and Parties in the covenant.
- The large number of identified human rights issues made prioritization on the basis of severity necessary. The working group acknowledged not all issues can be addressed simultaneously, but the responsibility to respect implies that all the adverse impact should be addressed.

- Fair wages and income
 - Plantation workers
 - Smallholder farming families
 - Workers on smallholder farms
 - Workers in mills and refineries
- Labour rights
 - Trade union rights abuses
 - Health and safety
 - Discrimination/gender
 - Forced labour
 - Social security
- Land-related human rights
 - Exclusion
 - Access to resources
 - Withdraw from/use resources
 - Management of resources
 - Alienation of land rights
- Groups facing particular risk
 - Women
 - Children
 - Indigenous peoples
 - Migrants (interstate and domestic)
 - Human rights defenders

Workers and families working throughout the value chain have a right to an adequate standard of living: a fair wage or income. This is quite possibly the most widespread severe issue, affecting a large number of people working in the upstream part of the value chain (i.e., family farms, company plantations, mills, refineries, processing).

Plantation workers Workers on plantations generally earn wages that are below the minimum standard to make a decent living. Often wages are tied to production targets that are unrealistic to meet. If targets are not met, workers face deductions of their salaries, or lose out on 'bonus' payments. Overtime is rarely paid.

Smallholder farming families Families depend on the farm's income, but this is usually not enough to ensure a decent standard of living. They are often price takers and therefore dependent on buyers and the market. Often cannot afford RSPO or other certification so do not qualify for premiums. Often tied to land issues.

Workers on smallholder farms The larger size smallholder farms might hire workers (in addition to the family working on the farm); while not much is known about these workers, they are likely to work under the same poor conditions as the farmers themselves.

Workers in mills and refineries Limited information available, but indications are that many workers do not make a living wage.

Workers on plantations, on family farms, in mills, refineries, manufacturing and throughout the value chain have rights related to their labour relations with their employers: labour rights. Due to the limited governance capacity of countries and the inherent risks in the production of palm oil, all labour rights are at risk. The following were identified as severe.

Trade union rights abuses Freedom of Association is lacking and Collective Bargaining Agreements (CBAs) are still rare. Plantation workers generally cannot join trade unions of their choice and face intimidation, transfer and/or dismissal if they want to change unions.

Health & Safety Palm oil plantations and smallholder farms use a lot of chemical pesticides and fertilisers (incl. paraquat). People spraying these chemicals do not wear adequate Personal Protective Equipment (PPE) and experience negative health impacts/injuries. Harvesters use dangerous tools. All workers face long hours in the hot sun and health impacts from forest fires.

Discrimination/gender There is widespread gender discrimination on plantations. Women are generally only hired as casual workers, denying them social security benefits such as health insurance and pensions. See 'women' under 'Groups facing particular risks'.

Labour rights (2)

Forced labour In Indonesia and other countries, the high targets combined with penalties that can be imposed on workers at the discretion of plantation companies create risks of forced labour, especially for casual workers and women. In Malaysia, foreign migrant workers (often from Indonesia) are reported to be at risk to be trafficked and subjected to practices of forced labour, such as passport retention, contract violations, restricted movement, wage fraud, and imposition of significant debt by recruitment agents and employers.

Social security Casual workers (majority women) on the plantations are not provided with social security benefits such as health insurance and pensions.



Land-related human rights (1)

Human rights impacts in the palm oil value chain, particularly those faced by Indigenous Peoples, smallholders farmers, and communities living near palm oil cultivation (and notably women in each of these groups), are often closely related with issues of land tenure. It is important to understand land rights are not restricted to land ownership alone, but also include use or access rights and decision-making rights. Land rights violations can have adverse impacts on food security, shelter, use of natural resources, other livelihood aspects, and can lead to discrimination against women, indigenous peoples and their customary systems of (collective) rights etc.

Exclusion Communities, including indigenous peoples communities, do not have the right to determine who will have an access right and how rights maybe transferred. They are not a party in the formal land registration processes, which is in the hands of the government, working closely with palm oil companies at various levels. The land registration is inconsistent and lacks "one map". Disadvantaged communities hardly have access to remedy, either judicial or non-judicial. Numerous land conflicts remain unresolved.

Access to resources Indigenous peoples and other local communities no longer have the right to enter their cultural heritage (as defined in "High Conservation Value 6").

