

# ASEAN Environmental Cooperation, Transnational Private Governance, and the Haze: Overcoming the ‘Territorial Trap’ of State-Based Governance?

Helen E.S. **Nesadurai**

## **Abstract**

*Private sustainability standards for palm oil – RSPO certification and especially the POIG/No Deforestation standards – show more promise than ASEAN in addressing the political-economic drivers of the fires/haze in Indonesia. ‘Sovereignty-free’ private actors – global NGOs, philanthropic foundations, and social investors – harnessed transnational markets and used consumer product multinationals and Asian palm oil traders/processers as intermediaries to reach oil palm growers previously shielded from private regulation. Exclusion of state actors gave regulatory entrepreneurs a freer hand to institute more stringent standards. This contrasts with ASEAN regional governance where state control of regional governance deflects global and local pressure for change. There are limitations, however, to the reach of voluntary private standards, which cannot address irresponsible cultivation practices in illegal supply chains and those catering to the domestic market, despite NGOs and other private regulatory entrepreneurs acting as ‘functional equivalents’ of state authorities in driving change. Nevertheless, palm oil’s economic importance to Indonesia and the global market transformations underway mean that global private standards have a first-mover advantage. However, central state actors have denounced private standards as intrusions on national sovereignty. While private standards have sparked national conversations on sustainability, the political bargaining between state authority, private regulators, and their proponents is only just beginning.*

**KEYWORDS:** ASEAN, haze governance, Indonesia, palm oil, RSPO, POIG, private governance

## **INTRODUCTION**

**T**HE REGION’S HORRENDOUS HAZE episode experienced between September and November 2015 once again raises questions about ASEAN’s capacity to address what has been a recurring annual problem in the region over the past 25 years. Despite the adoption of the legally binding ASEAN Agreement on Transboundary Haze Pollution (AATHP) in 2002, fires and smoke haze episodes

Helen E.S. Nesadurai, School of Arts and Social Sciences, Monash University, Malaysia; [helen.nesadurai@monash.edu](mailto:helen.nesadurai@monash.edu)

have occurred every year since, with the 2015 haze surpassing the severe episodes of 2006, 2009, and 2013. Scholars attribute the failure of ASEAN cooperation on the haze to the reluctance of state actors to put in place and implement measures that would undermine state and agribusiness interests by raising the cost of the extractive mode of agriculture and commodity production dominant across the region. Yet interesting claims are being advanced about the capacity of transnational private governance to address what state-centric modes of governance seem unable to do.

The Roundtable on Sustainable Palm Oil (RSPO), a corporate-NGO multi-stakeholder certification body established in 2004 claims that it actively monitors its members on fire use and that no out-of-control fires had been detected on the land concessions of any RSPO-certified member operating in Indonesia from January until mid-August 2015, citing fire data from the US-based World Resources Institute's Global Forest Watch (GFW) platform (RSPO Secretariat 2015a). The RSPO's claim is consistent with publicly available information on the aforementioned GFW database, showing that from 1 September to 26 November 2015, only 50 hotspots or 2.3% of the 2164 high-confidence fire alerts reported in oil palm concessions were detected on land concessions of RSPO-certified corporations.<sup>1</sup> Khor *et al.* (2015) report similar findings for 1 July to 2 November 2015 when 3.2% of the 3215 fire alerts were reported on the concession lands of RSPO-certified corporations. Concession areas are those awarded to firms by the Indonesian authorities for industrial-scale cultivation (not smallholder farming).

Although large-scale plantations were responsible for many of the fires between 2000 and 2010 (see Lee *et al.* 2014), forestry experts and haze researchers attribute the bulk of recent fires to small- and medium-scale oil palm plantations as well as oil palm smallholders clearing forested peat lands (Gaveau and Salim 2013; Khor *et al.* 2015). Marlier *et al.* (2015: 8) find that non-concession areas displayed a much higher proportion of fire emissions in Sumatra (60%) and Kalimantan (73%) relative to concession areas between 2003 and 2013. This was true even during peak fire episodes in 2013, 2014, and 2015 when 20–25% of fire alerts originated in oil palm concession areas, but about 11% outside peak fire episodes (Author's fire data from GFW; Goodman and Mulik 2015: 3; Khor *et al.* 2015). Nevertheless, some of the fires in 2015 occurred in the plantations of Asian palm oil multinationals holding RSPO certification and/or publicly committed to the stricter 'No Deforestation' private standard, although these corporations attribute these fires to outside communities encroaching on plantation land or to fires spreading from outside plantation perimeters

<sup>1</sup> Author's data from the GFW platform, accessed December 2015. This platform uses NASA's Active Fire Data drawn from MODIS satellites. High-confidence fire alerts refer to active and high-intensity fires rather than lower-intensity fires from non-forest-clearing activity or smouldering fires. See <http://fires.globalforestwatch.org>.

(Friends of the Earth Europe 2015; Greenpeace 2015). Certified corporations are suspected of using third parties to clear land using fires.

Fire attribution is not an exact science, however. While on-the-ground verification of satellite data can help improve its precision, inferences drawn are not conclusive without accurate verified concession maps. The RSPO acknowledges that inaccuracies in these maps make it difficult for the Roundtable to make credible claims about the declining trend of fires in RSPO-certified concessions (RSPO Secretariat 2015a). The Indonesian and Malaysian governments have blocked RSPO firms from providing the latest maps of their concession areas to the Roundtable on grounds that doing so contravenes official secrets laws and threatens national security. The veracity of official maps issued by the Indonesian authorities is also doubted (Gaveau and Salim 2013; Greenpeace 2015: 6).

Given the recent pattern of fire distribution described above and the difficulty of unambiguous fire attribution, it is too simplistic to attribute fires primarily to greedy plantation corporations or conversely to blame small farmers and local communities. Moreover, fires are the outward symptom of the underlying sustainability problems confronting oil palm cultivation, which has been linked to deforestation and the draining of peatlands for agro-commodity production (Daemeter Consulting 2015a; Goodman and Mulik 2015; Greenpeace 2015). Disturbingly, 35% of the remaining forested area in Indonesia is found within approved concession areas, while 32% of all concessions in Sumatra and 10% in Kalimantan are located in peatlands (Marlier *et al.* 2015: 2–4). Oil palm cultivation is salient to these two problems since oil palm concessions take up about a third of the total concession land area in both regions (Marlier *et al.* 2015: 8). A little over 50% of palm oil exports from Indonesia are linked to illegal deforestation (Lawson 2014). Since some deforestation is legal under Indonesian law, a much higher proportion of palm oil produced and exported from Indonesia is probably linked to deforestation (Goodman and Mulik 2015: 5). RSPO-certified plantations and those pledged to the ‘No Deforestation’ private global standard have been implicated in recent episodes of deforestation and clearing of peatland (Daemeter Consulting 2015a; Friends of the Earth Europe 2015; Goodman and Mulik 2015; Greenpeace 2015).

Of significance to this paper is not that private global sustainability standards have been violated but that such standards operate in Indonesia, that palm oil plantation corporations voluntarily subscribe to them, and that the larger plantation companies once vilified for their unsustainable operations have altered cultivation practices in line with stringent sustainability standards. This seems at odds with research showing that entrenched palm oil corporate interests and their Indonesian state backers evade or block national regulations, ASEAN mechanisms, and RSPO certification in order to sustain extractive forms of agricultural production (McCarthy 2012; Hameiri and Jones 2013; Varkkey 2016). However, these studies do not capture developments since 2013 when additional private sustainability arrangements for palm oil emerged – the Palm Oil

Innovation Group (POIG), a loose body comprising NGOs, downstream manufacturers, and oil palm growers formed to advocate a more stringent 'No Deforestation' standard for oil palm cultivation, and the bilateral corporate-NGO collaborations initiated by corporations to ensure their own compliance with 'No Deforestation' commitments.<sup>2</sup> Interestingly, environmental NGO Greenpeace, a longstanding critic of oil palm cultivation and sceptic of industry self-regulation, is a founding member of POIG (POIG 2013).

Although NGO investigations reveal major palm oil plantation firms infringing RSPO certification and the newer private standards (Friends of the Earth Europe 2015; Greenpeace 2015), such violations do not in themselves invalidate those standards. Significant changes in cultivation practices have been reported in these and other oil palm grower firms even as infringements continue (see Daemeter Consulting 2015a). These trends suggest that transnational private governance enacted by non-state actors may be able to escape the 'territorial trap' of deficient national and ASEAN modes of governance and drive change in the industry.<sup>3</sup> The RSPO, POIG, and the corporate-NGO sustainability collaborations are part of the global phenomenon of transnational private governance involving NGOs, corporations, and other non-state actors carving out 'non-territorial spaces and management systems', through which they directly regulate businesses' sustainability, human rights, or workers' rights practices (Ruggie 2004: 503). States are absent or have only modest or marginal roles in such initiatives (Abbott and Snidal 2009: 506).

