



KAMI

Sustainability of Malaysian
and Indonesian Palm Oil

Reinforcing deforestation-free palm oil supply chains: options for Malaysia in the context of EU and global legislation

September 2024



This report was authored by the Institute of Strategic and International Studies Malaysia (ISIS Malaysia) and University Putra Malaysia (UPM) under the European Forest Institute's KAMI project.

Cover photo: Oil palm fruits. Husni Hidayat/Vecteezy

Disclaimer. This report has been produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union.

© European Forest Institute, 2024

Summary

This report, prepared by the Institute of Strategic and International Studies Malaysia and University Putra Malaysia for the European Forest Institute, focuses on reinforcing deforestation-free palm oil supply chains in Malaysia within the context of EU and global legislation. It details the requirements under the European Union Deforestation Regulation (EUDR), as well as similar regulations in the UK and the US. The report examines Malaysia's palm oil production and trade, highlighting the challenges and opportunities in aligning with international deforestation-free standards.

Key sections

1. **Background on legal and deforestation-free commodity supply chains:** Overview of legislation in the EU, UK, and US aimed at reducing deforestation linked to commodity production. Analysis of Malaysia's palm oil industry, its contribution to deforestation, and the steps taken to improve sustainability.
2. **Objectives and methodology:** Outlines the data consultation and collection process used to identify gaps and opportunities in Malaysia's compliance with EUDR requirements.
3. **Availability and access of data relevant to EUDR:** Details the specific data required under the EUDR, assessing its availability and gaps in Malaysia's current systems.
4. **Points for consideration:** Recommendations for improving Malaysia's alignment with deforestation-free requirements, focusing on key concepts, data interoperability and traceability systems.

Table of contents

1. Background on legal and deforestation-free commodity supply chains	6
1.1 Global legislation on deforestation-free commodities	6
1.1.1 European Union Deforestation Regulation (EUDR).....	6
1.1.2 Other global markets.....	8
1.2 Malaysian palm oil production and trade in relation to global legislation	10
1.2.1 Deforestation.....	12
1.2.2 Legality.....	15
1.2.3 Certification	15
1.2.4 Traceability.....	16
2. Objectives and methodology	16
2.1 Data consultation	17
2.2 Data collection.....	17
3. Availability and access of data relevant to EUDR	18
3.1 Article 9 – Information requirements	18
3.1.1 Article 9(1)(a)	18
3.1.2 Article 9(1)(b)	19
3.1.3 Article 9(1)(c).....	19
3.1.4 Article 9(1)(d)	19
3.1.5 Article 9(1)(e)	20
3.1.6 Article 9(1)(g)	20
3.1.7 Article 9(1)(h)	21
3.2 Article 10 – Risk assessment.....	22
3.2.1 Article 10(2)(a)	22
3.2.2 Article 10(2)(b)	23
3.2.3 Article 10(2)(c).....	27
3.2.4 Article 10(2)(d)	29
3.2.5 Article 10(2)(e)	30
3.2.6 Article 10(2)(f) and Article 29(3)(a)	30
3.2.7 Article 10(2)(g)	34
3.2.8 Article 10(2)(h)	34
3.2.9 Article 10(2)(i).....	35
3.2.10 Article 10(2)(j).....	38
3.2.11 Article 10(2)(k).....	39
3.2.12 Article 10(2)(l) and (m).....	40
3.2.13 Article 10(2)(n)	40
3.3 Article 29 – Assessment of countries	43

3.3.1 Article 29(3)(a)	44
3.3.2 Article 29(3)(b)	44
3.3.3 Article 29(3)(c).....	47
4. Points for consideration	48
4.1 Aligning key concepts and definitions	48
4.2 Enhancing the ecosystem of the MSPO standards	49
4.3 New regulatory opportunities	49
4.4 Data integration	50
References	51
Appendix: List of key expert discussions and interviews	55

List of figures

Figure 1: Due Diligence process as outlined under Articles 9 and 10 of the EUDR	7
Figure 2: Proportion of planted area of oil palm in Malaysia by states, 2023	11
Figure 3: Tree cover loss in Malaysia by region (2001-2021)	14
Figure 4: Annual change in oil palm area in Malaysia since 2015 (hectares).....	14
Figure 5: Map of Permanent Reserved Forests in Peninsular Malaysia	24
Figure 6: Primary forest loss in Malaysia, 2014-2023	32
Figure 7: RSPO certified area by states in Malaysia (out of 1,510,009 ha).....	43

List of tables

Table 1: Comparison between EU, UK and US deforestation-free regulations	9
Table 2: Planted area of oil palm in Malaysia, 2023	10
Table 3: Certified palm oil area in Malaysia	15
Table 4: Statistical inventory of forest areas in Malaysia, 2020	25
Table 5: Population indigenous peoples in districts with the presence of indigenous peoples, 2020.....	28
Table 6: Primary forest loss in Malaysia according to districts, 2014-2023	32
Table 7: Distribution of MPOB license holders across the upstream supply chain, 2022	37
Table 8: MSPO supply chain models of Malaysian palm oil mills, 2023.....	38
Table 9: RSPO and ISCC-certified upstream base in Malaysia, 2023	41
Table 10: Oil palm planted area in Malaysia, 2020-2023	44
Table 11: Crude palm oil production in Malaysia, 2020-2023	47

1. Background on legal and deforestation-free commodity supply chains

The global shift towards sustainability will entail heightened business and government accountability and responsibility in curbing deforestation and addressing climate change. The impacts of the shift are particularly pronounced in agricultural commodity supply chains, which have historically been associated with social and environmental externalities, in particular deforestation and biodiversity loss. Other issues such as climate change and violations of indigenous peoples' rights and labour rights have also been linked to the agricultural sector. To maintain pace with the transition, nations, economies and businesses must adapt to evolving policies, market dynamics and regulations, including those implemented internationally.

1.1 Global legislation on deforestation-free commodities

Several governments have enacted or are considering legislation to curb consumption of commodities and products resulting from deforestation. Legal action in the EU, the US, and the UK have the potential to affect flows of palm oil and derived products to these regions. The following sections provide an overview of EU, US and UK legislation on commodity related deforestation. **Table 1** outlines commonalities and differences.

1.1.1 European Union Deforestation Regulation (EUDR)

The European Union Regulation 2023/1115 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation aims at “*minimising consumption of commodity products coming from supply chains associated with deforestation or forest degradation*” and “*increasing EU demand for and trade in legal ‘deforestation free’ commodities and products*”. The European Union Deforestation Regulation, or EUDR as it is commonly known, is part of the European Green Deal, under which the EU has set itself a binding target of achieving climate neutrality by 2050. The EUDR was introduced in November 2021 when the European Commission presented a proposal for a regulation on deforestation-free products. Following several rounds of review, the EUDR entered into force on 29 June 2023.

The EUDR sets mandatory due diligence rules for operators placing relevant products on the EU market or exporting them from the EU. Seven commodities covered by the EUDR: palm oil, cattle, soy, coffee, cocoa, wood and rubber, as well as some derivative products. Operators and traders will have to provide information that the products are both deforestation-free (produced on land that was not subjected to deforestation after 31 December 2020) and legal (compliant with all relevant applicable laws in force in the country of production). Larger operators and traders placing relevant products on the EU market will need to comply with the new rules by 30 December 2024, while small and medium-sized enterprises (SMEs) will have six additional months, until 20 June 2025.

Under the EUDR, operators in the EU will be obliged to exercise due diligence to ensure that commodities and products shall not be placed on the EU market unless the following conditions are fulfilled (Article 3):

- They are deforestation-free according to the EUDR/FAO definition of forest¹;
- They were produced in accordance with the relevant legislation of the country of production;
- They are covered by a due diligence statement.

The due diligence process under the EUDR involves three steps: information collection, risk assessment and risk mitigation, as detailed in Articles 9, 10 and 11 (Figure 1). Operators will be required to provide geolocation information of all plots of land where the relevant product was produced. This means providing the location of a plot of land described by means of latitude and longitude coordinates corresponding to at least one latitude and one longitude point and using at least six decimal digits. For plots greater than 4 hectares, polygons with sufficient latitude and longitude points to describe the perimeter of each plot of land are required.

The extent of due diligence required to be conducted by operators will depend on the country benchmarking under Article 29 (high-risk, standard-risk or low-risk). Operators sourcing from low-risk countries will only need to gather information specified under Article 9. Those sourcing from non-low risk countries or parts thereof will also be required to conduct steps 2 and 3 – risk assessment and risk mitigation under Articles 10 and 11. The benchmarking system and risk assigned to the country of production or parts thereof will also affect the frequency and intensity of checks by EU Competent Authorities on operators and traders. At least 1% of operators and traders sourcing commodities from low-risk countries must be checked, 3% for standard risk and 9% for high-risk countries or parts thereof.

Figure 1: Due Diligence process as outlined under Articles 9 and 10 of the EUDR



¹ Meaning that the relevant products contain, have been fed with or have been made using commodities that were produced on land that has not been subject to deforestation after 31 December 2020.

1.1.2 Other global markets

1.1.2.1 United Kingdom Environment Act 2021

The UK took a step in addressing commodity-linked illegal deforestation by enacting the Environment Act on 9 November 2021. This primary legislation explicitly aims to counter the import of products derived from commodities produced on illegally deforested land. Similar to the EUDR, the law mandates regulated businesses to establish and implement due diligence systems for specific commodities and their derived products within their supply chains.

Under the Environment Act 2021, the Forest Risk Commodities Scheme, outlined in Schedule 17, will be introduced to further combat deforestation risks. In December 2023, the government provided additional details and revisions to the policy². Notably, the scheme will cover non-dairy cattle products (beef and leather), cocoa, palm oil and soy, while commodities such as coffee, wood, maize and rubber are not initially included. The law will be applicable to companies with a global turnover exceeding GBP50 million. Additionally, companies dealing with commodities below the annual volume threshold of 500 tonnes may be exempt from the regulation.

While the exact enforcement date has not been set, the UK government has communicated a preparatory "grace period" before the commencement of the initial reporting period. However, as of now, no specific timeline for this grace period has been announced.

1.1.2.2 United States FOREST Act 2023

In October 2021, the United States introduced a bill aimed at restricting imports associated with illegal deforestation. Despite receiving bipartisan support, the bill did not pass, leading to a revised version being reintroduced on 1 December 2023³. During this reintroduction, members of the US House of Representatives and Senate presented the "Fostering Overseas Rule of Law and Environmentally Sound Trade Act of 2023" (FOREST Act). This legislation seeks to prohibit the import of products derived from commodities produced on illegally deforested land.

The FOREST Act of 2023 mandates that importers of specific products, identified as high risk for contributing to illegal deforestation, must certify that they have taken measures to mitigate the risks associated with their product being produced on illegally deforested land. The targeted products include palm oil, soybeans, cocoa, cattle and rubber. Importers will be subject to more stringent supply chain due diligence and disclosure requirements if any component in the product originates from countries deemed insufficient in enforcing deforestation laws.

Under the proposed legislation, the US Customs and Border Protection would refuse entry to any import unable to meet the applicable certification requirement, assuming that the product was produced wholly or in part on illegally deforested land. Additionally, the bill expands the enforcement of US money laundering laws to target proceeds from illegal deforestation,

² <https://www.gov.uk/government/news/supermarket-essentials-will-no-longer-be-linked-to-illegal-deforestation>

³ <https://www.congress.gov/bills/118th-congress/house-bill/3424/text>

establishes a technical assistance programme aiding countries in enforcing forestry laws, and introduces a government procurement preference for goods not linked to deforestation.

Table 1: Comparison between EU, UK and US deforestation-free regulations

Element	European Union	United Kingdom	United States
Instrument	EU Deforestation Regulation European Commission Decision on Benchmarking	Environment Act + secondary legislation	Forest Bill (2021) Executive order (2022)
State of play	Adopted in April 2023 Entry into force 29 June 2023 (18 months transition). Entry into application 31 December 2024.	Environment Act adopted. Secondary legislation pending.	Revised bill introduced in Dec 2023 Legislation following the executive order pending
Measure	Prohibition to place on the EU market or to export from the EU	Prohibition to import into the UK market	Prohibition to import into the US market
Complementary means	Forest partnerships, support, trade agreements	Cooperation and partnerships	Action plan with high-risk countries
Scope	Deforestation (both legal and illegal) Degradation* Cut-off date: 31.12.2020 Legality (Laws of producing country)	Illegal deforestation Legality (Laws of producing country)	(Executive order:) TBC: Deforestation (cut-off date 31 December 2020) Legality (Laws of producing country)
Products	Timber, palm oil, rubber, cocoa, coffee, soy, beef	Non-dairy cattle (beef and leather), cocoa, palm oil, soy	Palm oil, soy, cattle, rubber, wood pulp, cocoa
Implementation	Due diligence	Due diligence	Reasonable care
Traceability	Geolocation of plot of land across all risk levels	Country of production	Country of production Geolocation (smallest unit, high risk only)
Benchmarking	Country or part thereof** High/standard/low risk	---	High-risk or not high-risk
Forest definition	Modified FAO definition***	FAO definition	---
Human Rights	Laws of country of production	Laws of country of production	Laws of country of production

Notes: *'forest degradation' means structural changes to forest cover, taking the form of the conversion of primary forests or naturally regenerating forests into plantation forests or into other wooded land and the conversion of primary forests into planted forests

**part thereof only applicable to countries where there are parts thereof that are high risk

***'forest' means land spanning more than 0,5 hectares with trees higher than 5 metres and a canopy cover of more than 10 %, or trees able to reach those thresholds in situ, excluding land that is predominantly under agricultural or urban land use; 'deforestation' means the conversion of forest to agricultural use, whether human-induced or not; 'agricultural use' means the use of land for the purpose of agriculture, including for agricultural plantations and set-aside agricultural areas, and for rearing livestock; 'agricultural plantation' means land with tree stands in agricultural production systems, such as fruit tree plantations, oil palm plantations, olive orchards and agroforestry systems where crops are grown under tree cover; it includes all plantations of relevant commodities other than wood; agricultural plantations are excluded from the definition of 'forest'

While the EUDR scope includes all deforestation, even when legal according to the laws of the country of production, the US FOREST Act of 2023 and the UK Environmental Act primarily focus on illegal deforestation. At the time of writing, no other significant palm oil importing countries, e.g., China, India, or Japan, are enacting or considering similar rules.

