

A cleared peat forest to be developed into an oil palm plantation by Tabung Haji Plantations (THP) in Betong Division, Sarawak.



social justice,
forests &
agrofuels

malaysian palm oil - green gold or green wash?

a commentary on the sustainability claims of malaysia's
palm oil lobby, with a special focus on the state of sarawak

october 2008 | [issue 114](#) [executive summary]



**Friends of
the Earth
International**



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our vision is of a peaceful and sustainable world based on societies living in harmony with nature. We envision a society of interdependent people living in dignity, wholeness and fulfilment in which equity and human and peoples' rights are realized.

This will be a society built upon peoples' sovereignty and participation. It will be founded on social, economic, gender and environmental justice and free from all forms of domination and exploitation, such as neoliberalism, corporate globalization, neo-colonialism and militarism.

We believe that our children's future will be better because of what we do.

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forward

malaysian palm oil - green gold or green wash?

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Sarawak was the focus of the international tropical timber trade campaign from the late 1980s to the mid-1990s when the Penan and its other indigenous communities blockaded logging roads to stop logging companies from destroying their forests and called upon the international community to support their cause. The European Parliament back then responded by passing several resolutions, calling upon Malaysia to stop destructive logging and human rights violations against its indigenous peoples.

Despite this, Europe remained a ready customer for Malaysian tropical timber, no matter how it was produced or how the industry failed to take into account the rights of local communities. In Sarawak today, indigenous communities, especially the Penan, are more impoverished than ever, while forests are disappearing quickly. In 2008, no credible forest certification is in place.

This report puts the focus once again on Sarawak. Having overexploited its timber resources resulting in the depletion of its forests, Sarawak has now embarked on the development of large-scale monoculture plantations. The main players in this sector are often the same business groups that operate in the logging industry. A decisive role is played by the Malaysian oil palm lobby, which supports the massive large-scale corporate-driven development, and aggressively markets Malaysian palm oil abroad.

At the same time, an additional market for edible oils is being created by European and American ambitions for bio-energy. Increasing quantities of palm oil are being used along with other oils to provide feedstock for fuel, heat and electricity production. This is a major driver of plantation expansion in Malaysia. Vast areas of forests, including peat lands and native customary territories, foremost in the state of Sarawak, are being converted to establish new oil palm plantations that will supply future markets for bio-energy.

Right now, policy makers in Europe are drafting new legislation to increase the use of biofuels in road transport to 10 per cent by 2020. While these targets will do little to prevent climate change, replacing one unsustainable raw material with another, they also fail to address the underlying causes of wasteful

practice and unsustainable levels of consumption in European transport. Necessary steps, such as tough legislation on car engine efficiency, investment in public transport and the reduction of transport needs, have been postponed or abandoned. The transition to a low-carbon economy is delayed.

As it stands, the EU's reluctance to admit that the biofuel targets for 2020 were a mistake is coupled by the Malaysian government's reluctance to acknowledge and address serious sustainability issues in the palm oil sector.

The Malaysian palm oil lobby tours Europe and other markets to make decision makers, buyers and customers believe that *"Malaysian palm oil is sustainable"*. The Malaysian Palm Oil Council appears to have little hesitation in resorting to questionable claims in order to discredit doubts about destructive practices in its palm oil sector.

With this report, Friends of the Earth groups from Malaysia and Europe are confronting the misleading claims of the Malaysian palm oil lobby and informing decision makers about the serious sustainability challenges the sector faces on the ground.

We call upon the Malaysian government and in particular the Sarawak State government to take on board concerns and criticisms, and put in place better policies that honor the rights and wishes of Sarawak's indigenous peoples and the need for a better protection of the environment.

At the same time, Friends of the Earth is asking Europe to accept its responsibility and realise the dangers of increasing demand for biofuel feedstock like palm oil to fundamentally unsustainable levels.

Most expansion of oil palm plantation in Malaysia takes place in the State of Sarawak.



Deforestation for plantation expansion, (South of Miri) Sarawak, July 2008.

executive summary

Biofuels are promoted as a viable way of reducing the world's dependency on fossil fuels. It is claimed that biofuels contribute to net reductions of greenhouse gas (GHG) emissions in the transport sector, relative to fossil fuel. However, scientific studies demonstrate that biofuel production can trigger volumes of GHG emissions that are well beyond emissions saved from replaced fossil fuels, especially when biofuel crops replace, either directly or indirectly, forests or are grown on peat lands. It is critical that the benefits of biofuels are also weighed against the impacts on local communities, the environment, and governance in the countries where biofuel crops are grown.