This paper compares ASEAN environmental governance and transnational private governance in addressing the underlying political-economic drivers of the fires/haze in Indonesia. The paper's point of departure is Peter Haas's (2015) suggestion that novel modes of global governance that do not rely on the state may be more effective than the intergovernmental ASEAN framework in addressing Southeast Asia's environmental problems. The palm oil case can shed light on the extent to which private standards, which operate without state involvement, can challenge the powerful domestic state-business patronage coalitions that have been identified as a key impediment to state-based management of fires/haze and the broader problem of palm oil sustainability. Through this comparison, this paper makes an original contribution to the study of Southeast Asian environmental politics. No study has yet examined private authority as an alternative to intergovernmental forms of environmental governance through ASEAN.

<sup>2</sup>Palm oil producers also certify to the German-based International Sustainability and Carbon Certification (ISCC), which is not specific to palm oil but applies to a range of agro-commodities to demonstrate producers' compliance with the European Union's Renewable Energy Directive (Yaap and Paoli 2014: ix-x & 2). This paper focuses only on those schemes dedicated to palm oil.

<sup>3</sup>The notion of the 'territorial trap' comes from John Agnew's call for International Relations theory to go beyond its state-centrism (Agnew 1994: 53).

The paper has five parts. Section 2 briefly surveys the literature on the causes of the fires in Indonesia, particularly their underlying political-economic drivers. Section 3 reviews two key explanations for the limitations of ASEAN haze governance – institutionalism and regulatory regionalism – that both point to how state actors used their central role in ASEAN to control regional governance in order to secure state and agri-business interests and sustain extractive modes of agro-commodity production. Section 4 analyses the transformative potential of private sustainability standards in palm oil, drawing on the broader literature on transnational private governance and on the author's 2014–2016 interviews with corporate actors, NGOs, and regulators, as well as participant observation at three annual RSPO conventions and at the 2012, 2014, and 2015 RSPO annual general assemblies. The paper explores why corporate actors would opt for costly standards that require significant shifts to their operations, whether instrumentally driven private governance can endure, and state responses to these developments.<sup>4</sup>

## GOVERNING PALM OIL: REGULATORY AND POLITICAL-ECONOMIC COMPLEXITIES

In Indonesia, the externalities of using fires to clear land have not been sufficiently internalised such that perpetrators do not bear even a fraction of the massive economic, environmental, and social costs associated with these fires. At US\$7 per hectare, clearing land using fire is far cheaper than mechanised land clearing at US\$150 per hectare (The Habibie Center 2015: 11). However, the problem goes beyond the use of fires. The underlying issue is that state actors facilitate, by their action or inaction, deforestation and the draining of peatlands, seeing them as necessary trade-offs in the expansion of palm oil production in Indonesia, which relies on this industry for 3% of national GDP, exports, foreign exchange earnings, food security for the local population, and direct employment for more than 1% of the population (Daemeter Consulting 2015a: 4).

Environmental scientists, NGOs, activists, scholars, and even state actors broadly agree that a holistic sustainability governance regime for palm oil must address (a) deforestation, (b) peatland use, (c) smallholder and rural livelihoods, and (d) consumer markets (Busch *et al.* 2015; Daemeter Consulting 2015a; Goodman and Mulik 2015; Greenpeace 2015; Holmgren 2015; Purnomo 2015). However, these goals confront the following key realities of the palm oil

<sup>4</sup>In this paper, I use the terms 'private standards', 'private regulation', and 'private governance' interchangeably to refer to the systems of rules established by private actors. Following Abbott (2012: 543), I define 'private' in terms of actors: civil society groups including NGOs, corporations and their associated business associations, and individuals – essentially non-state actors. However, it is important to keep in mind that private actors can be closely linked to the state, for instance, government-linked corporations or government-sponsored NGOs.

political economy in Indonesia: (a) designation of palm oil as a strategic industry based on an extractive model of development that enables corporate access to large tracts of land,<sup>5</sup> (b) entrenched patron-client relationships between state actors and agri-business interests, (c) unstable smallholder livelihoods, and (d) a highly fragmented upstream oil palm cultivation sector with often overlapping legal and illegal supply chains.

Indonesia's roadmap for the palm oil industry sets a production target of 40 million tonnes by 2020 and 60 million tonnes by 2040,<sup>6</sup> to be achieved through expanded cultivation of forests and especially peatlands. The governance framework in Indonesia to regulate palm oil may be comprehensive, but it is also confusing, contradictory in many parts, and beset by weak state monitoring and enforcement capacity (Yaap and Paoli 2014). Contending bureaucratic agendas reflect the conflict between economic growth and environmental protection despite officially declared commitments to the latter. A good example of these contradictions is the existing moratorium on *new* concessions in primary forests and peatlands that does not, however, block deforestation in *existing* concession areas where significant deforestation takes place (Busch *et al.* 2015; Greenpeace 2015). A number of regulatory, policy, and institutional changes introduced since 2014 weaken the fight against deforestation and draining peatlands (Daemeter Consulting 2015a: 41–50). Of particular concern is the September 2014 revision to Indonesia's Plantation Act that requires concession awardees to fully utilise for cultivation all land within the concession within six years, even lands containing high conservation value content such as forests, or face seizure of the unused land areas and their transfer to other parties willing to cultivate the land (Daemeter Consulting 2015a: 28).

Collusive state-business patronage relationships, which became more extensive with governance decentralisation after Suharto's 'New Order' era ended in 1998, facilitated deforestation and clearing of peatlands (Varkkey 2016). Corporate plantation interests cultivated ties with sub-national elites with the authority over land and economic licences, while local authorities eager for investment to drive growth and employment creation in their jurisdictions offered corporate investors preferential land deals. Agri-business firms were easily able to expand oil palm cultivation into forests and peatlands, bypass national regulatory requirements before large-scale land clearing could begin, and enjoy immunity from prosecution for violations of local laws, including laws on open burning (Hameiri and Jones 2013). In exchange, these corporations provided resources – rents – that went to the patron's constituency to fund election campaigns in

<sup>5</sup>Extractive forms of production involve simple economic/industrial expansion through the use of low-cost inputs such as land, forests, natural resources, and labour, thus generating considerable negative social and environmental externalities (see Acemoglu and Robinson 2012).

<sup>6</sup>This represents a steep increase from the 33 million tonnes produced in 2015. Current production data is from the Indonesian Palm Oil Producers Association (GAPKI) and the Ministry of Agriculture, Indonesia.

support of the patron's party and/or to the patron as personal gifts, which included positions on company boards (Brad *et al.* 2015; Varkkey 2016).

A third problem revolves around smallholders and their livelihoods. Both scheme and independent smallholders account for about 42% of the total oil-palm-planted area in Indonesia (Hidayat *et al.* 2015: 27), with smallholdings expanding at faster rates than large palm oil enterprises (Lee *et al.* 2014). Scheme smallholders tend to have fairly stable incomes and livelihoods as they receive contractual support from plantations under the government's smallholder developer scheme that requires corporations awarded concession licences to set aside 20% of the concession area for small farmers. Vastly reduced government support to smallholders following the Asian financial crisis left independent smallholders in the lurch, however. Typically farming about two hectares per household, independent smallholders constitute 28–30% of the oil palm development area in Indonesia and face considerable livelihood problems (Daemeter Consulting 2015b: 6–7). Their encroachment on concession and non-concession peatlands in Kalimantan and Sumatra is linked to fires (Khor *et al.* 2015: 8). Both scheme and independent smallholders suffer from low yields relative to the yields of commercial plantations, with independent smallholders generating the lowest yields (Daemeter Consulting 2015b: 11). Low yields are a key driver of deforestation and peatland use as smallholders expand cultivation to increase incomes.

The sustainability problem is complicated by the fact that oil palm cultivation is spread across wide swathes of often remote territory where considerable illegal cultivation takes place among both poor communities as well as opportunistic local business interests (Daemeter Consulting 2015b: 7; Lee *et al.* 2015: 31). These growers participate in unsustainable local supply chains and sell largely to the independent mills that have sprung up to cater to the growing domestic market for palm oil, but these 'illegal' fruit bunches also find their way to the mills operated by certified plantations or those committed to the 'No-Deforestation' standard (Gnych *et al.* 2015: 18; Greenpeace 2015). The independent mills, which also buy from poor independent smallholders, have entrenched unsustainable local supply chains, which further encourage these smallholders to encroach on forests and peatlands. The result is an upstream cultivation sector in Indonesia that is fragmented, murky, and has overlapping illegal and legal supply chains.

The following two sections consider how well governance through ASEAN initiatives and through transnational private standards confronts these complex political-economic realities in Indonesia.