1.2 Malaysian palm oil production and trade in relation to global legislation

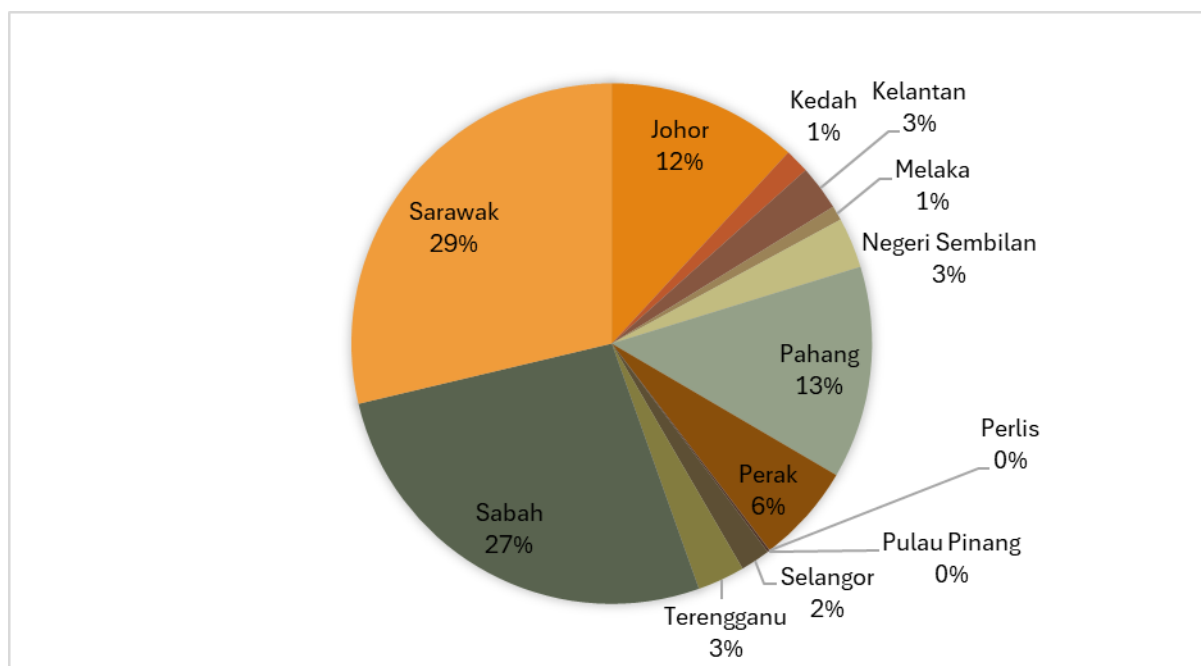
Malaysia is the world's second-largest producer and exporter of palm oil, a commodity that is used in a wide range of products, from food to cosmetics and biofuels. In 2020, Malaysia accounted for 25.8% and 34.3% of the world's palm oil production and exports (MPOC, 2021). Oil palm plantations cover 5.65 million hectares of land in Malaysia, accounting for 18% of the country's total land area and 70% of arable land. There are about 650,000 smallholder farmers who produce approximately 30% of the country's palm oil, with the remaining 70% produced by private and state-owned estates (MPOB, 2022).

Table 2: Planted area of oil palm in Malaysia, 2023

State	Estate & organized smallholder (ha)	Independent smallholder (ha)	Total planted area (ha)
Johor	528,733	142,129	670,862
Kedah	60,606	25,265	85,871
Kelantan	151,821	6,821	158,641
Melaka	41,892	9,191	51,083
Negeri Sembilan	157,377	20,090	177,467
Pahang	704,199	41,872	746,070
Perak	269,441	79,783	349,224
Perlis	727	154	881
Pulau Pinang	2,740	5,494	8,234
Selangor	85,143	19,005	104,148
Terengganu	155,421	10,981	166,402
Sabah	1,306,345	203,680	1,510,025
Sarawak	1,366,051	257,609	1,623,661
Malaysia	4,830,495	822,073	5,652,569

Source: Ministry of Plantation and Commodities (2024)

Figure 2: Proportion of planted area of oil palm in Malaysia by states, 2023



Source: Ministry of Plantation and Commodities (2024)

Malaysia's economy is heavily reliant on commodity trading, with palm oil a major export commodity. The EU is a significant market for Malaysian palm oil, ranking third after India and China, whereby Malaysia's export to the EU in 2023 accounted for 7.1% of total palm oil exports (MPOB, 2022). Overall, palm oil and products derived from it account for 9.9% of Malaysia's exports and 6% of its GDP.

While palm oil has many benefits including high productivity and versatility, its production has been linked to negative environmental and social impacts, including deforestation, habitat destruction and labour exploitation. In Malaysia, around half of the total deforestation in recent decades appears to have been caused directly by oil palm expansion, and up to 69% where possible indirect deforestation is considered (Li et al., 2020).

Over the past two decades as global demand for sustainable palm oil has continued to grow, Malaysia has taken steps to ensure that its palm oil industry abides by domestic environmental and social regulations to remain competitive. This includes a range of measures such as the implementation of mandatory and voluntary standards, along with numerous corporate environmental, social and governance commitments. The oil palm industry in Malaysia has worked to improve its accountability, traceability, transparency and environmental responsibility. The development of the Malaysian Sustainable Palm Oil (MSPO) certification has helped position Malaysia in relation to global market demands and could serve as a repository of information for EU operators in meeting their requirements under the EUDR, notably in providing information per Article 9, as detailed in Section 3.1. Data accessibility and availability challenges persist, particularly regarding data for risk assessment related to land use, forestry and indigenous peoples as per Article 10, as outlined in Section 3.2.

The discourse surrounding the EUDR has evolved throughout the period of policy development and up to the implementation and application of the regulation. Recognising the technical challenges associated with its implementation, both the EU and Malaysia have expressed willingness to engage in dialogue and provide technical assistance. This commitment is exemplified through initiatives such as the EU-funded KAMI project (Sustainability of Malaysian and Indonesian Palm Oil), under which this report was produced. Furthermore, collaborative efforts such as the 'Ad Hoc Joint Task Force on the EUDR' between Indonesia, Malaysia, and the European Union have been established to address concerns surrounding the effective implementation of the EUDR. The outputs of this report are aimed at making a contribution to the overall process by outlining gaps and challenges regarding provision of the information required under the EUDR.

Malaysia is internationally recognised for its exceptional biodiversity and has the status of a 'megadiverse' country. Addressing deforestation risks, especially in the agri-commodity sector, will contribute to Malaysia's international commitments and national targets, including the 50% forest and tree cover pledge made at the Rio Earth Summit in 1992, climate-related commitments such as its Nationally Determined Contribution (NDC) under the Paris Agreement, and aspirations to become a net-zero nation by as early as 2050. As of 2019, Malaysia's forest sequesters approximately 65% of its greenhouse gas emissions (NRECC, 2022).

The following sections summarise developments in Malaysian palm oil supply chains regarding deforestation, legality, certification and traceability based on government policies and various stakeholder initiatives.

1.2.1 Deforestation

Malaysia's efforts to become a high-income nation have been accompanied by rapid land-use change and conversion of natural forests to other forms of land use such as agriculture, industry and settlements. Despite ongoing pressure, 54.58% of the national land area remains under forest and tree cover (NRECC, 2023). In balancing development with environment protection, Malaysia has integrated forest and biodiversity conservation into national policy since the Eight Malaysia Plan and underscored this commitment through the formulation of several additional policies.

In 2018, the government declared a moratorium on palm oil expansion to protect its forests. This is consistent with the pledge made at the Rio Earth Summit in 1992 to retain at least 50% of land area under forest and tree cover, and other international commitments, for instance setting aside protected areas to meet the Aichi targets under the Convention on Biological Diversity (CBD). In 2019, the government announced policy support for sustainable palm oil addressing areas including:

- Capping of total oil palm cultivated area at 6.5 million hectares by 2023;
- Implementing a ban on new oil palm cultivation on peat lands and imposing stricter conditions on existing oil palm in peat lands;
- Implementing a ban on conversion of Permanent Forest Reserves to oil palm or other agricultural crops;

- Development of an official map of oil palm planted areas nationwide for public access to enhance transparency of information.

Beyond the palm oil sector, Malaysia has also implemented measures to reduce deforestation in general. Under the Federal Constitution of Malaysia, jurisdiction of natural resources including land, water and forests falls under the responsibility of the state governments. While the state governments are encouraged to enact laws and formulate policies regarding land and forestry matters, their reliance on limited revenue sources – such as logging, mining, oil palm land premiums and timber royalties – often leads to conflicts in policy, misalignment of targets, and conservation challenges. Recognising this, the government has increased efforts to incentivise state governments to preserve, restore and rehabilitate forests. In 2019, the Ecological Fiscal Transfer was introduced by the federal government, with an initial amount of RM 70 million rising to RM 200 million in 2024, to channel conservation funds to state government based on sets of ecological criteria.

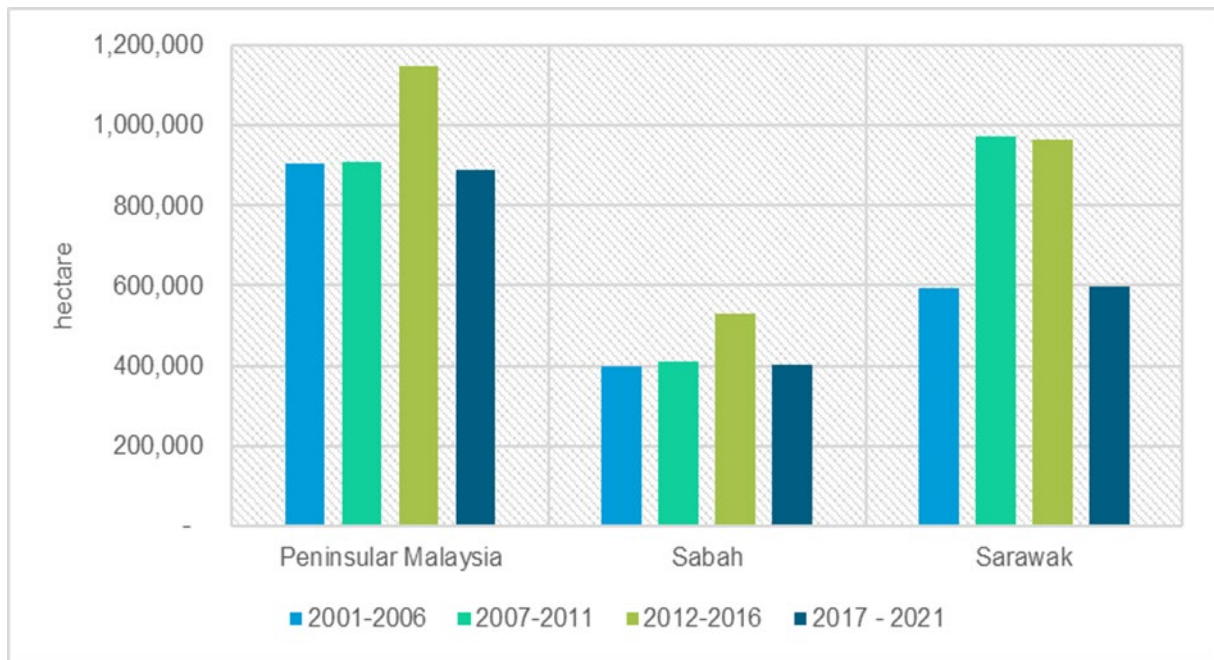
Regulatory developments in the financial sector have also functioned to divert capital flows away from unsustainable practices in the palm oil sector. Banks in Malaysia have adopted 'No Deforestation, No Peat, No Exploitation (NDPE)' commitments aimed at preventing deforestation and development of peat lands, while protecting the interests of local communities. As of 2020, NDPE policies effectively cover 78% of palm oil refining capacity in Indonesia and Malaysia (Chain Reaction Research, 2020).

In addition, certification schemes, such as the Roundtable on Sustainable Palm Oil (RSPO) imposed site-specific requirements under its principles and criteria in November 2005; whereby new plantings cannot replace primary forests, or any area required to maintain or enhance one or more high conservation values (HCV). In 2018, new requirements were introduced where any land clearing in existing or new plantations after 15 November 2018 must be preceded by an HCV and high carbon stock (HCS) assessment.

Government policies along with sectoral measures have contributed to reducing oil palm-related deforestation. Data sets from Global Forest Watch indicate that deforestation has decreased annually from 2016 to 2021 across Peninsular Malaysia, Sabah and Sarawak (Figure 3). In parallel, the rate of expansion of oil palm areas has decreased for all regions since 2015 (Figure 4), and Malaysian Palm Oil Board (MPOB) data indicates that the total oil palm planted area started to decrease in 2019 (Figure 4).

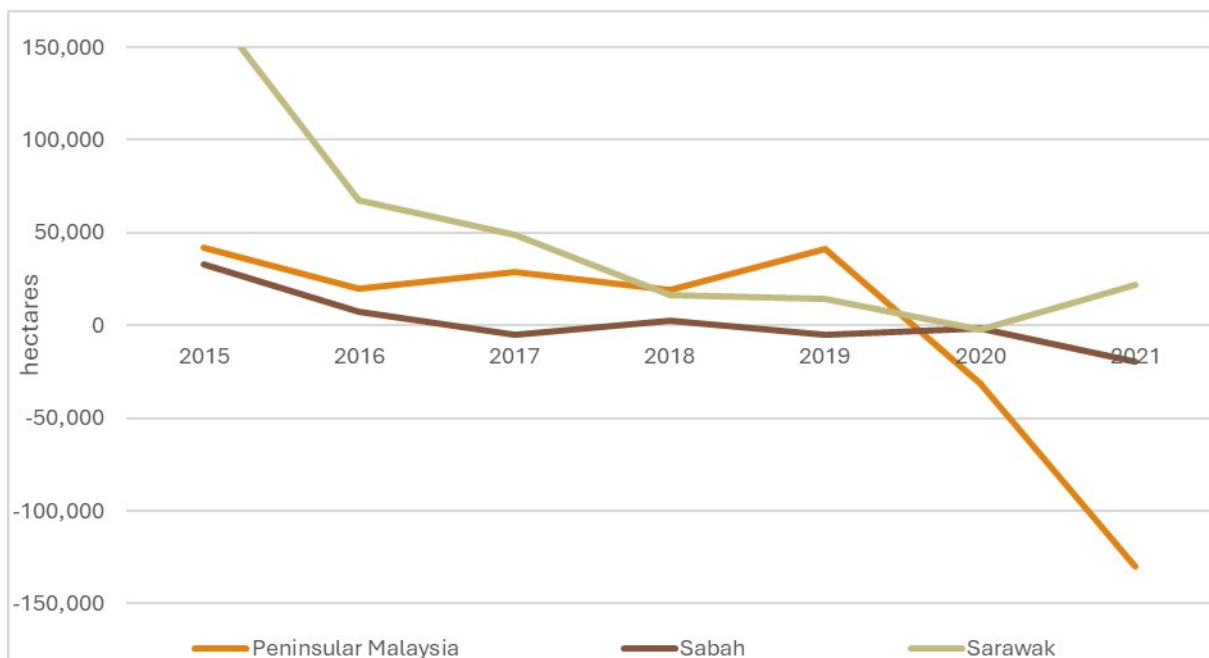
Despite the above trends, independent analysis indicates that primary forests in Malaysia are still under threat from palm oil expansion, although timber plantations are the top driver of deforestation. Of the total estimated concession area within forests across Malaysia approximately 750,000 hectares of oil palm concessions are earmarked to be developed, covering 27.17% of forests remaining in known concessions. Besides oil palm and timber, other threats include mining and quarrying, which may result in Malaysian forest cover falling below 50% in the future (Rimbawatch, 2024).

Figure 3: Tree cover loss in Malaysia by region (2001-2021)



Source: Global Forest Watch⁴

Figure 4: Annual change in oil palm planted area in Malaysia since 2015 (hectares)



Source: MPOB Annual Oil Palm Planted Area reporting

⁴ "Tree cover loss in [Malaysia/Peninsular, Sabah and Sarawak]". Accessed on 23/02/2023 from www.globalforestwatch.org. Tree Cover based on >30% tree canopy. These estimates do not take tree cover gain into account.