Government decision makers in Europe, the United States and elsewhere are currently considering mandatory volume targets for the use of biofuels in transport. They are being vigorously lobbied by a variety of producer and trade organisations who wish to see governments drive demand by setting very high targets.

One such lobby is organised by the Malaysian Palm Oil Council (MPOC), a hybrid of Malaysian government and palm oil producer interests. MPOC strives to make Malaysian palm oil the leading oil in the global oils and fats market. Aware that the environmental and social sustainability of palm oil is questioned by scientists, NGOs and policy makers, MPOC goes a long way in its pursuit to overturn what it considers "misguided perceptions" into a conviction that "Malaysian palm oil is sustainable".

This Friends of the Earth report challenges MPOC's "green" claims, so as to prevent decision makers, including consumers, from being misled. Under present conditions, an acceptance of Malaysia's palm oil claims will legitimise further tropical deforestation, human rights violations against indigenous peoples and suppression of public participation in government decision making. All that could happen – and has happened – under the banner of "sustainable palm oil" and "green energy".

It is not the first time that Friends of the Earth has challenged MPOC's public claims. In January 2008, the UK Advertising Standards Authority (ASA) ruled that an MPOC television commercial "had not provided substantiation to show that all palm oil plantations in Malaysia met criteria for sustainable production (..)" and "was likely to mislead." MPOC ignored the ASA ruling, and instead stepped up its marketing, promotion and lobby campaign with more, and bolder claims.

Friends of the Earth has examined a large number of public statements made by MPOC, the Minister of Plantation Industries and Commodities and State politicians in the local and international media. Grouped under five main headings, each has been tested against the reality on the ground or as seen from satellite imagery. The main findings are as follows:

1. open burning to clear (peat) land The Malaysian palm oil lobby has claimed that "zero-burning is strictly enforced by Malaysia's laws". This claim is false. Sarawak has in place its own environmental laws, which allow plantation companies to practice open burning to clear land for planting, even on peat soils. Open burning is regularly practiced in Sarawak and contributes to the regional air pollution (haze) problem and promotes faster release of GHGs into the atmosphere. The legislation in Sarawak is independent of the Malaysian Federal law, and runs counter to the spirit of the ASEAN Transboundary Haze Agreement, to which Malaysia is a key signatory.



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NREB/OBP(PO)/F33(Rov.1)

APPLICATION FOR AN OPEN BURNING PERMIT UNDER SECTION 30(1)(a) AND (2) OF THE NATURAL RESOURCES AND ENVIRONMENT ORDINANCE (For Plantations only)

PART A: PARTICULARS OF COMPANY

1. Name of Company: _____
2. Postal Address : _____
3. Co. Regn. No.: _____
4. Tel. No.: _____
5. Fax No.: _____
6. Type of Plantation: _____
7. Mineral/ Peat Soil *

PART B: PARTICULARS OF APPLICATION (Attach map and mark site for burn)

8. Location of Plantation: _____
9. Site for Burn (Block No. / Phase or Coupe): _____
10. Area of block(s): _____
11. Total Area for Burn: _____
12. Purpose of Burn: _____

© Natural Resources and Environment Board Sarawak

2. deforestation The Malaysian palm oil lobby has claimed that "forests are not converted for oil palm expansion in Malaysia". This claim is false. There is an overwhelming body of evidence that oil palm plantations are being expanded at the expense of tropical forests. In Sarawak, peat swamp forests are particularly targeted for expansion and for this purpose at least 400,000 ha of Permanent Forest Estates were allocated for the conversion into agriculture plantations, mostly oil palm. A recent call by Malaysia's Prime Minister on the country's state governments to end this practice was swiftly brushed off by the Chief Minister of Sarawak, indicating that the state will continue to allocate more forestlands for oil palm expansion.

3. indigenous peoples The Malaysian palm oil lobby has claimed that the Penan indigenous communities in Sarawak were given large tracts of virgin forests to sustain their nomadic way of life. This claim is false. The “Biosphere Reserves” promised to the Penan have no legal basis and have never materialised. Under the limited interpretation of land rights legislation by the Sarawak state authorities, the nomadic Penan communities are often denied full recognition of their traditional land rights. Now that logging companies have degraded much of the tropical forest on which they depend and plantations are expanding, the Penan have become more impoverished than ever. This situation, which is applicable to other indigenous groups in Sarawak as well, is in clear violation of the UN Declaration on the Rights of Indigenous Peoples, to which Malaysia is a signatory.