### **Addressing the Haze: The Limits of ASEAN Regional Governance**

The haze, a long-standing transboundary problem in Southeast Asia, has been on the ASEAN agenda since 1992, initially in rather limited ways, later through the non-binding Regional Haze Action Plan (RHAP) of 1997 and eventually the legally binding ASEAN Agreement on Transboundary Haze Pollution (AATHP) in 2002 (ASEAN 2002). Supporting the AATHP are peatland

programmes to manage the region's extensive peatlands and avoid rendering these fragile soils susceptible to fires. Despite extensive scientific and technical expertise and input, including financial support, from varied international sources like Germany's GTZ; UK's Department for International Development (DFID); the Asian Development Bank (ADB); the United Nations Environment Programme (UNEP); international and local NGOs such as the Worldwide Fund for Nature (WWF), Indonesian Forum for the Environment (WALHI), and the Global Environment Centre; as well as research organisations like the Center for International Forestry Research (CIFOR), outputs generated from ASEAN haze governance have had limited impact on the region's fires/haze problem (Elliott 2012: 51; Hameiri and Jones 2013). The literature on ASEAN and the haze explains these modest outcomes in two key ways: institutionalist theory emphasising how regional institutions are designed and the critical political economy framework of regulatory regionalism that links regional governance to state transformation within a context of contending social forces.

### **Institutionalist Explanations**

Institutionalist explanations locate the paucity of positive outcomes from ASEAN haze governance in the lack of enforcement mechanisms, the use of vaguely worded commitments, and the absence of clear standards of expected behaviour in all ASEAN initiatives on the haze, including the legally binding AATHP (Aggarwal and Chow 2010; Elliott 2003). These design features are attributed to ASEAN's commitment to the sovereignty/non-interference norm. While some blame Indonesian non-ratification of the AATHP for poor outcomes, Varkkey (2016: 179) argues instead that ASEAN's cherished sovereignty principle allowed only a "highly watered down [AATHP]" that did not prescribe effective and more intrusive regional actions necessary to address the underlying drivers of the fires/haze.<sup>7</sup> In fact, even when external technical and NGO expertise was consulted, sovereignty-conscious state actors ensured that such collaboration remained under "the ownership and authorship of ASEAN" (Elliott 2012: 44). Unsurprisingly, regional regulatory efforts fall short of technical/scientific findings (Busch *et al.* 2015).<sup>8</sup> However, it is not the sovereignty/non-interference norm in itself that is the barrier to more effective regional environmental governance. This venerated regional principle, which allows member states considerable autonomy in ASEAN, is often strategically deployed by member states to resist

<sup>7</sup>Indonesia ratified the AATHP in September 2014.

<sup>8</sup>Many successful small-scale pilot projects on peatland management and conservation resulting from these collaborations were not scaled up to the ASEAN level, which limited their capacity to inform ASEAN-wide policies. Author's interview with Dr Raman Letchumanan, Senior Fellow, S. Rajaratnam School of International Studies, Nanyang Technological University, Singapore, who was formerly senior official in the ASEAN Secretariat responsible for environmental affairs, in Singapore on 11 January 2016.



regional initiatives if these compromise important domestic interests (Aggarwal and Chow 2010; Jones 2012).

### Regulatory Regionalism and State Transformation

Scholars of regulatory regionalism argue that the institutionalist focus on the absence of specific and measurable commitments as well as clear timelines and enforcement mechanisms in ASEAN initiatives is misplaced as this is not the way ASEAN governs (Jayasuriya 2008). Instead, ASEAN's initiatives on the haze constitute regulatory regionalism, a form of "meta-governance" that involves articulating procedures for "the establishment of complex networked and multi-level governance arrangements" that in turn facilitate national action (Hameiri and Jayasuriya 2011: 27). This is evident in the AATHP, which elaborates a complex and detailed institutional architecture linking regional, national, and sub-state agencies for haze management in two regulatory areas – fire control and peatland management – even if it is short on clearly defined regulatory targets, standards, and enforcement mechanisms (ASEAN 2002). However, on-the-ground changes from these new multi-level governance structures have been uneven and modest because reliance on national action allows state elites locked into patronage networks with agri-business interests to easily block efforts by environmental officials to drive domestic regulatory reforms (Hameiri and Jones 2013: 471). Even an emergency haze initiative like the independent Panel of Experts (PoE), which is a vital part of ASEAN's emergency fire response strategy, has been occasionally blocked to avoid closer scrutiny of local/national practices (Varkkey 2016: 178–181).

### The State as the Problem?

Common to findings from these two approaches is the constraint posed by state-centric governance. In the institutionalist reading of ASEAN haze governance, state gate-keeping ensured a non-intrusive institutional design for these ASEAN initiatives. Regulatory regionalism, however, could be easily restricted, undermined, or manipulated by state elites when these intruded into agri-business interests. While both accounts rightly point to the role of powerful agri-business interests in these outcomes, corporate actors ultimately depend on their state allies to facilitate their interests. Regional governance is, therefore, 'territorially entrapped' and held hostage to powerful domestic forces whose interests are advanced by *state actors* domestically and through capture or manipulation of ASEAN regional governance. ASEAN, consequently, does not offer a hospitable site for governing the haze and addressing its underlying political-economic drivers because the *state* remains a central actor in ASEAN governance and is thus in control of how ASEAN regional initiatives are designed and implemented within states. The next section explores whether the absence of direct state involvement in their design and implementation allows private regulatory standards to offer more effective environmental governance.

## TRANSNATIONAL PRIVATE GOVERNANCE AND PALM OIL SUSTAINABILITY

Transnational private governance of palm oil today takes three inter-related forms, all of them voluntary: the RSPO, formed in 2004; the POIG, formed in mid-2013; and various individual corporate-NGO collaborations to ensure corporate compliance with the ‘No Deforestation’ commitments that became prominent from late 2013. Although joining the RSPO is voluntary, certification is compulsory for oil palm growers accepting RSPO membership. The Roundtable is the earliest and currently the premier certification scheme for palm oil, while the POIG is a loose coalition of NGOs, oil palm producers, and downstream manufacturers advancing a sustainability standard that addresses deforestation, peatland use, and social exploitation beyond RSPO certification. The corporate-NGO collaborations involve corporations appointing NGOs or not-for-profit social enterprises to provide them with expert advice on meeting their ‘No Deforestation’ commitments and to verify corporate compliance with these standards. None of these private schemes involves the state, which raises important questions of how these standards emerge, establish their influence over corporate actors, and diffuse across the targeted sector if they do not rely on state authority.

One strand of the literature theorises the emergence of private standards in response to instrumental, self-interested calculations – the logic of consequences. Corporations in industries targeted by activist campaigns establish private regulation, which allows them to appropriate private benefits such as corporate/brand reputation, market position, and price premiums and/or to mitigate business risk from being linked to questionable industry practices (Prakash and Potoski 2010). Although corporations can act on both “normative ideals and material concerns” (Sell and Prakash 2004, 143), ethical ideals such as sustainability are unlikely to deviate too far from instrumental profitability considerations (Kollman 2008). A corrective to this economic model emphasises the *political* processes of negotiation and bargaining amongst corporations and NGOs to explain why corporations, responding to NGO campaigns against them, choose self-regulation and how private regulation is designed (Bartley 2007). It also fits empirical reality as the majority of voluntary private sector regulatory schemes are initiated by NGOs rather than by corporations (Abbott *et al.* 2016). Instrumental cost-benefit calculations are, nonetheless, important because a credible private governance scheme must gain sufficient ‘buy-in’ from its core audience, the corporations expected to comply with its standards and rules (Prakash and Potoski 2005). Cashore (2002: 517) deems this “pragmatic legitimacy” because firms want to know “what’s in it for them” before they sign on. Although pragmatic legitimacy is important in gaining corporate adherents, instrumental motivations alone are a poor foundation for the durability of private governance. There are two reasons for this.

First, corporate calculations can change if the material pressure that precipitated the initial turn to private governance weakens or ends. However, Cashore (2002: 521–522) identifies three factors that can sustain instrumentally driven private regulation: (a) the global NGOs usually driving these processes tend to be committed to their ethical agendas and reputations as moral actors and, thus, likely to maintain external pressure on corporations; (b) when new production practices conforming to private standards become routinised over time, they become entrenched as accepted ways of doing things; (c) exiting private governance or even weakening it can be costly for firms as it is more likely to invite external scrutiny.