1.2.2 Legality

Sustainability requirements in the palm oil sector in Malaysia are backed by national laws and regulations and institutional arrangements. The Malaysian Palm Oil Board (MPOB) Act 1998 (Act 582) is the apex law in the palm oil sector and its associated regulations mandate licensing of self-owned or leased farmland before the sale and transportation of fresh fruit bunches (FFB) can occur. Applicants must provide proof of premise ownership or land-use rights.

At the estate level, the establishment of new plantations involving conversion of forests above a threshold area requires an Environmental Impact Assessment (EIA). Areas between 20 and 500 hectares require EIA approval at the state level, while areas greater than 500 hectares require approval at the federal level (Department of Environment, 2015).

As noted above, all plantations regardless of size need an MPOB license to harvest and sell FFB. Licensees are granted a six-month period from the date of license approval to obtain Malaysian Sustainable Palm Oil (MSPO) certification from a certification body accredited by Standards Malaysia. The MSPO standards require compliance with local, state, national and ratified international laws, conventions and regulations in terms of:

- Land tenure and land-use rights;
- Environmental quality and crop protection;
- Protection of high conservation value areas, such as primary forests and habitats of endangered species;
- Labour rights, employment, and occupational safety and health;
- The principle of Free, Prior and Informed Consent (FPIC) in the rights to use of land and native customary rights;
- Anti-corruption.

1.2.3 Certification

In 2018, MSPO certification became mandatory for all oil palm sector actors (growers and mills) nationwide. As of 1 June 2024, data from MSPO Trace shows that approximately 86% of the national oil palm planted area has been MSPO certified.

Table 3: Certified palm oil area in Malaysia

Producer type	Certified Area (ha) (as of 1 June 2024)
Independent Smallholders	566,876 (69%)
Organised Smallholders	486,174 (73%)
Estates	3,816,969 (91%)
Total	4,870,019 (86%)

According to the 2022 MSPO standards, new planting shall not lead to conversion of natural forest, protected areas and HCV areas after December 31, 2019. Environmental Impact Assessments (EIA), Social Impact Assessments (SIA), and High Conservation Value (HCV)

assessments shall be conducted to determine the status of the land before any new plantings.

Both the MPOB and MSPO systems and information they contain constitute resources relevant for demonstrating compliance with legal requirements in the palm oil sector, especially MSPO certification in combination with surveillance audits.

1.2.4 Traceability

Traceability refers to the availability of information to trace palm oil from its origin to the final product. It is a necessary component in 'no-deforestation' claims and functions by collating profiles of all supply chain actors, managing the chain of custody, and recording transaction details to connect the entire value chain.

The government has launched two systems to facilitate traceability. Firstly, **MSPO Trace** was launched in 2019 by the former Malaysian Palm Oil Certification Council (MPOCC, now known as MSPO) to provide information on all certified supply chain actors, namely independent smallholders, organised smallholders and estates, and processing facilities including palm oil mills, palm oil refineries, palm kernel crushers, oleochemical plants, biodiesel plants and other related industries included under MSPO and Supply Chain Certification Scheme (SCCS) standards. However, MSPO Trace does not provide transaction-based traceability, as mills are not required to pass on supply chain information (including geolocation) of their suppliers unless MSPO sales announcements are made, which means that a significant gap remains in the chain of traceability.

The second national system that could facilitate traceability is the **Sawit Intelligent Management System (SIMS)** which was launched by MPOB in November 2023 to trace and monitor oil palm supply chain transactions from the FFB supplier to the manufacturer of palm oil products. The SIMS platform allows for the input and storage of palm oil product transaction details and tracking of palm oil origin, processing and distribution. Desktop and mobile application functions include:

- Data collection – automation of daily records
- Traceability – centralisation of relevant data to support supply chain traceability

However, SIMS does not collect, store and transfer geolocation information of plantations. Full traceability to the plantation cannot be achieved unless each actor along the supply chain gives consent. Additionally, the data privacy clauses in the MPOB Act that governs the SIMS would not allow traceability information to be shared with EU operators.

2. Objectives and methodology

Under the EUDR, operators must conduct due diligence on all relevant products before placing them on, or exporting them from, the EU market. Although the EUDR makes it clear that operators and traders are responsible for due diligence, access to data from national and subnational sources in Malaysia is likely to be of utility to both EU operators and the Malaysian palm oil sector. In this context, this report aims to provide an overview of

information available in Malaysia that corresponds to information that EU operators will be required to collect as part of their due diligence under the EUDR. The objectives of the report are to:

1. **Provide an overview and analysis of data pertaining to Articles 9, 10 and 29 of the EUDR** and identify gaps and opportunities for improvement in information.
2. **Provide points for consideration** based on the above, to enhance Malaysia's preparedness and alignment in relation to EUDR requirements.

2.1 Data consultation

A stepwise approach was used to identify and validate data availability and gaps in relation to EUDR requirements. This approach was informed by consultations with stakeholder, including through KAMI Malaysia Advisory Committee and Strategic Country Board meetings.

This study began in September 2022 with a desk review to identify relevant data that could be accessed through online resources. The public domains of State Forestry Departments and the Peninsular Malaysia Forestry Department were the primary locations identified for forestry information. Peninsular Malaysia's Department for Orang Asli Development online resources were searched for information on indigenous peoples. Various public resources of MPOB and MSPO were also explored.

Subject-matter experts were identified through the KAMI Malaysia Advisory Committee meetings and desk review, to further inform on potential data sources. Engagements with relevant federal government agencies such as MPOB, the Malaysian Palm Oil Certification Council (MPOCC – now MSPO), the National Geospatial Centre, and the Department of Town and Country Planning (PLAN Malaysia) were used to further explore previously identified data opportunities and gaps. Consultation with subnational government entities, particularly those in Sabah and Sarawak, was also undertaken in the context of the independence of their state administrations from the federal government. Clarifications were also sought regarding definitions of key concepts, data collection and data governance.

2.2 Data collection

Existing infrastructure, facilities and resources were prioritised in light of Malaysia's aim to promote sustainable palm oil production through existing systems, including voluntary and mandatory sustainability standards (Peteru et al., 2022). In this context, significant improvements have been made in various online resources related to the palm oil sector. The Malaysian Oil Palm Industry Performance web portal⁵, hosted by MPOB, provides national, state and district-level information about plantations and palm oil processing industries on an annual and monthly basis.

⁵ <https://prestasisawit.mpob.gov.my/>

In October 2023, collection of publicly available data corresponding to specifications in EUDR Articles 9, 10 and 29 commenced. As outlined below, chief sources were at the national, state, district and commercial entity level. Unretrievable data that is available is marked as an opportunity, whereas unavailable data or a term that has varied definitions is noted as a gap.

3. Availability and access of data relevant to the EUDR

This section details the outcomes of the consultation and data collection processes outlined above. Specific information requirements under the EUDR are presented along with potential level of information (whether at supply chain level, plantations/growers, government, European Commission), sources of data and, where appropriate, an illustration of what the data shows.

The document [“Joint gap assessment of the EUDR information needs and information availability from the Malaysian Sustainable Palm Oil \(MSPO\) certification”](#) can be referred to for a more detailed comparison of the information available as part of MSPO certification and information required by EU operators under the EUDR. The report also proposes solutions for closing the gaps (MSPO and EFI, 2024).

3.1 Article 9 – Information requirements

Article 9 requires operators to collect information, documents and data demonstrating that the relevant products comply with Article 3 of the EUDR (see Section 1.1.1). Article 9 (1) lists eight information requirements as outlined in full in the subsections below.

3.1.1 Article 9(1)(a)

EUDR A9(1)(a)	“a description, including the trade name and type of the relevant products as well as, in the case of relevant products that contain or have been made using wood, the common name of the species and their full scientific name; the product description shall include the list of relevant commodities or relevant products contained therein or used to make those products”
Level	Supply chain
Data source	MPOB Form Q1
Available data	Description of the relevant products
Gap	Inaccessible or non-transferrable along the supply chain

According to the Malaysian Palm Oil Board (Quality) Regulations 2005, entities involved in the trading of oil palm products must make a quality declaration on palm oil products for Export (MPOB Q1). They require adherence to the mandatory disclosure obligations, which include product particulars, product specifications and detailed information about quality specifications.

3.1.2 Article 9(1)(b)

EUDR A9(1)(b)	“the quantity of the relevant products; for relevant products entering or leaving the market, the quantity is to be expressed in kilograms of net mass and, where applicable, in the supplementary unit set out in Annex I to Council Regulation (EEC) No 2658/87 (20) against the indicated Harmonised System code, or, in all other cases, the quantity is to be expressed in net mass or, where applicable, volume or number of items; a supplementary unit is applicable where it is defined consistently for all possible subheadings under the Harmonised System code referred to in the due diligence statement”
Level	Supply chain
Data source	MPOB Form Q1
Available data	Quantity of the relevant products
Gap	Inaccessible or non-transferrable along the supply chain

The Malaysian Palm Oil Board (Quality) Regulations of 2005 require that any transaction involving the trade or consignment of palm oil products must include precise quantity or net weight information. This statutory requirement is stated in the quality declaration on palm oil products for Export (MPOB Q1).

3.1.3 Article 9(1)(c)

EUDR A9(1)(c)	“the country of production and, where relevant, parts thereof
Level:	Supply chain and area of production
Data source	MPOB Form Q1
Available data	Point of export
Gap	Inaccessible or non-transferrable along the supply chain

The Malaysian Palm Oil Board (Quality) Regulations of 2005 Form Q1 requires reporting on information such as description of the relevant products, quantity of the relevant products and point of export before the shipment leaves Malaysia (at point of export).

3.1.4 Article 9(1)(d)

EUDR A9(1)(d)	‘the geolocation of all plots of land where the relevant commodities that the relevant product contains, or has been made using, were produced, as well as the date or time range of production.’
Level	Area of production
Data source	1. MSPO Trace and public summary of MSPO audit reports 2. MPOB Geopalm portal
Available data	1. GPS coordinates and boundary maps (MSPO Trace and MSPO audit report) 2. Polygon (Geopalm portal)
Gap	1. MSPO Trace's coordinates and boundary maps are not in electronic format and therefore cannot be transferred along the supply chain. Polygon information in line with EUDR is not available for plots larger than 4 ha under MSPO certification. 2. Geopalm portal is incomplete and currently not accessible to public or supply chain actors.

"Geolocation" as defined by EUDR Article 2(28) refers to the geographical location of a plot of land described by means of latitude and longitude coordinates corresponding to at least one latitude and one longitude point and using at least six decimal digits; for plots of land of more than four hectares used for the production of the relevant commodities other than

cattle, this shall be provided using polygons with sufficient latitude and longitude points to describe the perimeter of each plot of land.

MSPO Trace provides verified plantation coordinates, and boundary maps are often included in the public summary of the MSPO audit reports. Plantation coordinates are also appended to MSPO certificates. The MSPO Trace platform includes only coordinate points of plantations.

Critical challenges are in validating polygons against actual farm locations, and in recording and transferring polygon information along the supply chain. The structure of Malaysia's palm oil supply chains, in which the smallholder base is large and dispersed, adds complexity. As indicated in Table 3 in Chapter 2, there are approximately 214,680 independent smallholders operating 822,073 ha of planted area across Malaysia. Their FFBs are usually sold to one or more local intermediaries, and critical details on the smallholders and the location of relevant plots of land are not generally passed on. Further challenges arise in integrating this information throughout the entire value chain, from the mill to the refinery, importer and consumer goods companies.

The Geopalm portal is being developed to provide official maps of oil palm areas throughout the country. At the time of writing, roughly half of Malaysian smallholders had been mapped. The portal is currently not accessible to the public.

3.1.5 Article 9(1)(e)

EUDR A9(1)(e)	"the name, postal address and email address of any business or person from whom they have been supplied with the relevant products"
Level	Supply chain and area of production
Data source	MSPO Trace
Available data	1. Name of entity and contact person 2. Postal address of entity
Gap	Email address of contact person is not available from MSPO Trace

The MSPO standards require record-keeping for all transactions. These include FFBs sent to mills, as well as the storage, sale, delivery or transportation of crude palm oil and palm kernel oil. Records also include information about the entity from which the relevant products are sourced, as well as information about the businesses, operators or traders to whom the products are distributed.

3.1.6 Article 9(1)(g)

EUDR A9(1)(g)	"adequately conclusive and verifiable information that the relevant products are deforestation-free"
Level	Area of production
Data source	Public Summary of MSPO Audit Report
Available data	No conversion of natural forests, protected areas and High Conservation Value areas after December 31, 2019.
Gap	Difference in definition of 'forest' between the MSPO 2022 standards and the EUDR

The MSPO 2022 standards and the EUDR adopt different definitions for what constitutes a forest, leading to potential discrepancies in compliance requirements. According to Article 2(4) of the EUDR, a forest is defined as “*land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10%, or trees capable of reaching these thresholds in situ*”. This definition excludes land predominantly used for agricultural or urban purposes.

In contrast, the MSPO 2022 standards defines **natural forests** as primary forests, regenerated (second growth) forests, managed natural forests, and partially degraded forests.

The difference in definition of forest means that areas considered forests under MSPO may not always align with those defined by the EUDR. As a result, palm oil producers adhering to MSPO standards will need to navigate these definitional differences, especially in the period before the MSPO 2022 standards are fully implemented in 2025, to ensure they meet both sets of requirements and address any deforestation that occurred after the MSPO cut-off date but before enforcement.

3.1.7 Article 9(1)(h)

EUDR A9(1)(g)	“adequately conclusive and verifiable information that the relevant commodities have been produced in accordance with the relevant legislation of the country of production, including any arrangement conferring the right to use the respective area for the purposes of the production of the relevant commodity”
Level	Area of production
Data source	MSPO Trace and Public Summary of MSPO Audit Report
Available data	<ol style="list-style-type: none"> 1. Land tenure and land-use rights (Principle 3, Criterion 2, Indicator 2) 2. Environmental conservation and protection (Principle 5, Criterion 6); 3. Protection of high conservation value areas, such as primary forests and habitats of endangered species (Principle 1, Criterion 2); 4. Labour rights, employment, and occupational safety and health (Principle 4); 5. The principle of FPIC in the rights to use of land and native customary rights (Principle 3, Criterion 3); 6. Anti-corruption (Principle 2, Criterion 4).
Gap	Information lacking in terms of the protection of human rights under international law

According to EUDR’s Article 2 (40), ‘relevant legislation of the country of production’ means the laws applicable in the country of production concerning the legal status of the area of production in terms of:

- land use rights;
- environmental protection;
- forest-related rules, including forest management and biodiversity conservation, where directly related to wood harvesting;
- third parties’ rights;
- labour rights;
- human rights protected under international law;

- the principle of free, prior and informed consent (FPIC), including as set out in the UN Declaration on the Rights of Indigenous Peoples;
- tax, anti-corruption, trade and customs regulations.

The MSPO standards require that “*The organisation shall comply with local, national and ratified international laws, conventions, and regulations.*” Each organisation must identify any applicable legal requirements that are relevant to its operations and keep them up to date. Certified entities are also required to prepare and maintain the Legal Register (LORR) covering all the necessary regulatory requirements. The LORR is reviewed and updated periodically, and its implementation is verified by accredited Certification Bodies (CBs) during the annual audits.