Withdraw from/Using resources Indigenous peoples and other local communities no longer have the right to obtain products of a resource/site and use the available resources fundamental for satisfying their basic necessities (for livelihoods, health, nutrition, water, etc.). (Self-determined) livelihoods options and other socio-economic options become restricted or eliminated through loss of forest/commons.

Land-related human rights (2)

Management of resources Communities, including indigenous peoples communities, have lost the right to regulate internal use and transform the resource by making improvements. They are not given the opportunity of giving or withholding their free prior and informed consent to large-scale land use change and agricultural development. Smallholder communities end up in debt bonded or other exploitative conditions and become dependent on the plantation company. The communities e.g. need to buy rice instead of growing it themselves and are vulnerable to palm oil price fluctuations (decreased resilience).

Alienation of land rights Community and indigenous peoples customary rights systems are ignored and undermined, cultural sites have been lost, their land has been bought up against unfair prices ("compensation"). Extinction of right to land when land is reverting to state land rather than back to forest or community land after concession leases end.

Groups facing particular risks (1)

People may face a greater risk to experiencing human rights impacts because they belong to a particular group; or they face particular human rights impacts because they belong to that group. The following stand out in particular in the palm oil value chain.

Women Most women working on plantations have no permanent contracts, denying them social security benefits such as health insurance and pensions. They face unique medical issues because they are exposed to chemicals during the course of their work (spraying chemicals). Women who put in work hours to assist their husbands do not receive any compensation despite work having been performed. Most women do not receive maternity benefits such as pay (because they are kept on casual contracts). They are also subject to the additional and general issues of low wages and long hours.

Children Children are affected by the palm oil sector as dependents of workers, members of a community and as workers. Low wages for working parents, limited maternity protection for female workers, lack of child care opportunities and remoteness of plantations impact the health and nutrition of children, and access to basic services like education and health care. In Indonesia, children help their parents after school or on weekends and holidays to meet the high targets, earn bonuses and avoid penalties. This can include heavy and hazardous work. Some also drop out of school. In Malaysia, children of migrant workers are prevented from accessing public education when they are so-called 'stateless' or 'non-nationals', leaving them at higher risk of child labour, trafficking and forms of abuse and exploitation.

Groups facing particular risks (2)

Indigenous Peoples Governments have ignored customary land laws and have "handed over" land that belongs to indigenous peoples for the cultivation of palm oil by private companies, displacing indigenous peoples. Some of these peoples do not understand their rights and there is very little opportunity for free, prior and informed consent. They have no control over the natural resources. The options they are provided with are usually not actionable.

Migrants (interstate and domestic) Foreign migrant workers, especially those entering undocumented, risk to be trafficked and subjected to practices of forced labour. All foreign workers maintain dependent on recruitment agents for temporary employment visa, tying migrants workers to employers ('sponsors'). Without work permits, migrant workers run the risk of being trafficked or deported via immigration detention centres. Migrants run the risk of having their passports seized by companies, limiting their freedom of movement and ability to leave the plantation. Recruitment fees of labour brokers leave workers often in high debt and at risk of bonded labour conditions. Children born among undocumented labourers lack access to health and education services. Being a member of or establishing a labour union might be used against migrant workers in providing them work permits.

Human Rights Defenders Persons, individually or in association with others, defending and/or promoting human and labour rights related to the production of palm oil at a local, national, regional (or international) level run the risk of being intimidated, penalized or prosecuted for exercising their right to freedom of expression and peaceful assembly. Other risks include their economic, social, cultural and indigenous rights not being respected or falling victim to excessive use of violence by private or state security forces and to bad treatment or torture in (pre)detention.

Broader impacts on communities

Besides people working immediately in the value chain, or being directly affected by its operations, given the scale and nature of the palm oil value chain and its strategic importance to several governments, a broader set of impacts that affects communities can be identified. Of course, many of the above identified stakeholders experience these impacts, but there may be additional stakeholders that experience impacts, or the impacts may be of a different nature. These include:

Haze Forests and peatland are still burned to prepare land for monoculture plantations, mainly between May and September. Health impacts include an increase in respiratory diseases up to the level that people die from respiratory causes.

Security Excessive use of force by private and state security forces. Link to civic space and human rights defenders.

Limited / Shrinking civic space Business interests of powerful corporations are often well protected by the government. People that are critical about (adverse impact of) economic developments face intimidation and criminalisation. In an increasing number of countries civil and criminal laws provide possibilities to obstruct, ban and/or criminalise (the work of) human rights organisations/defenders. These laws not only impact on the rights of freedom of association and expression, and on the rights of indigenous peoples, but also on the rights of human rights defenders to be able to do their peaceful work without harassment and fear. Criticism on state or private corporate activities can also be framed as a fight to separate from the unitary state and therefore gave space to exceptional force by security forces.