Second, private governance that is primarily sustained by self-interested behaviour and pragmatic compromises risks its credibility, and thus durability, through external perceptions of private capture by corporate interests. Private standards can only endure when they have wider credibility or legitimacy beyond the corporations subscribing to them (Bernstein 2011). To gain such authoritative status, private governance needs to be endorsed by politically salient external audiences. An important route to gaining external legitimacy is by ensuring that private governance adequately addresses the public interest, which can bring support from influential external audiences (Bernstein 2011; Brassett *et al.* 2012; Cashore *et al.* 2004). Allying with various actors regarded as holding moral or expert authority is another route to legitimising private governance in the eyes of these important audiences, which explains why many voluntary corporate self-regulation schemes include NGOs regarded as having both moral and expert authority (Hall and Biersteker 2002).<sup>9</sup>

The question, in other words, is whether in the absence of a state capable of and willing to pursue effective environmental and social governance, NGOs and powerful, external legitimating audiences can serve as Borzel and Risse's (2010: 120) "functional equivalents for a state-based shadow of hierarchy". Although the absence of the state as a key actor in private governance raises troubling questions about the absence of democratic legitimacy of private standards (see Brassett *et al.* 2012: 371–372; Mattli 2003), the exclusion from private governance of *compromised* states – when they are corrupt, captured, or ineffective – can paradoxically enhance external trust in private standards.<sup>10</sup>

While states' have minimal or no direct roles in these modes of governance, private governance's durability and transformative potential depends on "how and whether it will act synergistically with government rules" (Gulbrandsen 2014: 89). Corporations may not require state consent in order to abide by private standards (Bernstein 2011: 25–26), but state actions or non-action can obstruct private rules operating within state territory. States can restrict the

<sup>9</sup>However, this raises other questions about co-optation of NGOs by corporate interests (see Dauvergne 2016; Lipschutz 2005).

<sup>10</sup>I am indebted to the anonymous reviewer for this point.

activities of NGOs or other actors crucial to the work of private regulatory schemes, create alternative private standards, support less intrusive external governance regimes, and establish or maintain national laws and regulations that conflict with private standards, thereby eroding their legal basis (Bartley 2014; Gulbrandsen 2014). Alternatively, states could play more supportive roles that enhance the legitimacy of private standards, for instance, by requiring changes that prevent anti-competitive effects, emphasise public interest considerations (Mattli 2003: 200), or enhance local diffusion through what Abbott and Snidal (2009: 501) have termed ‘orchestration’.

As the rest of this paper shows, synergistic interaction between the public interest agendas of regulatory entrepreneurs and instrumental corporate interests shaped the way private standards emerged and were diffused in Indonesia. These processes drew on consolidating global norms on responsible corporate behaviour and leveraged transnational palm oil supply chains to drive change that, while limited, is nevertheless remarkable given this industry’s questionable sustainability record and tarnished reputation.

### **Emerging Private Sustainability Standards for Palm Oil: Instrumental Drivers**

The continuous NGO campaigns by Greenpeace, the Rainforest Alliance, and Friends of the Earth against palm oil following Indonesia’s 1997 forest fires posed business risks to consumer goods manufacturers and retailers, especially western corporations producing or selling products containing palm oil, paving the way for WWF and consumer products multinational Unilever to gain sufficient industry consensus to form the Roundtable in 2004.<sup>11</sup> State actors, who were excluded to ensure the RSPO did not contravene World Trade Organisation clauses on state-imposed non-tariff trade barriers, were unable to influence these deliberations to safeguard the interests of Indonesian and Malaysian grower firms and state-driven agricultural expansion (Schouten and Glasbergen 2010). However, the multi-stakeholder structure of the RSPO, which includes diverse groups from the entire palm oil supply chain – producers/growers, processors/traders, consumer goods manufacturers and retailers, as well as NGOs – meant that the RSPO had to build pragmatic legitimacy from the start and take a staged approach to developing its certification standards to balance the public interest and the private interests of oil palm growers (Schouten and Glasbergen 2011). The inaugural RSPO certification ready for use in 2007 reflected just such a pragmatic compromise, which did not sit well with environmental activists and other important groups whose support was crucial to validating private certification.

<sup>11</sup>Palm oil’s cost advantage and inherent chemical properties make it and its derivatives ideal ingredients in manufacturing a varied range of consumer and household products.

### Enhancing and Diffusing Standards amidst Material Pressures and Legitimacy Concerns

The early pragmatic consensus within the Roundtable gave way as critical transnational actors – prominent global NGOs including Greenpeace and other long-standing critics of oil palm cultivation, social investors, charitable foundations, zoological societies, consumer groups, and other pro-environmental civil society groups – continued to target oil palm as an unsustainable crop and the RSPO as a flawed regulator with certification gaps. Downstream manufacturers and retailers faced three risks from these campaigns: (a) loss of support from socially responsible investors who had by now begun to engage in shareholder activism to demand changes to corporate sourcing practices; (b) devaluation of corporate brands and reputations, which are vital resources in an era of late capitalism;<sup>12</sup> and (c) supply chain risk from an undersupply of palm oil produced to standards that address these environmental and social concerns (Gnych *et al.* 2015; Nesadurai 2017). Downstream manufacturers and retailers were, therefore, willing to support the proposals of RSPO's NGO members to enhance certification when these came up at Executive Board meetings and annual general assemblies. This alignment between the two groups meant that, despite constituting about 5% of the RSPO membership, NGOs had a disproportionate influence in the RSPO when aligned with downstream manufacturers and retailers who constitute just over 40% of Roundtable membership, in contrast to growers who account for about 15% of membership (Gnych *et al.* 2015: 22; Khor 2009; Nesadurai 2014; Schouten and Glasbergen 2011).

The 2013 revisions to RSPO certification addressed many of the certification gaps identified by NGOs – stricter conditions for using peatlands, prohibition of new plantings in high conservation value (HCV) areas,<sup>13</sup> grower compensation for failure to undertake HCV assessments prior to clearing land, a commitment to strengthen the “free, prior and informed consent” guidelines for land acquisitions, and human rights principles against forced and trafficked labour (RSPO 2013, 2014). Enhanced certification standards helped the RSPO gain credibility among influential external audiences amidst a global normative structure increasingly shaped by climate change concerns. Previously critical of palm oil industry practices, the World Bank (World Bank 2012), the United Nations Environmental Programme (UNEP 2014), the Association of Zoos and Aquariums (Gazibara 2014), the International Finance Corporation (RSPO 2013), and institutional investors (WWF 2012) endorsed the RSPO and used its certification to inform

<sup>12</sup>On brands, reputations, and late capitalism, see Micheletti and Stolle (2008).

<sup>13</sup>HCV areas contain items of biological, ecological, social, and cultural value such as primary forests, endangered and native species, sacred and heritage sites, ecosystem services, and natural products gathered by surrounding communities. See RSPO website at <http://www.rspo.org/about/who-we-are/working-groups/biodiversity-high-conservation-values> (accessed on 15 May 2016).

their own work but acknowledged the remaining gaps in certification standards, monitoring, and enforcement.

Although growers resisted these enhancements, only the Indonesian Palm Oil Producers Association (GAPKI) withdrew its membership in 2011 when it had become clear that revised RSPO certification would include stricter criteria on emissions, forests, and peatlands. Nonetheless, 27 Indonesian-registered growers remained as individual RSPO members when GAPKI left, rising to 51 in mid-2016, although this pales in comparison to GAPKI's 644 agricultural producer members in 2016.<sup>14</sup> The grower group in the RSPO was itself divided, with public-listed Asian palm oil multinational corporations prepared to adopt stricter standards to minimise risks to their global operations amidst the growing global normative consensus on climate change issues. Nonetheless, the Roundtable could not dismiss grower concerns over two controversial demands from NGOs and downstream manufacturers and retailers – an outright and immediate ban on cultivating oil palm on *all* forested areas and peat soils as well as compulsory emission reduction targets (Greenpeace 2013).<sup>15</sup> RSPO rejection of these demands led to POIG's establishment in June 2013, which also galvanised the 'No deforestation' movement launched in 2010.

POIG is not an alternate certification scheme but is a loose coalition of NGOs, downstream consumer goods manufacturers, and oil palm growers and processors/traders, many of them RSPO members, including Roundtable founding member WWF, oil palm plantation corporations, as well as RSPO non-member NGOs like Greenpeace, all interested in advancing a more stringent 'No Deforestation' sustainability agenda (POIG 2013). The popularly termed 'No Deforestation' standard is far broader in scope, aimed at the production and trade of palm oil free of three ills plaguing oil palm cultivation – deforestation, the use of peat soils, and exploitation of people, abbreviated as the 'No DPE' standard in one recent work (Nesadurai 2017). The 'No DPE' movement snowballed from late 2013 when downstream brand-name corporations like Unilever, Nestle, Kellogg, Mars, Ferrero, Proctor and Gamble, L'Oréal, and numerous others pledged to source palm oil produced according to this more stringent standard.<sup>16</sup> These sourcing decisions left their direct suppliers, notably Asian palm oil traders/processors like Wilmar, Golden-Agri Resources (GAR), and Musim Mas, which had also been direct targets of NGO campaigns, with little choice but to commit to 'No DPE' standards in their own plantations and to procure palm oil from third-party growers complying with this standard or face risks to their global palm oil operations. Because Wilmar, GAR, and Musim Mas together control about 75% of global palm oil trade, their 'No DPE'

<sup>14</sup> Author's analysis of RSPO membership data obtained from [www.rsपो.org](http://www.rsपो.org). GAPKI membership data is from <http://gapki.id/introduction/> (accessed on 15 May 2016).