Legality within the above-described scopes of MSPO can be demonstrated through audited compliance with MSPO standards. However, information can be strengthened in relation to the protection of human rights under international law and the observance of third parties’ rights, tax, trade and customs regulations.

3.2 Article 10 – Risk assessment

Article 10 requires operators to verify and analyse information collected in accordance with Article 9 and carry out a risk assessment to establish whether there is a risk that the relevant products are non-compliant with the requirements of the EUDR. Article 10 (2) stipulates 14 criteria that should be taken into account as part of the risk assessment, as set out below.

The MSPO-EUDR Joint Gap Assessment (MSPO and EFI, 2024) found that Article 10 information mostly apply at the level of the country of production or parts thereof, which is generally outside the scope of product-based certification schemes. However, MSPO certification could provide information relevant to criteria where information regarding the area of production and supply chain is relevant.

3.2.1 Article 10(2)(a)

EUDR A10(2)(a)	“the assignment of risk to the relevant country of production or parts thereof in accordance with Article 29”
Level	European Commission
Data source	European Commission
Available data	N/A
Gap	N/A

Countries will be classified into high risk, standard risk or low risk categories by the European Commission based primarily on:

- Rate of deforestation and forest degradation;
- Rate of expansion of agriculture land for relevant commodities;
- Production trends of relevant commodities and of relevant products.

Additionally, the assessment may take into account information as set out in Section 3.3 below.

3.2.2 Article 10(2)(b)

EUDR A10(2)(b)	“the presence of forests in the country of production or parts thereof”
Level	National, State and District
Data sources	1. Annual report of Forestry Department of Peninsular Malaysia 2. Annual report of State Forest Departments
Available data	1. Annual statistics on states’ forest area 2. Annual statistics on districts’ forest area
Gap	1. Difference in FAO/EUDR and Malaysian definitions of ‘forest’ 2. Sabah, Sarawak, Selangor, Kedah, Perlis and Kelantan do not publish annual forest cover at the district level 3. Baseline spatial data on forest cover is not publicly available

With respect to information available from the Malaysian Government at different levels, a key point to consider is that definitions of ‘forest’ used in Malaysia differ from the FAO/EUDR definition (See section 3.1.6).

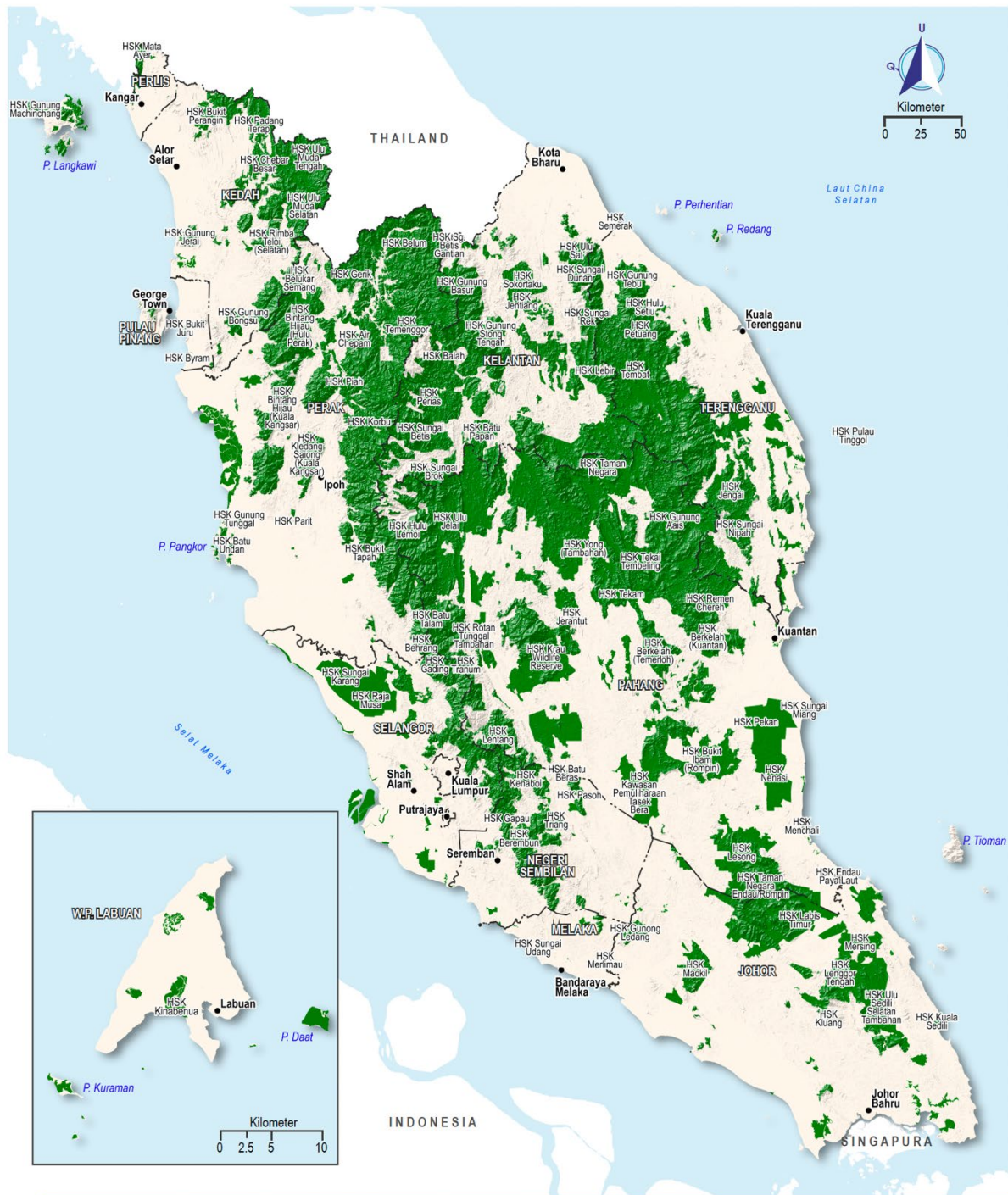
In Malaysia’s National REDD Plus Strategy (2017), “forest” is defined as: “A *minimum area of land of 0.05 hectares with tree crown cover (or equivalent stocking level) of more than 30 per cent with trees with the potential to reach a minimum height of 5 meters at maturity in situ*” (Kyoto Definition). For consistency and governance reasons, Malaysia follows the National Land Code definition, where areas gazetted by State Governments as forest and subjected to the National Forestry Act will be considered as forest.

The definition in the REDD Plus Strategy document refers to the National Land Code 1965, which governs land matters in Peninsular Malaysia but does not define “forest.” The National Land Code 1965 mentions “reserved forest” and states that “forest produce” is defined by state forest laws. The National Forestry Act 1984, which applies in Peninsular Malaysia and Labuan, defines “permanent reserved forest” (PRF) as areas designated in the government Gazette. The areas mentioned in the REDD Plus definition are not the only ones considered as “forest” by the Malaysian government. Malaysia’s forest statistics also include areas like State Land, Permanent Forests under Sabah and Sarawak forestry laws, and protected areas such as national parks and wildlife reserves.

Further to the above, the MSPO 2022 standards provide a broader definition of forest. It describes a natural system that exhibits many or all of the characteristics of a forest native to the site, including species composition, structure, and ecological function. This broad definition encompasses various types of natural forests, including primary forests, regenerated forests with significant past impacts, managed natural forests, and degraded forests caused by either anthropogenic or natural factors.

As of the time of writing, the Forestry Department of Peninsular Malaysia and state forestry departments in Peninsular Malaysia, Sabah and Sarawak have not officially published spatial data on forest areas as of the MSPO deforestation cut-off date (31 December 2019) or the EUDR’s deforestation cut-off date (31 December 2020). The closest available spatial information is published publicly every five years under the National Physical Plan, which does not include Sabah and Sarawak. For instance, the map in Figure 5, extracted from the National Physical Plan 4 published in 2020, shows the Permanent Reserved Forest in Peninsular Malaysia. However, this information is not up to date (current only to 2018) and is not accessible in spatial or GIS format.

Figure 5: Map of Permanent Reserved Forests in Peninsular Malaysia



PELAN 5-7: HUTAN SIMPANAN KEKAL SEMENANJUNG MALAYSIA DAN W.P. LABUAN

- Hutan Simpanan Kekal**
 ● Hutan Simpanan Kekal
Lain-Lain
 ● Ibu Negeri
 --- Sempadan Negeri

Keluasan Hutan Simpanan Kekal Mengikut Negeri			
Negeri Perlis	10,628.30 hek	Negeri Pahang	1,550,687.14 hek
Negeri Kedah	341,976.00 hek	Negeri Selangor	250,207.39 hek
Negeri Pulau Pinang	5,100.93 hek	W.P. Kuala Lumpur	68.27 hek
Negeri Perak	988,591.03 hek	Negeri Sembilan	155,492.02 hek
Negeri Kelantan	629,775.13 hek	Negeri Melaka	5,199.49 hek
Negeri Terengganu	540,308.80 hek	Negeri Johor	334,292.46 hek

Nota: Keluasan hutan bagi W.P. Labuan adalah seluas 691.67 hek mengikut pelan guna tanah semasa tahun 2018 (Pelan 2-2).

Sumber:
 • Jabatan Perhutanan SM, 2018
 • Labuan Development
 Blueprint, 2030

However, certain State Forestry Departments in Peninsular Malaysia provide an annual statistical inventory of forest areas in districts where forest areas exist (see Table 4). It is noted that inventory data reported by the Forestry Department of Peninsular Malaysia is close to those reported by states, when available. Notably, Perak, Johor, Pahang and Terengganu report their statistics based on the area of coverage of their local forestry offices, whereas other states report on a jurisdictional district basis. This variation in reporting methods suggests differing administrative practices across the states.

States in Peninsular Malaysia categorise land into several types, including Permanent Forest Reserve (*Hutan Simpanan Kekal*), Land Forest (*Hutan Darat*), Peat Swamp Forest (*Hutan Paya Gambut*), Sea Swamp Forest (*Hutan Paya Laut*), Forest Plantations (*Ladang Hutan*), Wildlife Reserves (*Rezab Hidupan Liar*), and State Land Forest. Pahang and Perak stand out with the largest areas of Permanent Forest Reserve, encompassing 1,605,704 ha and 985,814 ha respectively. Johor is notable for its diverse forest types, including significant areas of Land Forest (312,298 ha) and Sea Swamp Forest (18,198 ha). Kelantan has the highest area dedicated to Wildlife Reserves, totalling 42,518 ha, and also a substantial State Land Forest area of 57,072 ha. Other states including Kedah and Selangor have significant Permanent Forest Reserves but smaller areas of other forest categories.

The total forested area in Sabah is approximately 4,679,594 hectares. This includes 3,848,597 hectares within Forest Reserves and other designated forest lands, and an additional 830,997 hectares located in Stateland and alienated land. The Forest Reserves alone cover 3,574,468 hectares, while Sabah Parks encompass 245,172 hectares. Wildlife Sanctuaries account for 26,103 hectares, and Wildlife Conservation Areas add another 2,854 hectares. The remaining forested areas, totalling 830,997 hectares, are managed by Stateland, Sabah Softwood Sdn Bhd, and the Sabah Forestry Development Authority (SAFODA).

The annual statistics provided are based on land-use data according to Malaysia's legal definitions, not on land-cover data from satellites or aerial analysis. According to RESCU (2022), the "forest" statistics refer to areas legally zoned as forest under Malaysia's land-law framework, rather than the FAO's land-cover definition. This means the statistics indicate the legal status of the land rather than whether the land is actually covered by trees.

Table 4: Statistical inventory of forest areas in Malaysia, 2020

State	Permanent Forest Reserve (ha)	Wildlife Reserve (ha)	State Land Forest (ha)
1 Perlis ¹	10,739	68	555
2 Kedah ¹	341,881		455
3 Pulau Pinang ²	6,063		
Barat Daya	1,458		
Seberang Perai Tengah	530		
Timur Laut	2,760		
Seberang Perai Selatan	965		
Seberang Perai Utara	349		
4 Perak ³	985,814		
Hulu Perak	446,660		
Kinta, Manjung	98,211		
Kuala Kangsar	208,367		
Larut, Matang	119,526		

State	Permanent Forest Reserve (ha)	Wildlife Reserve (ha)	State Land Forest (ha)
Perak Selatan	113,049		
5 Selangor¹	250,250	7076	649
6 Negeri Sembilan⁴	165,154		
Seremban	28,834		
Port Dickson	1,537		
Tampin	5,188		
Rembau	9,097		
Jelebu	53,694		
S.P.	19,119		
Kuala Pilah	39,454		
Jempol	8,232		
7 Melaka⁵	5,200		
Alor Gajah	520		
Jasin	4,643		
Melaka Tengah	36		
8 Johor⁶	334,292		
Labis, Muar, Segamat, Tangkak, Ledang	67,710		
Mersing	111,775		
Batu Pahat, Kluang, Labis	73,089		
Johor Bahru, Kota Tinggi, Kulai, Pontian	81,719		
9 Pahang⁷	1,605,704	31,289	
Kuantan, Pekan & Maran	291,230	34	
Rompin	193,876		
Temerloh, Bera	139,811	31,255	
Bentong	106,362		
Jerantut	374,610		
Raub	156,794		
Lipis	282,719		
Cameron Highlands	60,302		
10 Terengganu⁸	540,309		
Terengganu Utara	102,162		
Terengganu Selatan	197,789		
Terengganu Barat	240,358		
11 Kelantan¹	629,881		57,072
12 Sabah⁹	3,574,468	274,129	830,997
13 Sarawak	N/A	N/A	N/A

Sources: 1 Forestry Department of Peninsular Malaysia, 2 Penang State Forestry Department (2023), 3 Perak State Forestry Department (2023), 4 Negeri Sembilan Forestry Department (2023), 5 Melaka State Forestry Department (2023), 6 Johor State Forestry Department (2023), 7 Pahang State Forestry Department (2023), 8 Terengganu State Forestry Department (2023), 9 Sabah Forestry Department (2023).

Notes: 9 Sabah's Wildlife Reserve area composed of Sabah Parks (245,172 ha), Wildlife Sanctuary (26,103 ha), and Wildlife Conservation Area (2,854ha) and State Land Forest included Stateland, Sabah Softwood Sdn Bhd and SAFODA.

While tabular data on forest area in different states is available to different extents, the EU Observatory on Deforestation and Forest Degradation has released a [global forest cover map for 2020](#) – a combination of global spatial layers on land cover, land use and tree height. The map was developed by the European Commission (EC) Joint Research Centre (JRC) and follows the FAO/EUDR forest definition. According to the EC, the global forest cover map can be used in the context of the EUDR as a non-mandatory, non-exclusive, and not legally binding source of information (EC JRC, 2024).

Recognising the differences in definitions and policies, the [2nd Meeting of the Ad Hoc Joint Task Force on the EUDR](#) concluded that there is potential for cooperation in developing comprehensive and accurate national forest maps using the FAO forest definition. This collaboration would aim to harmonise data and enhance the reliability of forest monitoring systems.