Consensus led to 8 issues that were considered most severe, which deserved to be addressed with priority

Living wage/living income

- smallholder farming families

Labour rights


- Trade union rights abuses
- Forced labour
- Health and safety

Land-related human rights

- Governance (land conflict and land grabs)


Groups facing particular human rights risks

- Children (migrant children in Malaysia)
- Migrants (interstate and domestic)
- Human rights defenders (Latin America)



Following a few iterations yet again and a few rounds of discussions, the group formulated a set of follow-up actions to work on the prioritized issues (see Annex).

IV – Conclusions



The human rights focus of this analysis has revealed the complex nature of these issues in the palm oil sector, which require strong and effective individual, multi-stakeholder and sectoral action to address them.

Governments and companies, including banks and other financial institutions, are encouraged to use the analysis, in particular on the identified most severe issues, as a way to accelerate their work on the fulfillment of their own responsibilities to respect and duties to protect human rights.

Addressing the human rights risks and impacts more deeply in the value chain and more broadly in the sector, entails that banks and other financial institutions apply their leverage over and through their clients in the palm oil value chain, with promising, scalable and verifiable solutions.

Meaningful and early engagement with governments, trade unions, small-scale farmer groups and NGOs is an important part of banks and other financial institutions' human rights due diligence. Governments, labour unions and NGOs from palm oil sourcing countries can play a facilitating role in this engagement.

Human rights defenders are important stakeholders to engage with and all actors should be committed to advocating for their enhanced protection.

For the analysis the multi-stakeholder cooperation has proven to be valuable, but the working group's decision to not allocate action points to the collective but to smaller sets of participants, including NGOs and labour unions, has helped to reach actionable conclusions more quickly.

V – Follow-up Actions and Further Outputs

High level overview of involvement in the execution of the follow-up actions

Follow-up Actions	Banks	NVB	Unions	Oxfam	AI	Gov.	SER
#1: Pilot mapping Collective Bargaining Agreements	✓		✓				
#2: Evaluating human rights due diligence in palm oil cases	✓						
#3: Impact banking	✓			✓			
#4: G2G engagement on sustainable palm oil by smallholders	✓					✓	
#5: Human Rights Defenders	✓			✓	✓	✓	
#6.1: Engagement on issues requiring national level action		✓	✓	✓	✓	✓	
#6.2: International Outreach Conference	✓	✓					✓

Please note that these are the direct DBA participants and in some case additional third-party involvement is possible

1. Collective bargaining

Follow-up action #1

Pilot mapping Collective Bargaining Agreements

What severe human rights issues

Trade union rights (freedom of association and the right to collective bargaining) as an indicator for a range of labour rights

Lead party (and supporting parties)

CNV (FNV, banks)

Expected outcomes

Accessible database of CBAs (for pilot scope companies); recommendations for mainstreaming (e.g. Sustainalytics)

Proposed timeline

Q3 conference; Q4 implementation

2. Due diligence

Follow-up action #2	Evaluating human rights due diligence in palm oil sector case study
What severe human rights issues	All identified severe issues, with focus on preventing land conflict and land grabs
Lead party (and supporting parties)	Rabobank
Expected outcomes	Formalised good practice, including accountability and sharing lessons learned
Proposed timeline	Q3 internal evaluation; Q4 external communication

3. Impact banking

Follow-up action #3	Impact banking
What severe human rights issues	Land-related human rights, living income
Lead party (and supporting parties)	Rabobank, ABN AMRO (Oxfam, ING, FMO)
Expected outcomes	Landscape/jurisdictional projects for smallholder finance designed
Proposed timeline	Q3 mapping/pre-selection; Q4 design/agreement

4. G2G smallholder support

Follow-up action #4	G2G engagement on sustainable palm oil by smallholders
What severe human rights issues	Living income
Lead party (and supporting parties)	NL government
Expected outcomes	G2G support identified and agreed with major producing countries
Proposed timeline	Q4 agreement

5. Human rights defenders

Follow-up action #5	Improve information flow from and support for Human Rights Defenders
What severe human rights issues	Violations of rights of human rights defenders
Lead party (and supporting parties)	Amnesty, Oxfam (government, banks; ABN AMRO is lead bank and FMO, ING, and Rabobank provide support)
Expected outcomes	Bank policies/commitments on civic freedoms and human rights defenders, steps in support of human rights defenders at risk
Proposed timeline	Q3-Q4