<sup>15</sup> RSPO (2013) outlines the revised certification standards.

<sup>16</sup> Author's survey of online news sources and company statements.

commitment had far-reaching consequences, particularly Wilmar as it accounts for the largest share of global palm oil trade at 43%.<sup>17</sup> Private analysts estimated that 87% of global palm oil production in 2014 was bound by the ‘No DPE’ standard due to this supply chain cascade (Finkelstein 2014). POIG’s actions also prodded the Roundtable to develop the ‘RSPO-NEXT’ certification standard in 2015 incorporating ‘No DPE’ requirements, albeit as an additional *voluntary* standard for interested RSPO members (RSPO Secretariat 2015b).<sup>18</sup>

The ‘No DPE’ movement gained from the supply chain advocacy strategy run by NGOs such as Greenpeace, Rainforest Action Network (RAN), Oxfam, WWF, The Forest Trust (TFT), Union of Concerned Scientists, and Climate Advisers, among others, using a combination of public ‘name-and-shame’ campaigns, detailed exposés, public scorecards of corporate progress on responsible sourcing, and behind-the-scenes engagement of corporate senior leadership to drive change. The last strategy is, in fact, preferred by WWF over campaigns that publicly humiliate corporations.<sup>19</sup> WWF also focuses on educating Asian investors who lend to mid-sized Asian palm oil corporations about the business/credit risks of dealing with unsustainable palm oil.<sup>20</sup> Social investor groups such as Ceres, Green Century, Trillium, and the Interfaith Center on Corporate Responsibility as well as philanthropic foundations like the David and Lucille Packard Foundation were important regulatory entrepreneurs in these advocacy processes (Nesadurai 2017). While some of these activists collaborated directly with each other, their separate actions, mostly directed at different strategic sites and targeted various corporations, reinforced each other’s work as they all had a similar goal – to alter the way agricultural commodities are produced.

POIG and the No Deforestation movement represent a sea change in the way private sustainability standards had thus far emerged in palm oil. Pragmatic legitimacy and negotiated accommodation gave way to a moral/ethical agenda aimed at advancing key public goods encapsulated in the ‘No DPE’ standard that was, in effect, imposed on upstream growers through two intermediaries – downstream consumer goods manufacturers and the newly reformed palm oil traders/processors who control much of global palm oil trade. Suppliers to these processors/traders had to alter their cultivation practices or risk being excluded from these corporations’ supplier bases (Siburat 2014).

<sup>17</sup>Data from Chain Reaction Research and MSCI-ESG research, reported in *Financial Times* (26 May 2016).

<sup>18</sup>Author’s interview with RSPO Vice President Adam Harrison in Kuala Lumpur, 7 August 2015. Harrison is also a senior member of WWF, which is a founding member of POIG.

<sup>19</sup>Author’s interview with Laura Jungmann, responsible for market transformation at WWF International, in Kuala Lumpur, 9 December 2014.

<sup>20</sup>Author’s interview with Jeanne Stampe, Asia finance and commodities specialist at WWF International, in Singapore, 12 January 2016.

*Entrenching Private Standards: Routinisation and Surveillance*

Evidence shows that private standards are becoming entrenched through the supply chain practice of ‘traceability’, which obligates corporations to map their affiliated and third-party supplier base, including smallholders, and to verify that these suppliers employ sustainable production methods. Corporations have appointed NGOs, not-for-profit social enterprises, and technical consultants to undertake this task, which facilitates wider adoption of new cultivation practices that conform to established RSPO certification and ‘No DPE’ standards. Despite the scale and complexity of this task (see Purnomo 2016), supply chain mapping is well underway in the operations of nodal Asian palm oil multinationals like Wilmar, which works with TFT and Wild Asia (Wilmar 2015), GAR working with TFT (GAR 2015), and Musim Mas working with Proforest, Rainforest Alliance, and Daemeter Consulting (Musim Mas 2015). Detailed supply chain maps are made available online to customers and sometimes to the public.<sup>21</sup> Smallholder support is a crucial dimension of traceability.<sup>22</sup> Early studies show improved smallholder yields and incomes from adopting private standards (Hidayat *et al.* 2015).

Independent monitoring by self-appointed global and local NGO watchdogs is a second route to entrenching private standards, facilitated by a supportive global normative environment against deforestation and related irresponsible ecological and social practices. Divestment by the financially powerful Norwegian pension fund from palm oil corporations engaged in deforestation as well as procurement policies favouring sustainable palm oil in developed countries materially consolidates global normative structures coalescing around global private sustainability standards (*Business Times* 24 September 2016; Department of Environment, Food and Rural Affairs 2015; *Sustainable Business News*, 6 March 2016). The 2015 Amsterdam Declaration signed in December 2015 commits the British, Danish, Dutch, French, and German governments to support sustainable palm oil supply chains by 2020 (Amsterdam Declaration 2015). NGO surveillance of corporate behaviour has also gained from technological advances that facilitate remote monitoring of deforestation, peatland clearing, and fires. NGOs with local knowledge contribute to on-the-ground surveillance and have been especially resourceful in showing how illegal and legal supply chains mix (Eyes on the Forest 2016). Mass, and especially social,

<sup>21</sup>Sime Darby’s Open Palm online dashboard is at [http://www.simedarbyplantation.com/Open\\_Palm.aspx](http://www.simedarbyplantation.com/Open_Palm.aspx). See also [http://www.simedarbyplantation.com/Sime\\_Darby\\_Plantation\\_Launches\\_Traceability\\_Dashboard.aspx#](http://www.simedarbyplantation.com/Sime_Darby_Plantation_Launches_Traceability_Dashboard.aspx#). The Wilmar dashboard is at <http://www.wilmar-international.com/sustainability/dashboard/>. Musim Mas’s traceability programme is outlined at <http://www.proforest.net/en/news/proforest-and-partners-to-verify-musim-mas-palm-oil-supply-chain>. All websites were accessed on 26 June 2016.

<sup>22</sup>Author’s interview with Simon Siburat, General Manager, Group Sustainability, Wilmar International, Kuala Lumpur, 1 December 2015. See also the account by the Managing Director of GAR, Agus Purnomo (2016).



media enables wider and faster online dissemination of news about corporate transgressions.

Corporations with global reputations to protect are, therefore, more likely to engage in self-monitoring and, consequently, not always able to do as they please.<sup>23</sup> Although NGO surveillance reveals infringements of these corporate 'No DPE' commitments, there is a marked change in how these corporations now respond to public revelations, suggesting that they recognise and operate within the new normative order. Where once these corporations would routinely ignore, deny, or challenge NGO allegations of misconduct, they now investigate the charges, acknowledge breaches, take remedial action, or explain why the charges cannot be upheld.<sup>24</sup> Notwithstanding infringements, Asian palm oil plantation multinationals are acknowledged to be ahead in the sustainability game in contrast to the slow progress of downstream consumer goods manufacturers and retailers that had initially pressed for more stringent standards (Goodman and Sharma 2015; Greenpeace 2016; MSCI 2014).<sup>25</sup>

### **The Transformative Potential of Private Sustainability Standards: Whither the State?**

The changes witnessed thus far suggest that the seeds of transformative change have been planted. This is reflected in ruptures in the patronage-based palm oil political economy and the formation of new social constituencies around global private sustainability standards. Though driven by global regulatory entrepreneurs who have thus far escaped Indonesian state control, the primary *local* drivers of these new sustainability coalitions are the very same global palm oil plantation corporations and traders/processors previously vilified for producing and procuring unsustainable palm oil. Of these, the five biggest palm oil plantation corporations operating in Indonesia, namely Asian Agri, Cargill Indonesia, GAR, Musim Mas, and Wilmar, reiterated their 'No DPE' commitment in September 2014 through the *Indonesian Palm Oil Pledge* (IPOP), which is backed by the powerful peak business association in Indonesia, the Indonesian Chamber of Commerce and Industry (known by its Indonesian acronym of KADIN), also a

<sup>23</sup>Southeast Asian investors are increasingly apprehensive about the market risks associated with palm oil production following Malaysian-registered IOI Group's loss of palm oil buyers and the review of its credit rating by Moody's after the suspension of its certification status by the RSPO in April 2016 (*Financial Times*, 26 May 2016).

<sup>24</sup>Author's analysis of corporate responses to sustainability violations reported in Friends of the Earth Europe (2015) and Greenpeace (2015).