3.2.3 Article 10(2)(c)

EUDR A10(2)(c)	“the presence of indigenous peoples in the country of production or parts thereof”
Level	National and State
Source	1. Department of Orang Asli Development (Peninsular Malaysia) 2. Department of Statistics Malaysia
Available data	1. Population of Orang Asli in Peninsular Malaysia and Orang Asal in Sarawak at the state level 2. Population of Orang Asli in Peninsular Malaysia at the district level
Gaps	1. Population of Orang Asal in Sarawak at the district level is not published 2. Population of Orang Asal in Sabah at the state and district levels are indistinguishable

The EUDR does not explicitly define 'indigenous peoples,' but Article 2(40)(g) refers to the UN Declaration on the Rights of Indigenous Peoples, suggesting that the United Nations' definition may be relevant.

The Human Rights Commission of Malaysia (SUHAKAM, 2013) considers the Orang Asal (native peoples) of Sabah and Sarawak, as well as the Orang Asli (aborigines) of Peninsular Malaysia, to be indigenous.

In terms of statistical classification, Sabah's demographics have changed over time. The 2010 Malaysian Census identified numerous ethnic groups, including Malay, Kadazan Dusun, Bajau, Murut, Other Bumiputera, Chinese, Indian, others, and non-citizens. However, the 2020 Malaysian Census grouped Sabah's ethnic groups into broader categories such as Malay, Other Bumiputera, Chinese, Indian, and others, making it difficult to identify specific native ethnic groups in Sabah. This contrasts with the 2010 census of Sabah's population, which included Kadazan/Dusun, Bajau, Murut, and other Bumiputera from various districts (Tey et al., 2021).

Peninsular Malaysia and Sarawak have consistently classified indigenous people according to their ethnicity. The indigenous peoples of Peninsular Malaysia are known as Orang Asli. In Sarawak, there are 28 indigenous groups, categorised into Melanau, Bidayuh, Iban and other indigenous groups (Department of Statistics Malaysia, 2022).

The 2023 data on the presence of indigenous peoples in Peninsular Malaysia and Sarawak (Table 5) reveals diverse distribution and varying population sizes of indigenous communities across districts. It is important to note that the latest data for Sabah is not available and hence not included in this summary. The districts listed are those with reported indigenous populations, which may not represent all districts within each state. Notably, Perlis and Pulau Pinang report no indigenous population, while Kedah and Melaka have relatively small indigenous communities, with 336 and 1,833 persons respectively. In stark contrast, Perak stands out with the highest indigenous population, totalling 51,225

individuals, concentrated in districts such as Batang Padang (17,992) and Hulu Perak (10,976). Selangor and Negeri Sembilan also show considerable indigenous populations, with 20,961 and 12,221 persons respectively, spread across multiple districts. Johor and Pahang follow closely, with notable indigenous populations of 15,825 and 78,615 respectively, distributed mainly in Batu Pahat, Rompin, and Pekan. In East Malaysia, Sarawak stands out with a substantial indigenous population of 856,538, distributed across various districts such as Kuching (91,082) and Sibiu (102,000).

Table 5: Population of indigenous peoples in districts with the presence of indigenous peoples, 2020

No.	Jurisdiction	Population (person)	No.	Jurisdiction	Population (person)
1	Perlis	0	10	Terengganu	1,072
2	Kedah	336		Kemaman	489
	Baling	336		Besut	32
3	Pulau Pinang	0		Hulu Terengganu	551
4	Perak	51,225	11	Kelantan	17,487
	Kerian	2		Gua Musang	16,738
	Larut, Matang & Selama	3		Kuala Krai	15
	Kuala Kangsar	2,281		Machang	6
	Perak Tengah	2,999		Pasir Mas	3
	Hilir Perak	2,111		Tanah Merah	2
	Batang Padang	17,992		Jeli	723
	Muallim	5,361	12	Sabah	N/A
	Kampar	211	13	Sarawak	856,538
	Kinta	9,289		Kuching	91,082
	Hulu Perak	10,976		Bau	44,100
5	Selangor	20,961		Lundu	19,000
	Klang	397		Samarahan	22,209
	Kuala Langat	5,810		Serian	55,400
	Sepang	3,637		Simunjan	18,200
	Petaling	1,565		Asajaya	403
	Hulu Langat	2,597		Sri Aman	45,900
	Gombak	2,317		Lubok Antu	28,800
	Hulu Selangor	4,638		Botong	24,400
6	Negeri Sembilan	12,221		Saratok	18,800
	Seremban	2,773		Sarlkei	27,900
	Port Dickson	473		Maradong	16,800
	Rembau	815		Julau	17,300
	Tampin	336		Pakan	17,200
	Jempol	3,286		Sibu	102,000
	Kuala Piliha	2,087		Kanowit	28,200
	Jejebu	2,451		Seiangau	23,300
7	Melaka	1,833		Mukah	37,200
	Alor Gajah	1,102		Dalat	19,800
	Jasin	731		Matu	3,914
8	Johor	15,825		Daro	18,402
	Tangkak	767		Bintulu	28,672
	Muar	925		Tatau	5,521
	Batu Pahat	2,478		Kapit	2,937
	Pontian	1,996		Song	21,400
	Johor Bahru	1,926		Belaga	27,705
	Kluang	1,875		Miri	42,572
	Segamat	2,332		Marudi	16,300

No.	Jurisdiction	Population (person)	No.	Jurisdiction	Population (person)
	Mersing	1,963		Limbang	30,600
	Kota Tinggi	1,563		Lawas	522
9	Pahang	78,615			
	Rompin	15,099			
	Pekan	13,302			
	Kuantan	2,752			
	Jerantut	3,230			
	Maran	1,980			
	Temerloh	6,958			
	Bera	5,075			
	Bentong	3,365			
	Raub	4,963			
	Lipis	14,723			
	Cameron Highlands	7,168			

Source: Items 1-11 from Department of Orang Asli Development (2023); Items underlying 13 from Economic Planning Unit Sarawak (2021)

Notes: Sabah's latest data is not publicly available. The 2020 Malaysian Census grouped Sabah's ethnic groups into broader categories such as Malay, Other Bumiputera, Chinese, Indian, and others.

3.2.4 Article 10(2)(d)

EUDR A10(2)(d)	"the consultation and cooperation in good faith with indigenous peoples in the country of production or parts thereof"
Level	National and States
Sources	Case search through: <ol style="list-style-type: none"> 1. The Native Courts of Sarawak 2. E-Kehakiman Sabah & Sarawak (Native Court of Appeal) 3. The High Court in Sabah & Sarawak
Available data	Case status enquiry

Malaysia is a signatory to the United Nations Declaration on the Rights of Indigenous Peoples, which emphasises Indigenous Peoples' inherent rights to their lands, territories, and resources. Malaysia's national legislation governs the principle of free, prior and informed consent (FPIC) for activities that affect indigenous peoples' lands and territories. The Malaysian Charter on Human Rights, specifically Articles 4 (Development) and 7 (Environment) in the preamble, affirms the right of all peoples, including indigenous peoples, to participate in decision-making processes that may affect their lives.

In Sarawak, the Sarawak Biodiversity Regulations of 2016, in conjunction with the Sarawak Biodiversity Centre Ordinance of 1997, mandates the obtaining of prior informed consent from indigenous peoples before initiating any activities. The Sabah Biodiversity Enactment of 2000 (2017) is one of the state's laws and policies that incorporates the FPIC protocol. Indigenous communities have the right to make informed decisions about whether to give or withhold consent to a project after being fully informed about its impact on them and their customary land.

Courts play a critical role in recognising Malaysia's indigenous legal system. In Sarawak, the Native Court Enactment of 1992 creates a six-tiered court system that includes a Native Court of Appeal, a Resident Native Court, a District Native Court, a Chief's Superior Court, a

Chief's Court, and a Headman's Court. In Sabah, the system is three-tiered: a Native Court of Appeal, a District Native Court, and a Native Court.

3.2.5 Article 10(2)(e)

EUDR A10(2)(e)	"the existence of duly reasoned claims by indigenous peoples based on objective and verifiable information regarding the use or ownership of the area used for the purpose of producing the relevant commodity"
Level	Supply chain and plantation
Source	MSPO Trace and MSPO audit reports
Available data	Audited information on FPIC, Social Impact Assessment, and Environment Impact Assessment requirements

The MSPO standards include provisions on preserving native customary rights (NCR), ensuring that any land subject to customary rights is recognised and protected. Land disputes and conflicts must be settled using the FPIC procedure. Businesses operating under the MSPO standards must take steps to ensure that NCR lands are not diminished or threatened, and that they are recognised as the property of the affected rights holders.

The MSPO standards further mandate the mapping of all NCR lands through a collaborative process, using a suitable scale. The mapped information should be made accessible to relevant stakeholders and the affected right holders. Agreements reached between the company and impacted rights holders regarding the implementation of FPIC must be documented, and copies of the records must be provided to them and any other relevant parties.

Furthermore, the Social and Environmental Impact Assessments (SIA and EIA) under MSPO require the inclusion of FPIC. The SIA and EIA serve as the foundation for negotiations with nearby communities or indigenous peoples. Accurate, relevant and culturally appropriate information about potential social impacts and community benefits is critical to the FPIC process. According to MPOCC (2022), the FPIC process falls short of "informed consent" if social impact information is not adequately shared with indigenous peoples or local communities. The commitment to FPIC of indigenous people and local communities and can be demonstrated through audited compliance with MSPO standards.

3.2.6 Article 10(2)(f) and Article 29(3)(a)

EUDR A10(2)(f)	"prevalence of deforestation or forest degradation in the country of production or parts thereof"
EUDR A29(3)(a)	"rate of deforestation and forest degradation"
Level	National and States
Possible data sources	Non-government sources / reports, for example: Global Forest Watch
Gap	<ol style="list-style-type: none"> 1. Different EUDR and Malaysian definitions of 'deforestation' 2. Malaysian State Forest Departments do not report on 'deforestation'

The EUDR definition of "deforestation" differs from that used in Malaysia. According to Article 2(2) of the EUDR, deforestation is defined as "the conversion of forest to agricultural use, *whether human-induced or not*". Article 2(13) defines "deforestation-free" products as those produced on land that has not been deforested after December 31, 2020. EUDR

Article 2(7) defines "forest degradation" as "structural changes to forest cover, taking the form of the conversion of:

(a) primary forests or naturally regenerating forests into plantation forests or into other wooded land; or (b) primary forests into planted forests".

According to Malaysia's Ministry of Energy and Natural Resources (2021), "deforestation" is defined as a human-induced permanent conversion of forest area to non-forest land use. At the time of writing, Malaysia's State Forest Departments did not report on "deforestation."

However, non-government sources such as RimbaWatch⁶ and Global Forest Watch⁷ have published spatial and statistical data on deforestation.

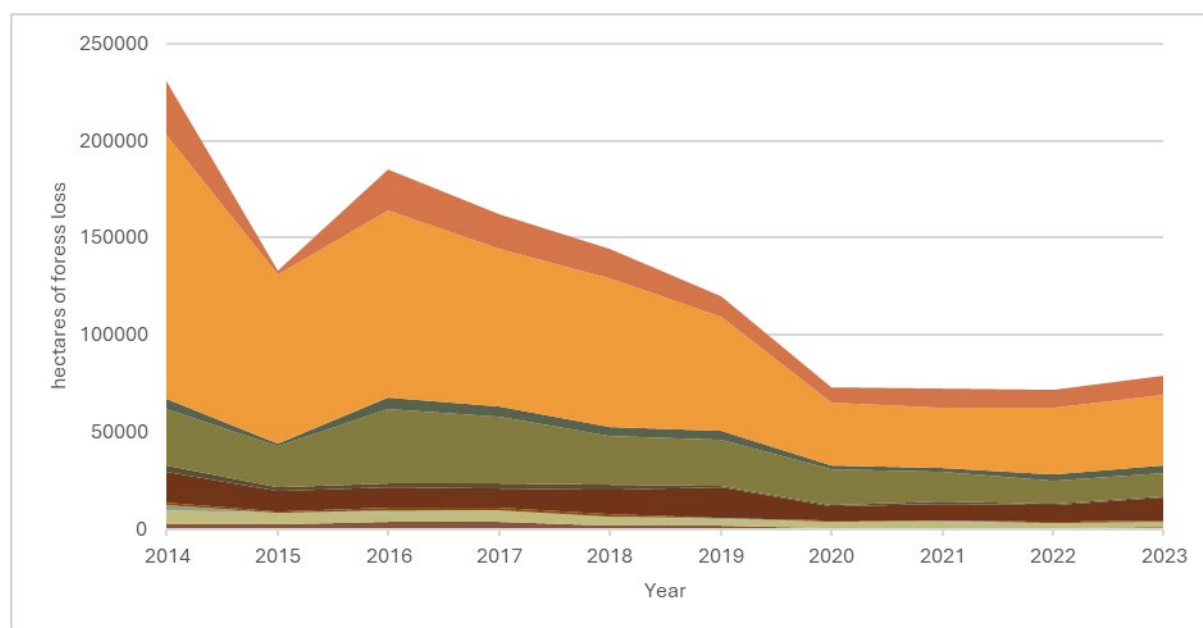
In 2024, RimbaWatch reported that between 2.1 and 3.2 million hectares of natural forest are under threat, which represents between 14-16% of remaining forests in Malaysia. Forest cover will drop below 50% (between 49% to 40%). Timber plantations and oil palm are the primary threats to natural forests – timber plantations represent more than 76% of total threats to forests, and the majority of these concessions are located in intact forests. However, oil palm and timber plantation concessions overlap. Other threats include hydropower projects and de-gazettements of forest reserves.

Global Forest Watch's 2024 data on primary forest loss in Malaysia from 2014 to 2023 indicates a significant overall decline in deforestation rates at the national, state and district levels (Figure 6 and Table 6). In 2014, the data shows that Malaysia experienced primary forest loss of 230,000 hectares, but this figure decreased steadily to 79,300 hectares by 2023. The decline was most pronounced in states including Sarawak, which reduced its deforestation rate from 136,000 hectares in 2014 to 36,600 hectares in 2023, and Pahang, where the loss dropped from 29,100 hectares to 11,900 hectares over the same period. At the district level, similar patterns of decline are evident.