6. Increasing leverage at (inter)national level

Follow-up actions #6.1 and #6.2	Engagement on issues requiring (inter-)national level action; and International Outreach Conference
What severe human rights issues	Living wage/living income, land-related human rights, child labour, forced labour; For international outreach all and specific focus on land rights and FPIC
Lead party (and supporting parties)	#6.1 NL government (NGOs, unions, banks); #6.2 NVB and adhering banks (lead Rabobank)
Expected outcomes	Topics and projects identified for collaboration with other international and European stakeholders and leverage to other banks
Proposed timeline	January – June 2019; Further actions ongoing and the International Outreach Conference in Q4

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Dutch Banking Sector Agreement visits palm oil plantations in Indonesia

23 April 2019



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Representatives of parties and adhering banks to the Dutch Banking Sector Agreement recently visited Indonesia as a part of their efforts to map the palm oil value chain. The main purpose of this visit was to get workers on the plantations, trade unions and banks at one table to discuss with the direct stakeholders how the right information from plantations and mills could reach the banks in the most efficient way. These discussions would also help building or improving the social dialogue on ground level.

Field trip

Labour unions CNV and FNV organised the fieldtrip as part of the value chain working group of the Dutch Banking Sector Agreement. The programme consisted of two visits to palm oil plantations in Sumatra. During these visits, the working group met with worker representatives of one plantation, visited a mill and visited several facilities on the plantations such as schools and a medical clinic. The delegation also paid a visit to the Dutch embassy in Jakarta, the local office of the International Labour Organization (ILO) and the local civil society organisation [TUK Indonesia](#), who advocate the fulfilment of people constitutional rights on environment, natural resource & human rights.

Value chain mapping

By signing the Dutch Banking Sector Agreement, adhering banks have committed to implement a human rights due diligence procedure in their corporate lending and project finance activities. Mapping high risk value chains – including the most severe human rights impacts in these chains – could help banks in implementing such human rights due diligence procedure. The palm oil value chain is the second value chain that the parties and adhering banks are mapping, last summer an analysis of the [cocoa sector](#) was published.

We welcome your support!

To indicate your interest to participate in the follow-up actions, please email to lead parties or:

bankenconvenant@ser.nl

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- Amnesty International (2016), The Great Palm Oil Scandal. Labour abuses behind big brand names.
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- EC (2017), Study on the environmental impact of palm oil consumption and on existing sustainability standards
- Penn state, Center for Global Workers' Rights — School of Labor & Employment (2017) - labour-rights-indicators.la.psu.edu
- Transparency International - <https://www.transparency.org>
- UNDP - www.undp.org
- Fund for Peace - global.fundforpeace.org
- Freedom House - <https://freedomhouse.org>
- Forest Peoples Programme, A Comparison of leading palm oil certification standards
- GAPKI - Indonesian Palm Oil Association (2017): <https://gapki.id/>
- BDPKPS (Badan Pengelola Dana Perkebunan Kelapa Sawit - Oil Palm Estate Fund Agency) labour figures retrieved during field visit: <http://www.bpdp.or.id/id/berita/industri-kelapa-sawit-indonesia-serap-162-juta-pekerja/> .

Introduction

This annex About this document: These are supplementary notes for the fourth section of the corresponding report and should be read in conjunction with this report. Please refer to this corresponding report for the analysis and methodology.

The supplementary notes in this document, brought together consistently by the lead bank, further

This Annex specifies opportunities for follow-up action by the parties and banks involved in the process to address the identified most severe human rights abuses.

General Comments Before The Recommendations

- All adhering banks exposed to the palm oil sector, commit to seriously take into consideration the outcomes of the “Analysis of Severe Human Rights Issues in the Palm Oil Value Chain and Recommendations” – including subsequent outcomes from the recommended actions – in the next round of to their regular policy and process revisions. Banks decide individually how to embed the outcomes in a clear, accessible way in their policy framework and due diligence processes.

- Notwithstanding the banks’ specific responsibility to respect and governments’ duty to protect human rights, the working group focused on identifying opportunities for synergized efforts by the DBA Parties and/or banks involved to raise the issues identified with stakeholders it has the most leverage or influence on; taking a so-called Eco-system approach as suggested in the Increasing Leverage working group of the DBA.

- The DBA will use the value chain analysis and, where opportune, the recommendations to feed into the agenda of existing and internationally recognized platforms as well as reaching out to these initiatives to increase leverage. One such initiative to address social and environmental issues in the industry is the Roundtable on Sustainable Palm Oil, RSPO.