4. environmental impact assessments The Malaysian palm oil lobby has claimed that EIA studies “ensure wise development”. This claim is false and potentially misleading. It fails to mention that in Sarawak, the public is denied the right to participate in the EIA process. The Sarawak state authorities have even insinuated that public participation would render uneducated rural communities susceptible to manipulation by non-governmental organisations opposing development plans.

The standard overall recommendation of plantation EIAs in Sarawak is that the projects should go ahead. The bias towards affirming government policy, combined with numerous technical weaknesses and the denial of public participation is out of line with international guidance on best practices in EIAs, such as those of the International Association for Impact Assessment (IAIA). Plantation EIAs in Sarawak do not ensure that impacts are adequately identified or addressed.

5. carbon debt The Malaysian palm oil lobby has claimed that “oil palm absorbs almost as much carbon dioxide as tropical forests do”. The claim is based on a nine-year old study that did not take into account the GHG emissions released from deforestation or drainage of peat lands. There is growing international consensus that the GHG emissions from such sources must be taken into account when determining if a biofuel delivers a net “carbon credit”, or “carbon debt” (and is thus good or bad for the climate). In the case of palm oil, the carbon debt is huge if the plantation is developed on peat soils and/or at the expense of forests. The debt can be small if the plantation was developed on mineral soil without forest cover. At present, most new plantation developments in Malaysia are established on peat land and/or forested land.

the scale of the problem

The scale of the sustainability challenges in Malaysia's palm oil industry is significant. Sarawak has licensed hundreds of companies to more than double the State's oil palm acreage from 2007 levels to 1.3 million hectares by 2010. The State government has furthermore licensed nearly a quarter of the State's land mass (2.8 million hectares) to a dozen or so logging groups to convert natural tropical forests into plantations (at least 290,000 hectares of which will be developed as oil palm plantations for a single rotation). As a result of these plantation projects, Sarawak will be seeing very high rates of deforestation in the coming decade, and all the environmental impacts and social conflicts that come along with it.

Although not all companies burn to clear land, satellite imagery and field observations suggest that the larger plantation groups do practice open burning. Although not all plantations are developed in forest areas, many are and the State continues to release Permanent Forest Estates for conversion. Although not all communities oppose oil palm, many object to the manner in which plantation projects are forced upon them, the principle of free, prior and informed consent is lacking, and the wishes of those who oppose oil palm, are not generally respected. EIA studies vary in quality, and the majority of the EIA reports seem to prioritise government policy interests and tend to sacrifice objectivity. Lastly, while not all oil palm plantations in Malaysia are net emitters of GHGs many will be, for many decades to come.

In conclusion, the generic claim of the Malaysian palm oil lobby that “Malaysian palm oil is sustainable” is false and potentially misleading.

To address the serious sustainability challenges of the oil palm sector, the EU and Member States should limit additional demand for palm oil products by halting the use of edible oils for energy purposes, and especially by abandoning the 10 per cent EU target for biofuels.

The Malaysian Federal Government and the Sarawak State Government should acknowledge the sustainability challenges in the palm oil sector and engage in open and meaningful dialogue with all stakeholders to develop and implement policies to address the sustainability problems. The government should especially recognise the full nature and stature of Native Customary Rights of its indigenous peoples.



After the first burn, Sibul, 11 July 2008.

executive summary

continued

recommendations

To address the serious sustainability challenges of the oil palm sector in Malaysia:

The EU and Member States should:

1. Limit additional demand for palm oil products by halting the use of edible oils for energy purposes;
2. Abandon the 10% EU target for biofuels and all incentives for the use of palm oil for energy purposes;
3. Engage in critical discussion with the Malaysian Government and Sarawak State government about plantation expansion at the expense of Native Customary Rights land, forest reserves and peat land and
4. Promote and support efforts to improve transparency and establish business systems that apply best practices in dealing with sustainability challenges in the sector, including its implications on local communities, the environment and the labour force, whether or not the actors involved are member to any certification process.