⁶ <https://rimbawatchmy.com/>

⁷ <https://www.globalforestwatch.org/>

Figure 6: Primary forest loss in Malaysia, 2014-2023



Source: Global Forest Watch (2024)

Table 6: Primary Forest loss in Malaysia according to districts, 2014-2023

No.	Jurisdiction	Year (Ha)									
		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
	MALAYSIA	230000	154000	185000	162000	145000	120000	73000	72200	71900	79300
1	Perlis	8	<1	8	3	2	2	2	<1	0	<1
	Kangsar	8	<1	8	3	2	2	2	<1	0	0
2	Kedah	2490	2540	3690	4060	2120	1590	817	651	760	999
	Kubang Pasu	408	397	819	317	196	38	26	22	47	36
	Kota Setar	-	-	-	-	-	-	-	-	-	-
	Yan	4	6	2	2	2	1	<1	7	20	2
	Kuala Muda	42	30	132	3	7	8	2	3	6	5
	Pokok Sena	15	1	8	11	<1	8	<1	<1	<1	5
	Pendang	96	24	24	7	3	11	2	5	2	5
	Padang Terap	738	745	672	266	770	1200	209	199	108	61
	Sik	571	195	498	1860	421	110	375	270	234	368
	Baling	531	757	1370	628	472	164	161	108	122	165
	Kulim	59	360	133	851	229	20	28	33	218	339
	Bandar Baharu	12	7	8	96	5	9	5	<1	<1	<1
3	Pulau Pinang	22	26	27	37	11	11	10	5	5	8
	Seberang Perai Utara	3	<1	-	<1	<1	-	-	-	-	-
	Seberang Perai Tengah	<1	4	<1	<1	<1	<1	-	-	<1	<1
	Seberang Perai Selatan	3	2	8	3	<1	<1	<1	<1	<1	2
	Timur Laut	9	8	4	27	5	2	2	2	<1	<1
	Barat Daya	6	11	15	6	4	7	7	3	3	4
4	Perak	7120	5900	5700	5390	4260	3590	3060	3460	2480	2890
	Kerian	345	303	204	140	111	87	85	131	75	182
	Larut, Matang	834	609	457	517	498	430	389	304	340	429
	Kuala Kangsar	1020	1900	1820	1780	1180	966	884	1000	222	540
	Manjung	87	55	73	110	49	50	43	39	11	24
	Perak Tengah	31	111	20	10	28	4	24	4	2	2
	Hulu Perak	3740	2320	2080	2030	1770	1410	1180	1510	1480	1290
	Hilir Perak	12	4	3	-	3	3	1	3	1	2
	Batang Padang	506	406	659	581	271	421	136	252	175	278
	Kampar	164	96	75	63	84	54	64	64	64	48
	Kinta	381	108	303	166	270	172	260	155	105	99
5	Selangor	2680	272	481	369	223	317	168	398	175	142
	Sabah Bernam	76	16	<1	6	2	41	20	63	5	23
	Kuala Selangor	1120	13	19	58	6	6	3	12	17	4
	Klang	7	42	30	20	14	9	4	5	1	<1
	Kuala Langat	896	84	89	3	5	23	14	14	2	8
	Sepang	64	4	87	10	7	7	5	<1	16	7
	Petaling	<1	2	16	15	20	48	<1	1	2	5
	Hulu Langat	83	43	99	120	69	44	49	113	53	23
	Gombak	16	18	45	45	50	26	15	59	18	29

No.	Jurisdiction	Year (Ha)									
		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
	Hulu Selangor	83	43	99	120	69	44	49	113	53	23
6	Negeri Sembilan	1590	677	895	1180	940	336	293	218	477	144
	Seremban	51	50	202	133	167	79	17	26	65	59
	Port Dickson	16	5	16	12	10	3	12	8	14	8
	Rembau	15	<1	2	129	83	21	4	7	4	<1
	Tampin	21	8	52	26	4	35	11	10	6	3
	Jempol	28	15	28	91	23	17	9	14	41	7
	Kuala Pilah	533	32	125	404	219	83	74	24	60	15
	Jejebu	926	567	469	389	434	98	166	130	287	52
7	Kelantan	15500	10100	11000	9940	13000	15500	7160	8620	8260	11900
	Gua Musang	13000	9060	8980	8550	10500	12000	5240	6640	6310	10800
	Kuala Krai	2040	654	1150	985	2140	3060	1580	1770	1640	875
	Machang	49	78	61	51	117	97	55	60	42	46
	Pasir Puteh	6	13	6	5	6	35	2	3	8	26
	Bachok	2	<1	5	1	<1	1	<1	6	<1	2
	Kota Bahru	2	5	11	<1	<1	1	<1	<1	2	2
	Tumpat	<1	<1	<1	1	<1	<1	<1	-	-	<1
	Pasir Mas	2	<1	2	<1	<1	<1	-	<1	<1	<1
	Tanah Merah	125	177	373	202	162	64	219	91	249	138
	Jeli	330	149	425	137	95	189	63	40	19	28
8	Melaka	42	20	43	11	4	2	3	17	12	17
	Alor Gajah	3	1	3	<1	<1	1	1	<1	6	11
	Melaka Tengah	1	<1	<1	-	-	<1	-	<1	-	<1
	Jasin	38	18	39	10	3	1	2	16	6	6
9	Johor	3380	1950	2100	2850	2170	1190	917	914	958	816
	Ledang	28	20	19	5	7	7	4	6	3	3
	Muar	171	49	63	80	36	26	90	16	28	24
	Batu Pahat	17	3	20	38	14	8	14	6	59	56
	Pontian	43	19	25	109	30	18	38	38	21	11
	Johor Bahru	46	47	69	208	210	52	79	27	29	22
	Kulai	13	79	40	16	2	1	3	2	3	1
	Kluang	370	385	360	69	42	76	25	8	18	3
	Segamat	138	234	247	186	116	63	61	76	224	554
	Mersing	1970	566	965	1910	1670	887	575	703	535	118
	Kota Tinggi	581	546	292	230	48	55	28	33	37	25
10	Pahang	29100	21000	38100	34200	25400	23600	18600	15600	11900	11900
	Rompin	6910	4870	9960	9180	5410	4910	5630	5580	2860	2700
	Pekan	5440	4290	7080	3430	3590	4200	2720	2350	1520	1280
	Kuantan	2480	1690	2490	1980	2250	2880	1420	1040	759	1020
	Jerantut	3300	5040	8280	10300	8540	6000	3510	2180	2080	2830
	Maran	1050	650	1780	2510	1680	666	1310	715	717	123
	Temerloh	1080	310	934	614	718	882	1390	903	1150	995
	Bera	1350	902	829	1480	631	280	312	115	119	147
	Bentong	2120	517	810	511	365	407	501	412	798	343
	Raub	2180	735	2120	1550	587	1590	339	671	452	515
	Lipis	2610	1940	3690	2630	1530	1750	1430	1650	1470	1930
11	Terengganu	5030	1890	5560	5300	4760	4220	1710	1950	3490	3910
	Kemaman	537	470	734	858	820	1020	421	466	677	872
	Dungun	1410	984	553	711	716	1320	398	379	448	1160
	Marang	175	55	235	303	468	665	161	246	187	205
	Kuala Terengganu	50	59	47	194	40	13	11	380	374	183
	Setiu	1530	1040	1280	947	946	240	147	152	183	173
	Besut	235	294	297	536	295	211	146	47	145	534
	Hulu Terengganu	1090	985	2420	1750	1680	756	428	282	1480	775
12	Sarawak	136000	86500	96700	81300	76500	58900	32600	30900	33800	36600
	Lawas	2900	3580	4180	2900	2160	1460	744	534	621	385
	Limbang	2820	3410	3810	2880	2300	1430	1220	1530	1590	1060
	Marudi	24100	16600	16100	14300	15000	9420	5370	4830	4170	4930
	Miri	456	432	408	387	320	113	79	78	259	162
	Bintulu	4930	3610	3340	3740	4690	3760	3660	2850	3310	3410
	Tatau	5710	5790	7580	6520	4340	6030	2410	1570	1210	1770
	Mukah	4190	1310	594	523	756	496	585	288	516	453
	Dalat	5750	964	180	221	77	92	36	33	40	63
	Matu	1040	2700	1500	994	1120	237	24	90	96	232
	Sibu	1970	1260	2910	1910	1500	796	861	315	399	318
	Daro	1940	1620	1460	2350	1060	864	1470	1270	879	762
	Sarikei	484	227	192	384	193	486	320	279	111	270
	Saratok	141	339	180	512	85	427	567	369	464	602
	Betong	637	383	224	535	1110	711	257	239	225	62
	Sri Aman	6350	4070	3300	5860	2500	2240	459	667	568	635
	Simunjan	374	355	1800	1080	542	58	32	81	92	137
	Asajaya	14	12	17	31	46	20	5	8	4	17
	Kuching	286	160	314	278	151	252	98	184	145	111
	Lundu	2880	1170	1280	925	455	202	170	135	157	395
	Bau	171	69	45	52	72	35	25	101	40	12
	Samarahan	374	355	1800	1080	542	58	32	81	92	137
	Merandong	554	267	144	147	185	115	56	26	131	72
	Serian	1060	380	551	477	939	511	172	209	264	155

No.	Jurisdiction	Year (Ha)									
		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
	Lubok Antu	330	397	342	173	165	22	15	31	21	36
	Pakan	205	161	53	339	85	70	6	116	132	57
	Julau	1590	841	524	570	343	134	134	208	287	406
	Kanowit	2130	1810	1500	1400	1530	493	103	159	280	523
	Song	1210	1760	2220	1420	1240	1330	899	1120	2370	2760
	Kapit	7680	8430	17300	12100	16500	10800	3780	5060	4220	4870
	Selangau	5560	3410	3600	3180	2320	1900	1670	1680	2170	1950
	Talau	5710	5790	7580	6520	4340	6030	2410	1570	1210	1770
	Belaga	44700	19200	19700	14400	14200	14200	7350	6720	8780	8550
	Marudi	24100	16600	16100	14300	15000	9420	5370	4830	4170	4930
13	Sabah	27900	2400	20900	17700	15200	10900	7600	9410	9620	9900
	Kudat	77	57	82	47	241	21	26	11	9	12
	Kota Marudu	205	169	152	497	903	802	275	225	274	226
	Kota Belud	68	404	375	366	120	50	51	35	42	61
	Tuaran	222	218	121	110	121	112	94	91	82	69
	Kota Kinabalu	38	18	29	14	25	41	31	15	23	16
	Penampang	186	165	105	78	61	139	112	51	40	39
	Papar	761	354	231	365	361	327	126	189	112	68
	Beaufort	156	192	266	126	92	97	82	67	28	33
	Kuala Penyu	30	17	67	26	21	33	15	19	16	13
	Sipitang	1110	749	455	166	263	252	198	275	263	317
	Tenom	936	933	684	857	386	291	264	167	128	218
	Nabawan	1740	1170	1900	3220	2580	2560	1860	2610	2290	1950
	Keningau	1270	697	683	172	119	186	197	162	303	699
	Tambunan	996	890	672	670	815	521	274	328	229	311
	Ranau	1670	1630	1560	828	1510	567	352	395	776	450
	Tongod	9700	8720	8620	6260	3490	2120	1600	2180	2810	3450
	Beluran	3810	2390	2000	1740	1440	1300	757	1040	717	700
	Pitas	1650	527	712	167	155	98	103	91	62	149
	Sandakan	293	293	320	187	210	80	75	92	90	56
	Kinabatangan	415	368	679	182	577	166	54	61	56	116
	Lahad Datu	96	77	62	53	55	23	26	17	22	27
	Kunak	10	8	5	3	2	2	1	1	<1	1
	Semporna	135	81	57	59	102	54	28	20	26	28
	Tawau	2310	1290	1090	1510	1580	1050	1000	1270	1220	893

Source: Global Forest Watch (2024)

3.2.7 Article 10(2)(g)

EUDR A10(2)(g)	“the source, reliability, validity, and links to other available documentation of the information referred to in Article 9(1)”
Level	N/A
Possible data sources	N/A
Gap	N/A

The reliability and validity of Article 9(1) information, as available through MSPO (MSPO Trace and public summary of audit reports) and MPOB (Form Q1), and the Geopalm platform is reinforced through associated official registration and independent third-party audit. Furthermore, many of the requirements are legal and mandatory, while MSPO and MPOB provide open access to relevant information.

3.2.8 Article 10(2)(h)

EUDR A10(2)(h)	“concerns in relation to the country of production and origin or parts thereof, such as level of corruption, prevalence of document and data falsification, lack of law enforcement, violations of international human rights, armed conflict or presence of sanctions imposed by the UN Security Council or the Council of the European Union”
Level	National
Possible data sources	Non-government sources
Gap	N/A

In recent years, forced labour concerns have been raised in relation to oil palm production in Malaysia. In this context, Malaysia has ratified 18 International Labour Organization (ILO) Conventions, including six of eight Fundamental Conventions. Notably, the Fundamental Convention on the Abolition of Forced Labour (No. 105) was denounced in 1990 and is no longer in effect in Malaysia. Conventions 87 on Freedom of Association and 111 on Discrimination in Employment are the two remaining Fundamental Conventions that have not been ratified.

Malaysia addresses the issue of forced labour with the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (Act 670). Section 2 of the Act defines forced labour as a type of exploitation that includes sexual exploitation, forced labour or services, slavery, practices resembling slavery, servitude, any illegal activity, and the harvesting of human organs. Article 6 of the Federal Constitution expressly prohibits all forms of slavery and forced labour, with the exception of mandatory service for national security.

The National Action Plan on Forced Labour demonstrates the Malaysian government's efforts to eliminate forced labour in the country. Policy changes, context-sensitive interventions, and the promotion of freedom of association and the right to collective bargaining are among the key mechanisms proposed for combating forced labour and child labour.

In the context of oil palm production, plantation companies must adhere to Principle 4 of the MSPO Standards, which focuses on the responsibility for social, health, safety and working conditions. This commitment is validated through audited compliance with MSPO standards, demonstrating adherence to these critical aspects.

3.2.9 Article 10(2)(i)

EUDR A10(2)(i)	“the complexity of the relevant supply chain and the stage of processing of the relevant products, in particular difficulties in connecting relevant products to the plot of land where the relevant commodities were produced”
Level	National, State and District
Data sources	MPOB’s Malaysian Oil Palm Industry Performance web portal ⁸
Available data	<ol style="list-style-type: none"> 1. Distribution of independent smallholders and estates and organised smallholder schemes at the national and state levels 2. Distribution of mills at the national, state and district levels
Gap	<ol style="list-style-type: none"> 1. MPOB’s licensing database is not open access 2. Distribution of growers at the district level 3. Distribution of intermediaries at the district level

The palm oil supply chain in Malaysia is divided into two sections: upstream and downstream. The upstream supply chain has a relatively linear structure. Growers, including estates and smallholders (independent and organised) are the suppliers of FFB. Bulk FFB deliveries are typically routed directly to a mill, which may be an estate company's integrated facility. Independent smallholders frequently use collection centres and dealers as intermediaries, with palm oil mills acting as the final purchasers.

⁸<https://prestasisawit.mpob.gov.my/ms>

Harvested FFB from plantations are usually delivered to mills within 24 hours. Rapid transfer is critical for maximising oil extraction during the milling process and ensuring oil quality.

Table 7 presents a detailed overview of the distribution of estates, organised smallholder schemes, independent smallholders, intermediaries and mills across various Malaysian states, highlighting the complexity of the supply chain for smallholders. These figures illustrate the challenges in ensuring traceability, as the high ratio of independent smallholders to intermediaries, and intermediaries to mills, complicates the monitoring and verification process. Additionally, the large number of uncertified intermediaries in the chain increases the risk of mixing certified and uncertified products, further complicating traceability efforts.

Due to the prioritisation of swift FFB delivery, the upstream supply chain in Malaysia is engineered for efficiency and is characterised by a lean structure. Analysis of the upstream supply chain in various Malaysian states reveals a low count of independent smallholders per intermediary (Table 7). Notably, Johor has the highest number of independent smallholders (58,584) and intermediaries (918), leading to an average of 64 independent smallholders per intermediary and 15 intermediaries per mill. In contrast, smaller states like Melaka and Perlis have significantly fewer independent smallholders and intermediaries. Sabah and Sarawak also feature prominently, with Sabah having 31,090 independent smallholders and 503 intermediaries, while Sarawak has 44,803 independent smallholders and 282 intermediaries. There is also a low count of intermediaries per mill. The average ratio of eight intermediaries per mill underscores a relatively straightforward supply chain network.