Follow-up actions

Action #1: Pilot mapping Collective Bargaining Agreements

- What most severe human rights issues: Trade union rights (freedom of association and the right to collective bargaining) as an indicator for a range of labour rights
- Lead party (and supporting parties): CNV (FNV, banks)
- Expected outcomes: Accessible database of CBAs (for pilot scope companies); recommendations for mainstreaming (e.g. Sustainalytics)
- Proposed timeline: Q3 conference; Q4 implementation

What is the opportunity

The existence of a good CBA between a company and its workers is an indicator that basic rights are afforded the necessary protections (e.g. health and safety plans, regular working hours, deductions, overtime, menstruation leave, sick leave, holiday entitlement etc). It is with this in mind that the labour union(s) proposed creating a database that will provide insight in where CBAs exists. This type of information being readily available to banks will assist in their due diligence.

The existence of a collective labour agreement suggests good social dialogue on company level or on sectoral level.

When companies know that the level of their CBAs is taken into account in a bank's due diligence, they themselves will be more inclined or persuaded to

negotiate on CBA's. This would prove a welcome development for the workers on the plantations.

Unions in Indonesia are mapping the presence of unions on the plantations, and they indicate whether CBAs are present. For banks it would therefore be profitable to gain access to this new database.

Follow-up actions

A roundtable conference in Indonesia with all the involved trade unions with the aim to reach a consensus on piloting a database on the existence and content of CBAs in an appropriate selection of companies.

For optimal impact or reach, such conference ought to include an exchange on best practices as it relates to the type of content that is expected to be found in a good CBA such as provisions on maximum hours of labour per week, health and safety, rights of (trans)migrants, rights of women etc.

As part of the workshop existing tools (e.g. Sustainalytics) will be considered with independent authority with the aim they will be able to incorporate results from this pilot database into their mainstream tools.

In consultation with all trade unions involved, research must be carried out into the most optimal form of maintaining the actuality of the CBA database.

Role of lead party (and possibly, other parties)

Trade unions will take the lead in organizing the round table conference in Indonesia.

A small working group with unions, banks and the secretariat will look at the possibilities to accommodate the database (e.g. at the SER), and assess how the information will be presented, managed, aggregated, organized, etc. The parties will consider applying for financial support from relevant government funds.

Expected outcomes

A good, accessible and up-to-date (real time, if possible) database of CBAs in the palm oil sector in Indonesia.

Proposed timeline

Q2: Consultations between the unions in Indonesia and the unions involved in the DBA

Q3: Organizing a round table conference in Indonesia

Q4: Filling the database

Q4: Implementation and use of the database

Risks/feasibility

There are several unions, affiliated with different confederations that organize employees on the plantations. These unions are in a form of competition with each other. They will have to be convinced that cooperation in this area is profitable for all of them. The information from the database can be misused. Both by employers and by trade unions themselves. It is therefore very important that there will be a regulation of access to the database.

Action #2: Evaluating Human Rights Due Diligence (HRDD) in palm oil sector case study

- What most severe human rights issues: all identified most severe issues, with focus on preventing land conflict and land grabs
- Lead party (and supporting parties): Rabobank (with outcomes shared with other banks/parties)
- Expected outcomes: Formalised good practice, including accountability and sharing lessons learned
- Proposed timeline: Q3 internal evaluation; Q4 external communication

What is the opportunity

Rabobank has been applying HRDD in palm oil client selections, assessments, monitoring, issue management etc. in the past couple of years. Four consecutive years annual reporting have accounted for anonymised engagements including a range of palm oil clients and labour/human rights issues. In parallel (and also reported annually), external (bilateral) stakeholder engagements on palm oil subjects were frequent, as well as engagement in multi-stakeholder sector initiatives (notably RSPO). These experiences are an interesting basis for evaluating effectiveness of the totality of interventions with a sector lens (instead of individual clients/cases).

The current HRDD involves the following elements:

- Relation management: Rabobank selects clients who comply with its policies, notably core policies on human rights and labour rights and the palm oil sector policy. Relation managers have ongoing engagement with

trade/commodity clients, at least 1 or 2 times per year. This includes sustainability topics. The loan documentation may contain sustainability related KPIs (e.g. about ensuring respect for human rights throughout their supply chains), in order to qualify for lower interest rates (or penalties in case of not meeting the KPIs).