<sup>25</sup>A notable exception is IOI Group against which not-for-profit enterprise Aidenvironment filed a formal complaint to the RSPO in April 2015 for non-compliance with key certification standards in three Indonesian subsidiaries. Following investigations by the RSPO and IOI's failure to satisfactorily rectify the violations, the RSPO suspended IOI Group's certification in April 2016 but reinstated it in August 2016 following submission of plans for remedial action by IOI (RSPO Secretariat 2016).

formal member of IPOP.<sup>26</sup> The IPOP-Five companies account for 60% of Indonesia's palm oil exports.<sup>27</sup> The commitment of the IPOP-Five to enhancing smallholder productivity also earned IPOP the support of the initially sceptical Indonesian Oil Palm Smallholders Union (*Serikat Petani Kelapa Sawit* or SPKS), the biggest smallholder union in the country, which now rejects the central government's claim that IPOP's more stringent private standards will only impoverish smallholders (Darto 2015; SPKS 2014). Although government pressure led IPOP members to dissolve IPOP as an entity on 1 July 2016, these companies pledged to independently continue with their respective corporate 'No DPE' commitments (IPOP 2016). These commitments are likely to be upheld given the risks to their global credibility and, thus, operations should these corporations backtrack on 'No DPE' practices.

While the full impact of recent developments remains to be seen, the trends reported here suggest that segments of the Indonesian palm oil sector that are integrated into transnational markets can be transformed. However, private governance will not be able to reach the large numbers of independent oil palm smallholders and medium-sized firms responsible for many of the recent fires in Indonesia who remain beyond the reach of 'ethical' palm oil supply chains linked to the global palm oil multinationals. The prevalence of illegal supply chains offers alternative markets for growers reluctant or lacking the capacity to make sustainability commitments (Daemeter Consulting 2015b; Gnych *et al.* 2015: 18). This is the problem of fragmentation, a key weakness of voluntary private governance that is mitigated when states or international organisations engage in 'orchestration' to expand the uptake of private standards more widely (Abbott and Snidal 2009: 544–546). Functional equivalents to state authority are not always sufficient in driving governance change.

State actors in Indonesia seem hostile to private standards, however. The establishment of the Indonesian Sustainable Palm Oil (ISPO) certification in 2012, compulsory for all domestic growers operating in Indonesia and backed by GAPKI, provides a less onerous alternative to RSPO certification and 'No DPE' standards (Daemeter 2015a: 29–30; Khor 2013). Crucial external audiences, however, do not regard ISPO as a credible sustainability programme (RAN 2016), while suggestions to merge or reconcile ISPO and RSPO are not feasible in the light of fundamental differences between the two. The RSPO offers far stronger standards on transparency, protecting High Conservation Value (HCV) areas within concessions, social standards, and clear back dates from which certification standards will apply (EFECA n.d.). However, Indonesian central authorities are not open to having RSPO or 'No DPE' standards set the benchmark for deforestation and peatland use, while ministers and

<sup>26</sup>IPOP was signed in September 2014 by four of these corporations. Musim Mas signed up in March 2015.

<sup>27</sup>See the IPOP website at <http://www.palmoilpledge.id/en/> (accessed on 1 May 2016).

lawmakers have long demanded Indonesian firms rescind their IPOP pledges (Butler 2014; *The Star Online*, 10 October 2015) and threatened investigations against IPOP for cartel practices (Reuters, 13 April 2016). It is unsurprising, therefore, that IPOP was dissolved on 1 July 2016 as noted above (IPOP 2016).

However, orchestration dynamics are clearly at work in the 2015 decision by two sub-state authorities in Indonesia – South Sumatra and Seruyan Province in Central Kalimantan – to respectively submit their entire jurisdictions to *global* sustainability standards in their quest for ‘green growth’.<sup>28</sup> This unprecedented move involves state authorities bringing all forests, land areas, smallholders, and other economic actors under a single sustainability standard so that governance fragmentation is reduced. That global private standards were chosen over Indonesian certification reflects recognition by sub-state actors of transformed global market realities, not only in Europe where sustainability has been a longstanding norm but also in China where sustainability concerns are far weaker. In China, the second-largest buyer of palm oil, state actors in charge of overseas investment have been working with industry associations to develop guidelines for the use of sustainable palm oil by Chinese enterprises and for agro-commodity investors venturing overseas to produce sustainable palm oil (CNFA 2015).<sup>29</sup>

## Conclusion

Private sustainability standards for palm oil – RSPO certification and especially the POIG/No Deforestation standards – show more promise than ASEAN in addressing the political-economic drivers of the fires/haze in Indonesia because ‘sovereignty-free’ private actors – global NGOs, philanthropic foundations, and social investors – were better positioned to harness transnational markets and use consumer product multinationals and Asian palm oil traders/processors as intermediaries to reach oil palm growers previously shielded from private regulation. Although these global private standards were adopted for instrumental reasons, and were thus fragile, private governance can be sustained, provided NGOs and other non-state actors perform functional equivalents of state authority. The analysis shows how sustained public pressure and continuous surveillance of corporate behaviour coupled with legitimisation of private standards by influential external audiences drove on-the-ground change. An overarching global normative structure centred on addressing climate change and advancing development-based human rights empowered regulatory entrepreneurs to institute

<sup>28</sup>The Regent of Seruyan, Hon. Sudarsono, and the Governor of South Sumatra, Hon. H. Alex Noerdin, confirmed their commitment to jurisdictional certification at the 13<sup>th</sup> annual Roundtable Conference of the RSPO held in Kuala Lumpur, 17–19 November 2015. The author was a participant at this Conference.

<sup>29</sup>Oil palm producers who refuse to participate in the sustainable palm oil movement will find it harder to rely on China to buy their products. Author’s interview with Simon Siburat, General Manager, Group Sustainability, Wilmar, in Kuala Lumpur, 1 December 2015.

stringent regulatory standards that would have been impossible in the presence of sovereignty-conscious state actors pursuing a growth agenda. This contrasts with ASEAN regional governance where state control of regional governance deflects global and local pressure for change.

Global private standards, therefore, have a strong chance of transforming those segments of the Indonesian palm oil sector that are integrated into transnational markets. However, transnational private governance cannot address irresponsible cultivation practices in illegal supply chains and those catering to the domestic market and other markets where palm oil produced to stringent private standards is not yet strongly in demand. There are limitations, therefore, to the governance capacity of voluntary private standards, despite NGOs and other regulatory entrepreneurs acting as ‘functional equivalents’ (Borzel and Risse 2010: 120) of state authorities in driving governance change. Central state actors are unwilling to play the orchestration role for now, notwithstanding the decision by two sub-state authorities to commit to global private standards, while ASEAN’s capacity to orchestrate acceptance of private standards is also limited by how far its least-committed member state is prepared to go down the private sustainability route. Nevertheless, palm oil’s economic importance to Indonesia and the global market transformations underway mean that global private standards have a first-mover advantage. However, the manner in which private standards have diffused into Indonesia challenges state authority and has annoyed central state actors who have denounced private standards as intrusions on national sovereignty. While private standards have sparked national conversations on sustainability in ways that ASEAN governance has not, the political bargaining between state authority, private regulators, and their proponents is only just beginning.

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### References

- Abbott, Kenneth W. and Snidal, Duncan. 2009. Strengthening international regulation through transnational new governance: overcoming the orchestration deficit. *Vanderbilt Journal of Transnational Law* 42, 501–578.
- Abbott, Kenneth W. 2012. Engaging the public and the private in global sustainability governance. *International Affairs* 88(3), 543–564.
- Abbott, Kenneth W., Jessica F. Green and Robert O. Keohane. 2016. Organizational ecology and institutional change in global governance. *International Organization* 70(2), 247–277.
- Acemoglu, Daron and Robinson, James A. 2012. *Why Nations Fail: The Origins of Power, Prosperity and Poverty*. New York: Crown Business.