Notwithstanding that, the traceability of products from smallholders in Malaysia faces significant challenges. Although the MSPO 2022 standards include provisions for dealer certification, it remains voluntary and at the time of writing, no dealers have been certified. This lack of certification hinders the establishment of a reliable chain of custody and prevents full traceability to smallholders.

Table 7: Distribution of MPOB license holders across the upstream supply chain, 2022

State	Estate & organised smallholder scheme	Independent smallholder	Intermediary	Mill	Independent smallholders per intermediary	Intermediary per mill	Estate per mill
Johor	563	58,584	918	63	64	15	9
Melaka	97	2,534	64	3	40	21	32
Negeri Sembilan	237	5,167	115	15	45	8	16
Selangor	144	12,849	313	17	41	18	8
Wilayah Persekutuan	1	-	7	-	-	-	-
Kelantan	182	2,318	63	10	37	6	18
Pahang	612	12,357	424	70	29	6	9
Terengganu	150	3,636	132	12	28	11	13
Kedah	141	6,186	95	6	65	16	24
Perak	484	32,654	586	46	56	13	11
Perlis	4	38	-	-	-	-	-
Pulau Pinang	17	1,244	17	2	73	9	9
Sabah	1,557	31,090	503	133	62	4	12
Sarawak	706	44,803	282	85	159	3	8
Malaysia	4,895	213,460	3,519	462	61	8	11

Source: MPOB (2023)

Notes: Appendix 2 shows the distribution of mills by district. Statistics on the distribution of growers and intermediaries at the district level have not been published.

3.2.10 Article 10(2)(j)

EUDR A10(2)(j)	“the risk of circumvention of this Regulation or of mixing with relevant products of unknown origin or produced in areas where deforestation or forest degradation has occurred or is occurring”
Level	Supply Chain
Data source	Information on connecting to the plot of land available for MSPO Segregated supply chain model
Gap	MSPO Mass Balance certified products cannot be traced back to the plot of land and cannot be verified for legal and deforestation-free production because of mixing of palm oil from certified and uncertified sources.

Two supply chain models can be applied under the MSPO standards: Segregated (SG) and Mass Balance (MB) models. The SG model strives for 100% separation and requires that MSPO-certified palm oil products shall be kept separated from non-certified products at every stage of processing throughout the supply chain. The MB model allows for the mixing of MSPO certified and non-MSPO certified palm oil products at any stage in the supply chain, provided that overall quantities are controlled. There are no requirements for separate storage, transportation or controls in the production process, and the un-certified components are not verified for origin, of for deforestation-free or legal production.

Table 8 categorises palm oil mills by their adoption of the Mass Balance and the Segregated models. The MB model is more widely adopted, with 376 mills using this approach compared to 68 mills using the SG model. At the sub-national level, variations are evident in the distribution of these supply chain models. Sabah has 104 mills using the MB model and 20 using the SG model. Similarly, Sarawak shows a predominant use of the MB model with 72 mills, while only 6 mills employ the SG model. This pattern is consistent across most states, with larger oil palm-producing states like Johor and Pahang also showing substantial numbers of MB-certified mills.

Table 8: MSPO supply chain models of Malaysian palm oil mills, 2023

No.	Jurisdiction	No. of mill		No.	Jurisdiction	No. of mill	
		Mass balance model	Segregation model			Mass balance model	Segregation model
1	Kedah	5	1	11	Sabah	104	20
	Baling	1	0		Kota Marudu	1	0
	Kulim	3	0		Kota Kinabalu	10	0
	Bandar Baharu	1	1		Keningau	4	0
2	Pulau Pinang	2	0	Ranau	1	0	
	Seberang Perai Selatan	2	0	Telupid	1	0	
3	Perak	34	6	Beluran	3	0	
	Kerian	5	0	Pitas	1	0	
	Larut, Matang & Selama	7	0	Sandakan	28	5	
	Kuala Kangsar	2	0	Kinabatangan	9	0	
	Manjung	0	2	Lahad Datu	22	11	
	Perak Tengah	6	0	Kunak	3	0	
	Bagan Datuk	0	1	Semporna	1	0	
	Hilir Perak	6	3	Tawau	20	4	
	Batang Padang	4	0	12	Sarawak	72	6
	Kampar	1	0		Lawas	1	0
Kinta	3	0	Limbang		1	0	
			Miri		21	0	
4	Selangor	15	6	Bintulu	14	4	
	Kuala Selangor	1	1	Mukah	9	0	
	Klang	2	0	Sibu	7	0	
	Kuala Langat	4	2	Daro	1	0	
	Sepang	2	0	Sarikei	1	0	
	Petaling	3	1	Saratok	1	0	
Hulu Langat	1	0					

	Hulu Selangor	2	2	Betong	1	0
5	Negeri Sembilan	15	6	Sri Aman	3	0
	Seremban	3	1	Kuching	1	0
	Port Dickson	4	3	Lundu	1	0
	Tampin	3	0	Bau	1	0
	Jempol	4	1	Samarahan	3	0
	Jejebu	1	1	Serian	3	0
6	Melaka	2	2	Kapit	3	2
	Alor Gajah	1	0	MALAYSIA	376	68
	Melaka Tengah	1	0			
	Jasin	0	2			
7	Johor	50	13			
	Tangkak	1	0			
	Muar	4	0			
	Batu Pahat	4	1			
	Pontian	1	0			
	Johor Bahru	1	0			
	Kulai	3	0			
	Kluang	13	5			
	Segamat	7	3			
	Mersing	3	0			
	Kota Tinggi	13	4			
8	Pahang	59	7			
	Rompin	19	2			
	Pekan	4	2			
	Kuantan	5	2			
	Jerantut	4	0			
	Maran	7	0			
	Temerloh	3	0			
	Bera	10	0			
	Bentong	2	0			
	Raub	4	1			
	Lipis	1	0			
9	Terengganu	9	1			
	Kemaman	5	1			
	Dungun	1	0			
	Setiu	2	0			
	Hulu Terengganu	1	0			
10	Kelantan	9	0			
	Gua Musang	6	0			
	Kuala Krai	2	0			
	Tanah Merah	1	0			

Source: Inventoried using MPOCC (2024)

3.2.11 Article 10(2)(k)

EUDR A10(2)(k)	“conclusions of the meetings of the Commission expert groups supporting the implementation of this Regulation, as published in the Commission’s expert group register”
Level	NA
Data source	European Commission
Opportunity:	European Commission to provide conclusions of the meetings of the Commission expert groups

According to the European Commission (2023), expert groups that support the implementation of the EUDR are part of the Commission Expert Group/Multi-Stakeholder Platform on Protecting and Restoring the World’s Forests, which includes the EU Timber Regulation and the Forest Law Enforcement, Governance, and Trade (FLEGT) Regulation (E03282).

[The 24th Meeting of the “Multi-Stakeholder Platform on Protecting and Restoring the World’s Forests”](#) With a Focus on Deforestation and Forest Degradation focused on smallholders and traceability. In that meeting:

- The Roundtable on Sustainable Palm Oil (RSPO) presented its new certification, trade and traceability system designed for EUDR compliance;
- Musim Mas highlighted the high risk of smallholder exclusion in the EU palm oil value chain;
- The Indonesian Independent Smallholder Union advocated for financing smallholder legality, traceability and deforestation-free compliance.

Issues and challenges faced by the Malaysian palm oil industry were less represented in these discussions.

3.2.12 Article 10(2)(l) and (m)

EUDR A10(2)(l)	“substantiated concerns submitted under Article 31, and information on the history of non-compliance of operators or traders along the relevant supply chain with this Regulation”
EUDR A10(2)(m)	“any information that would point to a risk that the relevant products are non-compliant”
Level	Supply Chain
Data source	MSPO Trace, among other potential sources as above
Opportunities	<ol style="list-style-type: none"> 1. MSPO Trace could publish Complaints and Grievances reports 2. MSPO Trace could publish time-series certification and surveillance audit reports

Concerns about noncompliance are addressed in the MSPO certification scheme through its complaints and grievances system. This system accepts complaints related to noncompliance with the MSPO standards, as well as national laws and regulations. The MSPO complaints procedure, which supplements the dispute resolution procedure, manages these complaints through a structured process involving review, investigation, appeal and presentation to the Dispute Resolution Committee. However, under the current configuration, only the complainant has access to the status of their complaint.

Additionally, Certification Bodies report instances of noncompliance with the MSPO certification scheme and national regulations in their MSPO certification and surveillance audit reports. Currently, access is limited to the most recent reports. To provide a comprehensive overview and better address the need for due diligence, previous MSPO certification and surveillance audit reports should be publicly available. This transparency would enhance the ability to track a history of noncompliance by supply chain operators or traders. Thus, there is an opportunity to further utilise the MSPO complaints and grievances mechanism to carry out due diligence.

3.2.13 Article 10(2)(n)

EUDR A10(2)(n)	“complementary information on compliance with this Regulation, which may include information supplied by certification or other third-party verified schemes, including voluntary schemes recognised by the Commission under Article 30(5) of Directive (EU) 2018/2001 of the European Parliament and of the Council (21), provided that the information meets the requirements set out in Article 9 of this Regulation”
Level	Supply Chain
Data sources	<ol style="list-style-type: none"> 1. MSPO audit reports 2. RSPO audit reports 3. ISCC audit reports

As previously noted, both MPOB and MSPO information resources can be of utility to EU operators and can provide complementary information on EUDR compliance. While MPOB enforces palm oil-related laws and regulations, MSPO certification and surveillance audits are third-party verified.

Furthermore, key international voluntary standards and certification schemes can provide complementary information (Table 9). The Roundtable on Sustainable Palm Oil (RSPO, 2024) certified approximately 1.51 million ha (26.7%) of Malaysia's oil palm planted areas as of the end of 2023. A total of 33 of Malaysia's palm oil mills (7.1%) have received the International Sustainability and Carbon Certification (ISCC, 2024a) EU certification, which is tailored to meet the requirements of the Renewable Energy Directive (REDII) (ISCC, 2024b). Among the ISCC-EU certified mills, 14 are also certified under the ISCC-Plus, which has the same certification requirements as ISCC EU but can be adapted to the needs of different markets or specific applications (ISCC, 2024c).

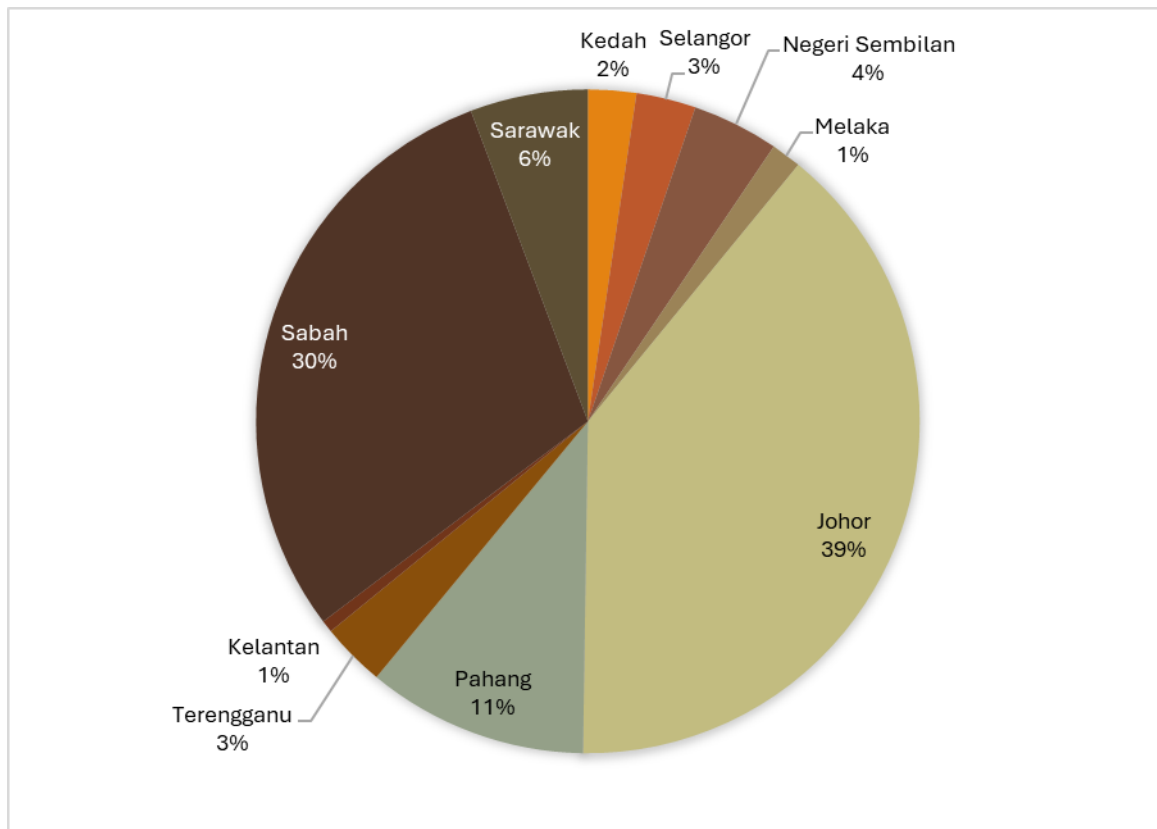
Table 9: RSPO and ISCC-certified upstream base in Malaysia, 2023

No	Jurisdiction	RSPO-certified area (ha) [^]	No. of ISCC-EU certified mill*	No. of ISCC-PLUS certified mill *
MALAYSIA		1,510,009	33	14
1	Kedah	33,111	-	-
	Kuala Muda	7,136	-	-
	Baling	8,514	-	-
	Kulim	11,982	-	-
	Bandar Baharu	5,479	-	-
2	Perak	97,988	-	-
	Kerian	9,740	-	-
	Larut, Matang & Selama	5,684	-	-
	Kuala Kangsar	7,092	-	-
	Manjung	17,694	-	-
	Perak Tengah	1,995	-	-
	Bagan Datuk	26,340	-	-
	Hilir Perak	17,233	-	-
	Batang Padang	7,849	-	-
	Muallim	1,550	-	-
	Kampar	754	-	-
	Kinta	2,057	-	-
3	Selangor	41,080	1	-
	Sabah Bernam	2,512	-	-
	Kuala Selangor	13,246	1	-
	Klang	3,651	-	-
	Kuala Langat	13,451	-	-
	Sepang	3,159	-	-
	Petaling	2,126	-	-
	Hulu Selangor	2,936	-	-
4	Negeri Sembilan	59,508	1	-
	Seremban	16,665	1	-
	Port Dickson	13,421	-	-
	Rembau	922	-	-
	Tampin	2,300	-	-
	Jempol	24,463	-	-
	Jejebu	1,738	-	-
5	Melaka	20,706	-	-
	Alor Gajah	7,450	-	-
	Jasin	13,256	-	-
6	Johor	554,937	7	7
	Tangkak	10,010	-	-
	Muar	7,768	-	-
	Batu Pahat	9,043	-	-

No	Jurisdiction	RSPO-certified area (ha)^	No. of ISCC-EU certified mill*	No. of ISCC-PLUS certified mill *
	Johor Bahru	7,837	-	2
	Kulai	21,568	-	-
	Kluang	397,775	3	2
	Segamat	45,083	3	2
	Mersing	8,921	-	-
	Kota Tinggi	46,933	1	1
7	Pahang	151,971	1	-
	Rompin	36,313	-	-
	Pekan	2,729	-	-
	Kuantan	27,713	-	-
	Jerantut	5,991	-	-
	Maran	2,871	-	-
	Temerloh	10,798	-	-
	Bera	30,683	1	-
	Bentong	4,591	-	-
	Lipis	30,281	-	-
8	Terengganu	43,921	-	-
	Kemaman	20,505	-	-
	Dungun	9,956	-	-
	Setiu	11,979	-	-
	Hulu Terengganu	1,481	-	-
9	Kelantan	8,314	-	-
	Kuala Krai	4,535	-	-
	Tanah Merah	3,779	-	-
10	Sabah	417,467	16	2
	Tenom	5,638	-	-
	Beluran	8,421	2	-
	Sandakan	119,942	7	1
	Kinabatangan	87,549	2	-
	Lahad Datu	117,503	4	-
	Kunak	21,698	-	-
	Semporna	4,746	-	-
	Tawau	51,970	1	1
11	Sarawak	81,006	7	5
	Miri	14,835	2	2
	Bintulu	66,171	1	1
	Mukah		2	1
	Sibu		1	-
	Kapit		1	1

Sources: RSPO (2024) and ISCC (2024a)

Figure 7: RSPO certified area by states in Malaysia (out of 1,510,009 ha)



3.3 Article 29 – Assessment of countries

Article 29 provides a basis for the EC to establish a three-tier system for the assessment of countries or parts thereof. To classify countries into high risk, standard risk or low risk categories, Article 29 (3) of the EUDR specifies the three primary assessment criteria:

- Rate of deforestation and forest degradation;
- Rate of expansion of agriculture land for relevant commodities;
- Production trends of relevant commodities and of relevant products.