- **Expert Opinions:** In past 2-3 years Rabobank (Sustainability) have produced dedicated Expert Opinions on high risk/high exposure clients. Expert opinions are important input into Credit Committee approvals. Expert opinions are documented and entered into assessment/monitoring systems as part of the client registration system. A regularly updated Client Photo rates the client A-B-C-D with regards to sustainability, whereby D-ranked clients are non-compliant and therefore not eligible to be on-boarded (in case of a new client). The same applies in case of existing clients who would ultimately be exited if they would drop to D as a result of activities in breach of our policies – see also issue engagement below).
- **Issue engagements:** Human rights cases or issues coming to our attention, trigger investigation and issue engagement with the relevant client. This includes expert support from the business line (notably Trade and commodity finance) as well as the sustainability staff. Solutions are captured in client action plans. Such plans can also be developed from pro-active engagements (in dialogue with clients in finding solutions for their issues by providing knowledge, networks and finance). Issue engagements are annually reported in an anonymised style in the client issue engagement table annexed to the annual report (2018 for the 4th time in a row).

Follow-up actions/Expected outcomes, Role of lead party

Follow-up actions: To evaluate HRDD in trade and commodity finance, with focus on palm oil cases.

Rabobank will evaluate how human rights (all the identified most severe human rights including the issue engagement cases on land-related human rights) have been part of the engagements, assessments, opinions and decision-making in the past years, in particular with the palm oil clients (pilot), to lead to good practice HRDD in palm oil and inform HRDD for other (high risk/high exposure) clients (general). The evaluation (involving both line- as well as sustainability staff departments) will look into the need for any policy improvements, for documenting/formalising procedures on issue engagement, systematic monitoring and reporting (accountability). Internal coordination and support structures will also be assessed for effectiveness of approaches on human rights. Lessons learned from the evaluation will be shared with the other banks and interested parties for their consideration and for increasing leverage. Palm oil may serve as an appropriate illustration to better accounting for/explaining the general approach to ESG due diligence and how HRDD fits in it or can in future be better fitted into it.

Proposed timeline

Q3 internal evaluation;

Q4 external communication.

Action #3: Impact banking

- What most severe human rights issues: Land-related human rights, living income
- Lead party (and supporting parties): Rabobank, ABN AMRO bank (Oxfam, ING, FMO)
- Expected outcomes: Landscape/jurisdictional projects for smallholder finance designed
- Proposed timeline: Q3 mapping/pre-selection; Q4 design/agreement

What is the opportunity

“Impact Banking” initiative; Some Dutch banks have started impact finance initiatives (“Impact Banking”), which target smallholders in different agri-commodities. The idea is to explore on such an impact project within the palm oil supply chain (including traders and buyers in the value chain) with the aim to increase the yield for the smallholders (increase production without enlarging the land need for production), which leads to higher income, less land use and more transparency. Equal opportunities are provided to both men and women to hold land titles for small holdings.

Rabobank and ABN AMRO may each set up and finance Impact Banking/Finance projects for smallholders in the Palm oil chain. Dutch funds or guarantees (FMO, IDH programme links) can be sought to facilitate a “First Loss”. All parties may play a role in clustering smallholders to stimulate smallholders to form organised groups. NGOs are invited to support the project and identify capacity gaps with smallholders to provide additional support.

Follow-up actions

Step 1: Banks to explore whether impact banking on palm oil is feasible; and to discuss between them if there can be found a mutual ground to work together on an Impact Banking project and identify a mutual client/s of the banks or through another party directly involved with smallholders; Knowledge exchange on designs can be done pre-competitively.

Step 2: Get other parties involved in the project (Government, Labour Union and NGO);

Role of lead party (and possibly, other parties)

2 Banks in coordination; One bank needs to take the lead in each project. Together with one or more banks to set up and finance an Impact Banking project for smallholders in the palm oil chain together with an Asian palm oil conglomerate and selected value chain partners.

Oxfam and other NGOs (to be identified per location): explicitly support the project and identify capacity gaps with smallholders to provide additional support.

Expected outcomes

Ambitious plan with a high uncertainty level as a project like this is complex because of the need of support from multiple stakeholders throughout the IMVO palm oil working group and beyond.

Assuming the banks and other parties succeed in setting up a (pilot) project than the expected outcome is that the (financial) support for the smallholders, including relevant

local financial service provision, can result in an increase of their yield and eventually in improving the livelihood and environmental impact of a significant number of farmers active in the palm oil sector, with further spin-offs on other human rights impacts (e.g. preventing child labour).