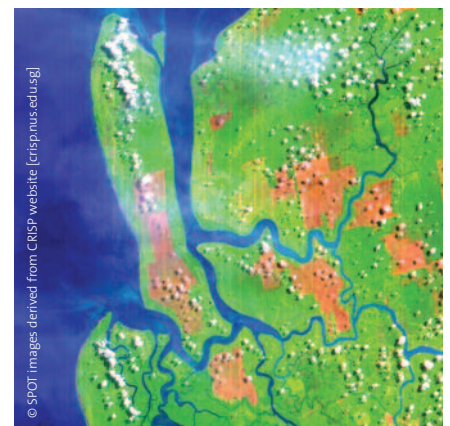
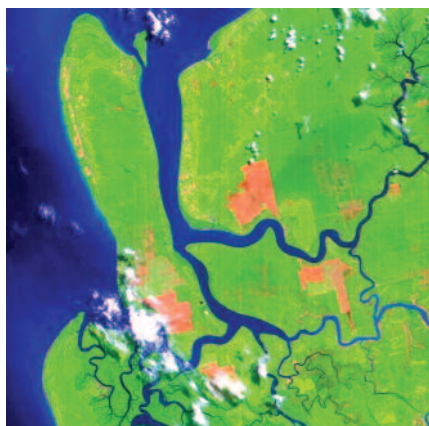
The Sarawak State Government and the Malaysian Federal Government should:

1. Recognise the full nature and stature of Native Customary Rights (NCR) of its indigenous peoples as accorded by the law, including fundamental principles of natural justice, in the Federal and State Constitutions, federal, state and local legislation and provisions, and the common law. Amongst others, the executive agencies of the state and federal governments and others must recognise that native territorial boundaries are comprised of farms and communal forested land and that the principles of common law respect the pre-existence of native laws and customs, which do not owe their

existence to modern statutes or legislation; further, that positions and obligations committed to internationally through conventions and treaties are honoured and reflected locally;

2. Establish a system of joint-boundary demarcation with native communities to demarcate native territorial boundaries and claims, which uses mechanisms that will enable people to demonstrate corroborative evidence of their rights and which include fair arbitration procedures and the free, prior and informed consent process;
3. Ensure that licensed access and rights to the resources within demarcated native territorial boundaries, including Provisional Leases for the purpose of establishing monoculture plantations in Sarawak, can only be obtained with the written free, prior and informed consent of affected communities that is preceded by inclusive consultations;
4. Cease the issue of 'provisional leases' (PL) for NCR land currently under dispute in the court of law, with immediate effect or suspend the status of the same and bring about a lasting solution to the more than 135 pending cases in the Sarawak court.
5. Strictly enforce a zero burning policy for commercial plantation development.
6. Acknowledge the sustainability challenges in the Malaysian palm oil sector and engage in open and meaningful dialogue with all stakeholders, including local communities and local, national and international NGOs;
7. Put in place a moratorium on the conversion of forests and peat land into oil palm and tree plantations;
8. Allow and facilitate public participation in Environmental Impact Assessments prior to the approval and commencing of project activities.

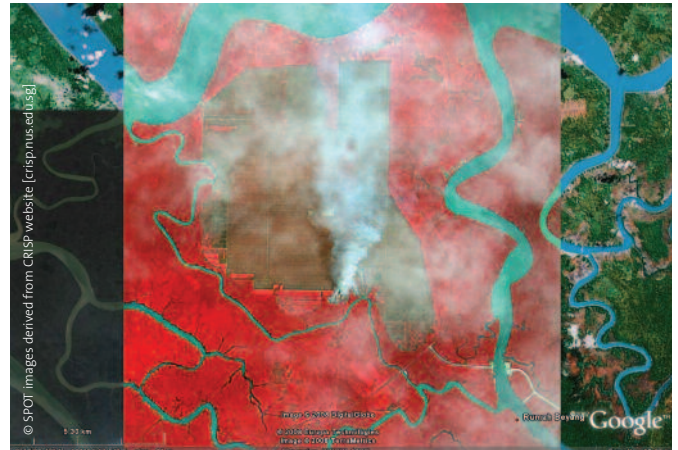
Deforestation for oil palm in Pulau Briut and Matu Daro, December 2002, August 2006, May 2008.



© SPOT Images derived from CRISP website [crispplus.usg]

The Malaysian oil palm industry, and its customers and investors should:

1. Acknowledge the sustainability challenges in the sector and ensure that all the parties involved are committed to addressing them through the applications of the most rigorous social and environmental standards;
2. Fully respect native territorial boundaries and claims in their operations and apply the principle of free, prior and informed consent when dealing with such rights;
3. Adhere to a moratorium on the conversion of forests and peat land into plantations;
4. Avoid being associated with unsubstantiated sustainability claims.



Vegetation fires in the Lower Rejang Oil Palm Plantation (Sarawak, 24 June 2008).

Johor in West Malaysia.



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