- Aggarwal, Vinod K. and Chow, Jonathan T. 2010. The perils of consensus: how ASEAN's meta-regime undermines economic and environmental cooperation. *Review of International Political Economy* 17(2), 262–290.
- Agnew, John. 1994. The territorial trap: the geographical assumptions of international relations theory. *Review of International Political Economy* 1(1), 53–80.
- Amsterdam Declaration. 2015. *The Amsterdam Declaration in Support of a Fully Sustainable Palm Oil Supply Chain by 2020*, Documents on EU and Global Value Chains, Ministry of Foreign Affairs, Netherlands. Available at: <http://www.euandgvc.nl/documents/publications/2015/december/7/declarations-palm-oil>, (accessed on 1 August 2016).
- ASEAN. 2002. *ASEAN Agreement on Transboundary Haze Pollution*. Jakarta: Association of Southeast Asian Nations.
- Bartley, Tim. 2007. Institutional emergence in an era of globalization: the rise of transnational private regulation of labour and environmental conditions. *American Journal of Sociology* 113(2), 297–351.
- Bartley, Tim. 2014. Transnational governance and the re-centred state: sustainability or legality? *Regulation and Governance* 8(1), 93–109.
- Bernstein, Steven. 2011. Legitimacy in intergovernmental and non-state global governance. *Review of International Political Economy* 18(1), 17–51.
- Borzel, Tanja A. and Risse, Thomas. 2010. Governance without a state: can it work? *Regulation and Governance* 4(2), 113–134.
- Brad, Alina, Anka Schaffartzik, Melanie Pilcher and Christina Plank. 2015. Contested territorialization and biophysical expansion of oil palm plantations in Indonesia. *Geoforum* 64, 100–111.
- Brassett, James, Ben Richardson and William Smith. 2012. Private experiments in global governance: primary commodity roundtables and the politics of deliberation. *International Theory* 4(3), 367–399.
- Busch, Jonah *et al.* 2015. Reductions in emissions from deforestation from Indonesia's moratorium on new oil palm, timber, and logging concessions. *Proceedings of the National Academy of Sciences of the USA* 112(5), 1328–1333.
- Business Times. 2016. *Samling: Norwegian Action Sends Wrong Signals on Ops*, 24 September.
- Butler, Rhett. 2014. *Indonesian Law Bars Palm Oil Companies from Protecting Forests*, Mongabay.com, 21 October. Available at: <https://news.mongabay.com/2014/10/indonesian-law-bars-palm-oil-companies-from-protecting-forests/> (accessed on 10 June 2016).
- Cashore, Benjamin. 2002. Legitimacy and the privatisation of environmental governance: how Non-State Market-Driven (NSMD) governance systems gain rule-making authority. *Governance: An International Journal of Policy, Administration, and Institutions* 15(4), 503–529.
- Cashore, Benjamin, Graeme Auld and Deanna Newsom. 2004. *Governing through Markets: Forest Certification and the Emergence of Non-State Authority*. New Haven and London: Yale University Press.
- CNFA. 2015. *Guide for Overseas Investment and Production of Sustainable Palm Oil by Chinese Enterprises (Draft Version 3.0)*, China Chamber of Commerce of Foodstuffs and Native Produce (CNFA), October 2015.
- Daemeter Consulting. 2015a. *Indonesia's Evolving Governance Framework for Palm Oil: Implications for a No Deforestation, No Peat Palm Oil Sector*. Bogor, Indonesia: Daemeter Consulting.
- Daemeter Consulting. 2015b. *Overview of Indonesian Palm Oil Smallholder Farmers*. Bogor, Indonesia: Daemeter Consulting.

- Darto, Mansuetus. 2015. *Oil palm smallholders involvement and development opportunity*. Presentation at the Global Bioenergy Partnership Week, 25 May 2015. Available at: [http://www.globalbioenergy.org/fileadmin/user\\_upload/gbep/docs/2015\\_events/3rd\\_Bioenergy\\_Week\\_25-29\\_May\\_Indonesia/25\\_5\\_10\\_DARTO.pdf](http://www.globalbioenergy.org/fileadmin/user_upload/gbep/docs/2015_events/3rd_Bioenergy_Week_25-29_May_Indonesia/25_5_10_DARTO.pdf) (accessed on 22 December 2015).
- Dauvergne, Peter. 2016. The sustainability story: exposing truths, half-truths, and illusions. In Simon Nicholson and Sikina Jinnah (eds.), *New Earth Politics: Essays from the Anthropocene*, pp. 387–404. Cambridge, MA: The MIT Press.
- Department of Environment, Food and Rural Affairs. 2015. *UK Statement on Sustainable Palm Oil: 3 Years on Progress Report*. London: UK Department of Environment, Food and Rural Affairs, November 2015.
- EFECA. n.d. *Comparison of the ISPO, MSPO and RSPO Standards*. Dorset, UK: Economics, Climate, Environment. Available at: [http://www.sustainablepalmoil.org/wp-content/uploads/sites/2/2015/09/Efec\\_a\\_PO-Standards-Comparison.pdf](http://www.sustainablepalmoil.org/wp-content/uploads/sites/2/2015/09/Efec_a_PO-Standards-Comparison.pdf) (accessed on 23 June 2016).
- Elliott, Lorraine. 2012. ASEAN and Environmental Governance: Strategies of regionalism in Southeast Asia. *Global Environmental Politics* 12(3), 38–57.
- Eyes on the Forest. 2016. *No One is Safe: Illegal Indonesian palm oil spreads through global supply chains despite global sustainability commitments and certifications*, Riau: Eyes on the Forest Investigative Report, April 2016.
- Financial Times. 2016. *Palm Oil Battle Spreads beyond Ethical Investors*, 26 May.
- Finkelstein, J.B. 2014. The chain: 96% of global palm oil trade covered by zero-deforestation. *Chain Reaction Research*, 8 December. Available at: <http://skollworldforum.org/editor-pick/96-of-global-palm-oil-trade-covered-by-zero-deforestation/> (accessed on 15 March 2015).
- Friends of the Earth Europe. 2015. *Up in Smoke: Failures in Wilmar's Promise to Clean up the Palm Oil Business*. Brussels: Friends of the Earth Europe.
- GAR. 2015. *GAR launches peat rehabilitation project*. Press Release, Golden Agri-Resources, 16 November 2015.
- Gaveau, David and Mohammad Agus Salim. 2013. Research: Nearly a quarter of June fires in Indonesia occurred in industrial plantations. *CIFOR Forest Blog*, 30 July. Available at: <http://blog.cifor.org/18218/research-nearly-a-quarter-of-june-fires-in-indonesia-occurred-in-industrial-plantations?fnl=en> (accessed on 7 June 2016).
- Gazibara, Tracey. 2014. *How zoos and aquariums are engaging consumers to push companies towards 100% CSPO*. Presentation at the RSPO Annual Roundtable (RT12), Kuala Lumpur, 18–20 November 2014.
- Gnych, Sophia M., Godwin Limberg and Gary Paoli. 2015. *Risky Business. Motivating Uptake and Implementation of Sustainability Standards in the Indonesian Palm Oil Sector*. Bogor, Indonesia: Centre for International Forestry Research (CIFOR).
- Goodman, Lael K. and Mulik, Kranti. 2015. *Clearing the Air: Palm Oil, Peat Destruction and Air Pollution*. Union of Concerned Scientists. Available at: <http://www.ucsusa.org/sites/default/files/attach/2015/03/clearing-the-air-ucs-2015.pdf> (accessed on 2 December 2015).
- Greenpeace. 2013. *Certifying Destruction*. Amsterdam: Greenpeace International.
- Greenpeace. 2015. *Indonesia's Forests: Under Fire*. Amsterdam: Greenpeace International.
- Gulbrandsen, Lars H. 2014. Dynamic governance interactions: evolutionary effects of state responses to non-state certification programs. *Regulation and Governance* 8(1), 74–92.

- Haas, Peter. 2015. Post hegemonic global governance. *Japanese Journal of Political Science* 16(3), 434–441.
- Hall, Rodney Bruce and Biersteker, Thomas J. 2002. The emergence of private authority in the international system. In Rodney Bruce Hall and Thomas J. Biersteker (eds.), *The Emergence of Private Authority in Global Governance*, pp. 3–22. Cambridge: Cambridge University Press.
- Hameiri, Shahar and Jayasuriya, Kanishka. 2011. Regulatory regionalism and the dynamics of territorial politics: the case of the Asia-Pacific region. *Political Studies* 59(1), 20–37.
- Hameiri, Shahar and Jones, Lee. 2013. The politics and governance of non-traditional security. *International Studies Quarterly* 57(3), 462–473.
- Hidayat, Nia Kurniawati, Pieter Glasbergen and Astrid Offeermans. 2015. Sustainability certification and palm oil smallholders' livelihood: a comparison between scheme smallholders and independent smallholders in Indonesia. *International Food and Agribusiness Management Review* 18(3), 25–48.
- Holmgren, Peter. 2015. Preventing fire and haze: sustainable solutions for Indonesia's peatlands. *CIFOR Forest Blog*, 26 October. Bogor: Centre for International Forestry Research. Available at: <http://blog.cifor.org/36585/preventing-fire-and-haze-sustainable-solutions-for-indonesias-peatlands?fnl=en> (accessed on 26 November 2015).
- IPOP. 2016. IPOP signatories support Government of Indonesia's efforts to transform palm oil sector towards sustainability. *IPOP Press Release*, 1 July 2016. Available at: <http://www.palmoilpledge.id/en/2016/07/ipop-signatories-support-government-of-indonesias-efforts-to-transform-palm-oil-sector-towards-sustainability> (accessed on 2 July 2016).
- Jayasuriya, Kanishka. 2008. Regionalising the state: political topography of regulatory regionalism. *Contemporary Politics* 14(1), 21–35.
- Jones, Lee. 2012. *ASEAN, Sovereignty and Intervention in Southeast Asia*. Basingstoke: Palgrave Macmillan.
- Khor, Yuleng. 2009. *Roundtable 7: Notes and Analysis on the Sessions and General Assembly from an Upstream Corporate Perspective*. Kuala Lumpur: Acacia Services Pte Ltd, 16 November 2009 (unpublished report).
- Khor, Yuleng. 2013. Struggle for sustainability in palm oil industry shows results. *ISEAS Perspective #18/2013*. Singapore: ISEAS.
- Khor, Yu Leng, Johan Saravanamuttu and Deborah Augustin. 2015. Haze control through the sustenance of Indonesian oil palm smallholders. *Think ASEAN Issue No. 5* (November 2015), pp. 7–10. Jakarta: The Habibie Centre.
- Kollman, Kelly. 2008. The regulatory power of business norms: a call for a new research agenda. *International Studies Review* 10(3), 397–419.
- Lawson, Sam. 2014. *Consumer Goods and Deforestation: An Analysis of the Extent and Nature of Illegality in Forest Conversion for Agriculture and Timber Plantations*. Washington DC: Forest Trends.
- Lee, Janice Ser Huay, Sinan Abood, Jarbouy Ghazoul, Baba Barous, Krystof Obidzinski and Lian Pin Koh. 2014. Environmental impacts of large-scale oil palm enterprises exceed that of smallholdings in Indonesia. *Conservation Letters* 7(1), 25–33.
- Lipschutz, Ronnie D. 2005. Global civil society and global governmentality: or, the search for politics and the state amidst the capillaries of social power. In Michael Barnett and Raymond Duvall (eds.), *Power in Global Governance*, pp. 229–248. Cambridge: Cambridge University Press.