Proposed timeline

Experiences in other (much simpler) Impact Banking projects tells us that setting up this kind of transaction is complex in structure and involved parties and therefore takes a lot of time. Let's focus on a time line for the first two steps now.

Step 1 of the Follow-up actions: mapping/pre-selection; 6 months;

Step 2 of the Follow-up actions: design/agreement; 12 months;

Action #4: G2G engagement on sustainable palm oil production by smallholders

- What most severe human rights issues: living income
- Lead party (and supporting parties): NL government
- Expected outcomes: G2G support identified and agreed with major producing countries
- Proposed timeline: Q4 and ongoing

Opportunity

The G2G programme Dutch Government with Government of major producing countries

The Netherlands government supports initiatives aiming for palm oil produced in a sustainable way, and cooperates with the stakeholders, including governments in producing countries on improving sustainability of palm oil in every step of value chain. Millions of smallholders and workers depend for their livelihoods on the palm oil sector. Yet, the palm oil production comes with significant environmental and socioeconomic sustainability challenges.

The Netherlands' approach to improve sustainability of palm oil is twofold. On the one hand, work is done on the supply side in the production countries; on the other hand, work is done on the market (demand) side. On the supply side the objectives are to support improving the livelihood of smallholders and local communities by helping to increase palm oil production in a sustainable way and without deforestation. On the demand side we want to drive the uptake of sustainably produced palm oil

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in the producing countries, Europe, India and China and broaden the support for smallholders in meeting sustainability and zero deforestation market requirements.

Follow-up actions

Jointly identify (issues linked to) smallholder challenges during meetings between embassy and national governments in which the collaboration and implementation on sustainable and climate smart palm oil is further discussed.

Make use of the opportunity to interact with governments in these meetings about European and Netherlands market perceptions towards palm oil production and how these relate to the producer country's perceptions, discuss the socioeconomic sustainability in the palm oil value chain and jointly identify actions which can be taken to improve the sustainability.

Role of lead party (and possibly, other parties)

The NL government will address the issue in its contact with the government and allocate financial support for programmes aimed at smallholders and on further developing circular economy principles in the upstream palm oil sector.

Expected outcomes

Improved smallholder's livelihoods.

Proposed timeline

Start dialogue in 2019.

Action #5: Human Rights Defenders

- What most severe human rights issues: violations of rights of HRDs
- Lead party (and supporting parties): Amnesty, Oxfam (government, banks; ABN AMRO is lead bank and FMO, ING, and Rabobank provide support)
- Expected outcomes: Bank policies/commitments on civic freedoms and HRDs, steps in support of HRDs at risk
- Proposed timeline: Q3 - Q4

What is the opportunity

The analysis of severe human rights issues in the palm oil sector led to the conclusion that the human rights of human rights defenders, community leaders and those they represent, are at serious risk if they address the business-related risks and impacts of palm oil production on people and the environment. All parties/banks to the DBA have a responsibility to contribute to an environment in which it is truly possible and safe for human rights defenders and community leaders to speak out and defend their legitimate rights. They need increased protection in times of shrinking space for civil society. More can be done to increase contact/communication between banks and HRDs to better identify and address risks and problems in value chains of banks and find effective ways to positively contribute to situations where civic freedoms and HRDs are under threat. Moreover, the DBA parties may benefit from looking into possibilities to jointly increase leverage in order to improve actual protection in specific situations.

Some banks in the DBA already have or started

formulating a stand-alone policy on HRDs and/or openly committed to supporting civic freedoms. The Dutch government fully supports the UN Declaration of HRDs, was one of the founders of the EU Guidelines on Human Rights Defenders and is committed to implementing the recommendations in these guidelines. The labour unions and NGOs that participate in the DBA jointly have a lot of experience working for and with HRDs, including labour union leaders. These policy developments, commitments and experiences could be built upon and brought together with the aim to increase support and protection of HRDs and community leaders whose human rights are at stake.

Follow-up actions:

1. Oxfam and Amnesty provide the banks with input for drafting or strengthening a public policy/commitment on civic freedoms/space for civil society organisations and human rights defenders, including community leaders. During an extensive workshop, crucial elements of such a policy/commitment (i.e. statement of zero-tolerance, improved human rights due diligence, commitment to respond promptly to situation of HRDs at risk) will be presented and discussed. Questions like how HRDs can feed into the due diligence processes of banks, and how banks can respond to calls for support, will be addressed. HRDs will be invited to the workshop. Policy and practice will be clearly linked (*has already taken place*);
2. Individual banks will explore how their policies and practices can be strengthened to publicly commit to supporting civic freedoms/space for civil society organisations and human rights defenders, including community leaders. They will show how this

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commitment is operationalised to the extent considered effective;

3. Using the situation in the palm oil sector as a pilot, a second meeting will focus on ways to cooperate as government, bank/business, labour unions and NGOs in case an HRD is at risk.