- Mattli, Walter. 2003. Public and private governance in setting international standards. In Miles Kahler and David Lake (eds.), *Governance in a Global Economy: Political Authority in Transition*, pp. 199–225. Princeton and Oxford: Princeton University Press.
- Marlier, Miriam E., Ruth S. DeFries, Patrick S. Kim, Shannon N. Koplitz, Daniel J. Jacob, Loretta J. Mickley and Samuel S. Myers. 2015. Fire emissions and regional air quality impacts from fires in oil palm, timber, and logging concessions in Indonesia. *Environmental Research Letters* 10(8). DOI:10.1088/1748-9326/10/8/085005.
- McCarthy, John F. 2012. Certifying in contested spaces: private regulation in Indonesian forestry and palm oil. *Third World Quarterly* 33(10), 1871–1888.
- Micheletti, Michele and Stolle, Dietlind. 2008. Fashioning social justice through political consumerism, capitalism and the internet. *Cultural Studies* 22(5), 749–769.
- MSCI. 2014. Palm oil: the road to sustainability. *ESG Issue Report Executive Summary*, May 2014. MSCI ESG Research Services.
- Musim Mas. 2015. Independent smallholders project: Musim Mas joins hands with IFC. *Musim Mas Sustainability Journal*, Vol. 10 (July 2015). Available at: <http://www.musimmas.com/news/sustainability-journal/2015> (accessed on 22 December 2015).
- Nesadurai, Helen E.S. 2014. Civil society and land conflicts in Southeast Asia: navigating between national regional and transnational governance. In Lozenzo Fioramonti (ed.), *Civil Society and World Regions: How Citizens are Reshaping World Regions in Times of Crisis*, pp. 107–121. Lanham, USA: Lexington Books.
- Nesadurai, Helen E.S. 2017. Contesting private sustainability norms in primary commodity production: norm hybridisation in the palm oil sector. In Alan Bloomfield and Shirley Scott (eds.), *Norm Antipreneurs: The Politics of Resistance to Global Normative Change*, pp. 159–176. London and New York: Routledge.
- POIG. 2013. *Palm Oil Innovation Group Charter*, 13 November 2013. Available at: <http://poig.org/wp-content/uploads/2014/09/POIG-Charter-v1.pdf> (accessed on 8 June 2016).
- Prakash, Aseem and Potoski, Matthew. 2010. The International Organization for Standardization as a global governor: a club theory perspective. In Deborah D. Avant, Martha Finnemore, and Susan K. Sell (eds.), *Who Governs the Globe?* pp. 72–101. Cambridge, UK: Cambridge University Press.
- Purnomo, Agus. 2016. A quiet traceable revolution in the palm oil industry. *Eco-Business*, 15 June 2016. Available at: <http://www.eco-business.com/opinion/a-quiet-traceable-revolution-in-the-palm-oil-industry/> (accessed 26 June 2016).
- Purnomo, Henry. 2015. Political economy of fire and haze: moving to long-term solutions. *CIFOR Forest Blog*, 26 August 2015. Available at: <http://blog.cifor.org/32534/political-economy-of-fire-and-haze-moving-to-long-term-solutions?fnl=en> (accessed on 25 October 2015).
- RAN. 2016. “A lost opportunity for Indonesia” RAN responds to dissolution of the Indonesian Palm Oil Pledge. Press Release, Rainforest Action Network, 29 June 2016.
- Reuters. 2016. *Indonesia to probe palm producers’ environmental pledge—anti-monopoly agency*, 13 April.
- RSPO. 2013. *Adoption of Principles and Criteria for the Production of Sustainable Palm Oil 2013*, Submission of the Executive Board for the Extraordinary General Assembly, 25 April 2013, Kuala Lumpur: Roundtable on Sustainable Palm Oil.
- RSPO. 2014. *Impact Report 2014*, Kuala Lumpur: Roundtable on Sustainable Palm Oil.
- RSPO Secretariat. 2015a. *Who dunnit? tracking the source of the haze using online maps. News and Events*, 28 August 2015. Kuala Lumpur: Roundtable on Sustainable Palm Oil.



- RSPO Secretariat. 2015b. *RSPO NEXT: taking the Principles and Criteria to the next level. News and Events*, 28 August 2015. Available at: <http://www.rspo.org/news-and-events/news/rspo-next-taking-the-principles-and-criteria-to-the-next-level> (accessed on 1 November 2015).
- RSPO Secretariat. 2016. *Update on the status of IOI Group certification. News and Events*, 5 August 2016. Available at: <http://www.rspo.org/news-and-events/announcements/update-on-the-status-of-ioi-groups-certification> (accessed on 11 August 2016).
- Ruggie, John Gerard. 2004. Reconstituting the global public domain—issues, actors and practices. *European Journal of International Relations* 10(4), 499–531.
- Schouten, Greetje and Glasbergen, Pieter. 2011. Creating legitimacy in global private governance: the case of the Roundtable on Sustainable Palm Oil. *Ecological Economics* 70(11), 1891–1899.
- Sell, Susan and Prakash, Aseem. 2004. Using ideas strategically: the contest between business and NGO networks in intellectual property rights. *International Studies Quarterly* 48(1), 143–75.
- Siburat, Simon. 2014. *Steps in addressing traceable FFB by Wilmar group*. Presentation at the 12<sup>th</sup> Annual Convention of the RSPO, Shangri-La Hotel, Kuala Lumpur, 17–20 November 2014.
- SPKS. 2014. *Open letter from Oil Palm Smallholders Union (SPKS) and Sawit Watch (SW) to the Governments of Indonesia and the European Union*, 3 April 2014. Available at: <http://spks.or.id/berita-open-letter.html> (accessed on 5 January 2016).
- Sustainable Business. 2016. *Norway pledges to buy only zero deforestation products*, 6 March 2016. Available at: <http://www.sustainablebusiness.com/index.cfm/go/news.display/id/26636> (accessed on 10 August 2016).
- The Habibie Center. 2015. Southeast Asia's fire and haze: challenges and complexities. *Thinking ASEAN*, Issue No. 5 (November 2015), p. 11.
- UNEP. 2014. *UNEP and Roundtable on Sustainable Palm Oil sign new agreement*. Press Release: 14 November 2014. Geneva: United Nations Environment Programme. Available at: <http://www.unep.org/ecosystemmanagement/News/PressRelease/tabid/426/language/en-US/Default.aspx?DocumentID=2812&ArticleID=11071&Lang=en> (accessed 15 March 2015).
- Varkkey, Helena. 2016. *The Haze Problem in Southeast Asia: Palm Oil and Patronage*. London and New York: Routledge.
- Wilmar. 2015. *No Deforestation, No Peat, No Exploitation: Policy Progress Update (December 2013-December 2015)*. Singapore: Wilmar International.
- World Bank. 2012. *Inclusive Green Growth: The Pathway to Sustainable Development*. Washington, DC: The World Bank.
- WWF. 2012. *Palm Oil Investor Review: Investor Guidance on Palm Oil*. Available at: [http://awsassets.panda.org/downloads/wwf\\_palmoil\\_investorreview.pdf](http://awsassets.panda.org/downloads/wwf_palmoil_investorreview.pdf) (accessed on 29 November 2014).
- Yaap, Betsy and Paoli, Guy. 2014. *A Comparison of Leading Palm Oil Certification Standards Applied in Indonesia: Towards Defining Emerging Norms of Good Practice*. Bogor, Indonesia: Daemeter Consulting.