Role of lead Parties (and supporting Parties)

The NGOs will take the lead in organising and preparing content for the extensive workshop, in consultation with the other Parties/lead bank, HRDs and independent experts. The banks will draft/strengthen public policy/commitment in support of HRDs and the NGOs commit to providing feedback. NGOs and government will jointly organize the second session, in consultation with the labour unions and banks. The Parties and banks will jointly draft a public document based on the second meeting, containing lessons learned and recommendations that can also be used by external parties, in particular within the financial sector.

Expected outcomes

- More/stronger bank policies on civic freedoms/space for CSOs and HRDs;
- More information flows from HRDs to banks and actions from banks in support of HRDs
- Steps by the DBA parties in support of HRDs, to start with responding to urgent cases in the palm oil sector.

- A document containing lessons learned and recommendations based on the second session.

Proposed timeline

Q3: Workshop + feedback to bank policies

Q3: Second session

Q3: Drafting and publicizing the document with lessons learned and recommendations

Initiatives to increase leverage at international level

Action #6.1: Engagement on issues requiring (inter) national level action;

Action #6.2: International Outreach Conference

- What most severe human rights issues: 1) forced labour, 2) children and migrants, 3) health and safety, 4) land-related human rights,
- Lead party (and supporting parties):
- NL government (#6.1), NL government, (NGOs, unions, banks);
- International Outreach (#6.2) - NVB and adhering banks (lead Rabobank)
- Expected outcomes: Topics and projects identified for collaboration with other international and European stakeholders and leverage to other banks
- Proposed timeline: January – June 2019; Further actions ongoing and the International Outreach Conference in Q4.

Opportunity

The Amsterdam Declaration Partnership Multistakeholder meeting on 13 June 2019

From 1 January until 1 July 2019 the Netherlands chairs the Amsterdam Declarations Partnership (ADP). This Partnership consists of seven European countries (Denmark, France, Germany, Italy, Netherlands, Norway, United Kingdom) which signed the Amsterdam

Declarations on sustainable palm oil and deforestation-free sustainable commodities by 2030. To reach these common goals the ADP signatory countries join efforts to influence key processes to enhance market uptake of sustainable commodities in our countries complementary to supporting production side measures in countries of origin.

In June of each year the ADP organizes a multi stakeholder meeting. This time it is held in Utrecht on Thursday 13 June. The overall common objective of the meeting is to enhance collaboration between different stakeholders in order to come to effective and stronger commitments towards deforestation-free, sustainable supply chains.

Follow-up actions

Multistakeholder meeting (*has already taken place*):

Organize a break out session on most severe human rights issues identified by palm oil working group. Aiming to create a level playing field: opportunity for engagement with other (international and European) stakeholders (governments, retail companies, NGO's) on human rights, in particular the most severe human rights issues as identified by the Working Group, in the palm oil value chain and to seek further collaboration with these stakeholders/agree on collaboration with these stakeholders.

International Outreach/ Conference

In addition to the point outlined above and as part of the International Outreach of the DBA, the NVB will organise

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a conference with the aim to increase the level playing field among other international banks on banking and human rights. The conference will be organized e.g. next to the annually international banking federation meeting where bank leaders from all over the world will be present.

Two break-out sessions will be organized. One specially about the palm oil value chain study and another break out session will focus on land rights with a specific focus on the broader application of FPIC. The latter will use the outcomes of the LANDDialogue workshop in February 5 2019.

Role of lead party (and possibly, other parties)

Multistakeholder meeting – government in collaboration with banks, NGOs and unions prepare outreach and concrete deliverables to be achieved during the conference.

For the International outreach, NVB (in close cooperation with Rabobank) is in the lead.

Expected outcomes

Multistakeholder meeting: Topics and projects identified on which can be collaborated with other international and European stakeholders on the position of smallholders

Proposed timeline

ADP meeting:

Q1 and Q2 2019: Prepare session ADP meeting

Q2: ADP meeting will take place (June)

NVB Conference:

Q1, 2 and 3 2019: Prepare International Outreach Conference

Q4 conference.

Further actions ongoing.