Additionally, the assessment may take into account information on the effective covering of emissions and removals from agriculture, forestry and land use in the nationally determined contribution to the United Nations Framework Convention on Climate Change (UNFCCC); agreements with the EU or EU Member States that address deforestation and forest degradation; data transparency and enforcement of applicable human and indigenous peoples' rights laws; and sanctions imposed by the UN Security Council or the Council of the European Union on imports or exports of the relevant commodities and products.

The list of countries and parts thereof and their assigned risk categories is scheduled for publication in mid-2025. Until this time, all countries are to be considered standard risk. Operators are to use the assigned risk to determine the level of due diligence necessary for their sourcing areas as outlined in Section 1.1.1.

The following sections outline information available in Malaysia in relation to the three primary assessment criteria.

3.3.1 Article 29(3)(a)

See section 3.2.6 on EUDR Articles 10(2)(f) and 29(3)(a) for a summary of information available in Malaysia on rate of deforestation and forest degradation.

3.3.2 Article 29(3)(b)

EUDR A29(3)(b)	“rate of expansion of agriculture land for relevant commodities”
Level	National and State
Data source	MPOB’s Malaysian Oil Palm Industry Performance web portal
Available data	Oil palm planted area

Table 10 presents information on oil palm planted area in Malaysia and shows a declining trend between 2020 to 2023. Nationally, the total planted area decreased by 405,318 hectares from 5,983,898 hectares in 2020 to 5,579,180 hectares in 2023. This trend suggests a reduction in new plantings.

The same trend is evident across several states and districts. For instance, Johor experienced a 10% reduction in planted area, from 740,829 hectares in 2020 to 670,862 hectares in 2023. Sabah's planted area decreased a small amount from 1,543,053 hectares to 1,510,025 hectares over the same period. States including Selangor, Melaka and Kelantan also saw reductions.

Table 10: Oil palm planted area in Malaysia, 2020-2023

No.	Jurisdiction	2020 (ha)	2021 (ha)	2022 (ha)	2023 (ha)
	MALAYSIA	5,983,898	5,818,840	5,754,439	5,578,580
1	Perlis	694	760	886	881
	Kangsar	694	760	886	881
2	Kedah	89,781	86,986	86,485	85,871
	Kubang Pasu	3,259	3,048	3,054	3,140
	Kota Setar	47	46	20	21
	Yan	80	51	47	46
	Kuala Muda	24,170	23,075	22,567	22,996
	Pokok Sena	535.0	523.0	523	556
	Pendang	5,611	5,529	5,523	5,502
	Padang Terap	4,592	5,940	5,728	4,656
	Sik	1,460	1,445	1,514	1,647
	Baling	14,743	14,290	14,228	14,333
	Kulim	23,328	22,347	22,478	22,501
	Bandar Baharu	11,956	10,692	10,803	10,473
3	Pulau Pinang	12,828	9,684	8,579	8,234
	Seberang Perai Utara	5,012	3,231	2,869	2,309
	Seberang Perai Tengah	1,915	1,665	1,482	1,614
	Seberang Perai Selatan	4,905	4,419	4,142	4,280
	Timur Laut	848	313	73	29
	Barai Daya	148	56	13	-
4	Perak	385,712	363,021	345,465	349,224
	Kerian	27,384	25,417	24,243	24,454
	Larut, Matang & Selama	33,790	31,165	30,017	30,612
	Kuala Kangsar	29,984	29,477	27,529	27,184
	Manjung	50,189	47,813	45,505	44,319
	Perak Tengah	51,607	49,706	46,815	46,157
	Bagan Datuk	1,610	2,339	2,761	2,990
	Hilir Perak	106,060	95,300	91,539	90,084
	Batang Padang	66,905	64,413	60,777	60,111
	Muallim	810	898	1,031	1,134
	Kampar	420	515	573	764
	Kinta	16,953	15,978	14,675	14,841

No.	Jurisdiction	2020 (ha)	2021 (ha)	2022 (ha)	2023 (ha)
5	Selangor	126,526	110,250	106,009	104,148
	Sabah Bernam	11,307	7,443	6,917	7,060
	Kuala Selangor	33,632	28,150	26,667	26,311
	Klang	5,804	5,020	4,867	4,475
	Kuala Langat	29,932	27,110	25,481	24,995
	Sepang	15,561	14,289	13,640	13,580
	Petaling	505	645	298	261
	Hulu Langat	3,107	2,222	1,714	1,447
	Gombak	2,878	2,116	1,997	1,862
	Hulu Selangor	23,800	23,255	24,428	24,158
6	Negeri Sembilan	190,462	184,673	178,560	177,467
	Seremban	18,236	17,513	17,071	16,931
	Port Dickson	29,417	29,049	27,973	27,093
	Rembau	7,261	6,746	6,485	6,088
	Tampin	30,067	29,262	25,946	26,883
	Jempol	72,760	73,493	73,022	72,462
	Kuala Pilah	14,537	11,152	10,818	10,198
	Jelebu	18,184	17,458	17,245	17,812
7	Melaka	56,361	54,131	52,347	51,083
	Alor Gajah	26,791	25,432	25,054	24,666
	Melaka Tengah	2,021	2,075	1,898	1,863
	Jasin	27,549	26,624	25,395	24,554
8	Johor	740,829	699,215	676,404	670,862
	Tangkak	19,710	16,993	15,300	14,985
	Muar	53,240	46,639	42,748	41,691
	Batu Pahat	65,035	58,693	53,582	52,244
	Pontian	28,254	22,073	18,204	17,252
	Johor Bahru	50,816	47,341	43,778	42,124
	Kulai	6,457	8,631	10,683	10,854
	Kluang	195,082	181,738	175,271	176,264
	Segamat	112,329	108,043	108,680	106,333
	Mersing	61,395	62,814	61,879	60,351
	Kota Tinggi	148,511	146,250	146,279	148,771
9	Pahang	782,257	755,906	749,813	746,070
	Rompin	209,244	205,908	200,767	202,522
	Pekan	102,887	102,010	106,345	107,132
	Kuantan	91,159	90,324	89,149	82,614
	Jerantut	54,045	52,762	51,366	50,489
	Maran	68,614	65,890	65,696	65,432
	Temerloh	43,577	38,456	38,062	38,760
	Bera	100,385	95,287	94,051	94,797
	Bentong	27,837	26,793	25,925	26,088
	Raub	24,628	21,141	20,722	20,666
	Lipis	59,881	57,335	57,730	57,569
10	Terengganu	178,628	172,944	170,826	166,402
	Kemaman	70,927	72,338	70,725	69,513
	Dungun	38,047	35,150	35,134	33,126
	Marang	9,678	10,114	10,172	9,946
	Kuala Terengganu	3,977	676	658	625
	Kuala Nerus	33	3,079	3,184	3,857
	Setiu	27,561	24,948	25,348	23,498
	Besut	7,023	5,845	5,839	5,656
	Hulu Terengganu	21,382	20,794	19,766	20,181
11	Kelantan	167,599	164,281	161,852	158,641
	Gua Musang	125,944	124,477	122,219	118,910
	Kuala Krai	16,002	15,607	15,603	16,628
	Machang	2,675	2,510	2,327	924
	Pasir Puteh	589	530	504	505
	Bachok	151	191	225	239
	Kota Bahru	36	29	27	27
	Tumpat	102	54	10	8
	Pasir Mas	977	946	946	924
	Tanah Merah	11,718	11,526	11,597	11,586
	Jeli	9,405	8,411	8,394	7,927
12	Sabah	1,543,053	1,523,625	1,508,059	1,510,025
	Kudat	13,304	12,828	12,730	12,776
	Kota Marudu	11,953	11,625	11,464	11,521
	Kota Belud	1,654	1,677	1,578	1,461
	Tuaran	468	460	446	399
	Kota Kinabalu	185	43	342	-

No.	Jurisdiction	2020 (ha)	2021 (ha)	2022 (ha)	2023 (ha)
	Penampang	57	54	45	-
	Papar	2,417	2,371	2,571	2,249
	Beaufort	25,565	23,368	23,240	22,763
	Kuala Penyu	1,734	1,863	1,967	1,913
	Sipitang	1,628	1,484	1,804	1,877
	Tenom	6,880	7,403	7,221	7,447
	Nabawan	7,766	8,139	8,001	9,156
	Keningau	53,271	52,248	50,411	48,453
	Tambunan	1,710	1,569	1,475	1,271
	Ranau	15,550	15,533	13,777	12,804
	Tongod	11,282	13,307	15,989	19,001
	Telupid	4,139	6,163	7,472	8,159
	Beluran	232,828	225,603	222,933	222,369
	Pitas	11,059	10,140	9,517	9,514
	Sandakan	181,177	182,970	182,168	183,223
	Kinabatangan	350,967	344,677	339,286	336,712
	Lahad Datu	275,383	268,564	265,738	269,152
	Kunak	49,927	49,501	48,082	55,920
	Semporna	39,686	39,124	38,672	38,628
	Tawau	242,463	242,911	241,130	233,257
13	Sarawak	1,709,168	1,693,364	1,709,154	1,549,672
	Lawas	13,507	13,196	13,507	13,761
	Limbang	9,894	9,787	9,894	9,975
	Marudi	38,930	42,484	38,930	37,682
	Beluru	84,542	81,188	84,542	85,338
	Miri	156,311	158,661	156,311	150,460
	Subis	140,994	136,717	140,994	142,609
	Bintulu	162,075	160,780	162,075	163,999
	Sebauh	47,864	44,617	47,864	45,342
	Tatau	36,714	36,679	36,714	36,952
	Mukah	172,000	165,938	172,000	166,587
	Dalat	46,773	48,050	46,773	46,760
	Matu	35,415	34,728	35,415	35,687
	Sibu	87,202	86,528	87,202	88,341
	Daro	57,541	57,297	57,541	57,503
	Tanjung Manis	165	163	165	175
	Sarikei	15,254	14,544	15,254	15,364
	Kabong	4,036	3,477	4,036	5,716
	Saratok	19,618	19,564	19,618	19,338
	Pusa	6,379	5,931	6,379	6,573
	Betong	31,883	32,528	31,883	32,008
	Sri Aman	75,042	74,650	75,042	74,640
	Simunjan	52,139	54,522	52,139	51,764
	Asajaya	2,909	2,351	2,909	3,203
	Kuching	6,867	9,221	6,867	5,961
	Lundu	41,297	39,189	41,297	42,922
	Bau	17,341	17,593	17,341	17,386
	Samarahan	39,182	41,559	39,185	36,265
	Merandong	5,300	5,083	5,300	5,688
	Serian	45,335	41,838	45,335	52,389
	Lubok Antu	10,466	11,993	10,446	13,822
	Pakan	4,571	4,038	4,571	4,677
	Julau	3,061	2,672	3,061	3,299
	Kanowit	19,484	19,303	19,484	19,642
	Song	44	42	44	46
	Kapit	18,006	16,256	18,006	18,372
	Selangau	24,184	24,194	24,187	24,417
	Talau	N/A	N/A	N/A	36,952
	Sebauh	47,864	44,617	47,864	45,342
	Balaga	65,555	66,563	65,555	66,076
	Telang Usan	22,138	20,587	22,138	20,919
	Tebedu	2,356	1,752	2,356	2,657
	Marudi	38,930	42,484	38,930	37,682

Source: MPOB (2023c; 2024)

3.3.3 Article 29(3)(c)

EUDR A29(3)(c)	“production trends of relevant commodities and of relevant products”
Level	National and State
Data source	MPOB’s Malaysian Oil Palm Industry Performance
Available data	1. Oil palm matured areas of all grower types 2. FFB yields of estates
Opportunities	1. MPOB could provide segregated data on oil palm matured areas for estates and smallholders 2. MPOB could report FFB yields of both estates and smallholders

MPOB does not provide direct information on oil palm production. Although oil palm matured areas for all grower types and FFB yields for estates are reported, multiplying the two will result in an overestimation of oil palm production as estate-owned plantations are more productive than those managed by smallholders.

Nonetheless, it is widely acknowledged that Malaysia’s oil palm production has stagnated, as the data presented in Table 11 shows. Reduced planted and matured areas, stagnated oil palm productivity and ageing palms all contribute to the trend.

Table 11: Crude palm oil production in Malaysia, 2020-2023

State	2020	2021	2022	2023
Johor	N/A	2,851,495	2,969,525	2,858,351
Kedah	N/A	236,668	237,382	213,532
Kelantan	N/A	314,406	336,061	336,602
Negeri Sembilan	N/A	631,112	675,767	624,201
Pahang	N/A	2,795,769	3,013,107	2,828,568
Perak	N/A	1,902,382	1,866,423	1,842,435
Selangor	N/A	522,372	498,904	492,511
Terengganu	N/A	429,665	407,500	413,556
Other states	N/A	163,128	156,661	215,364
Sabah	N/A	4,361,537	4,286,665	4,507,460
Sarawak	N/A	3,907,820	4,005,425	4,219,350
MALAYSIA	19,136,929	18,116,354	18,453,420	18,551,950

Source: MPOB (2024)

4. Points for consideration

The shared objective of cultivating sustainable, deforestation-free palm oil underscores an intersection between Malaysian policies and global regulations where synergies can be realised. The potential for alignment between policy frameworks presents an opportunity to not only meet global requirements but also to facilitate smoother trade dynamics.

Both the Malaysian palm oil policy framework and the EUDR consider the utilisation of certified or third-party verified schemes to ensure compliance with relevant standards. In this context, the MSPO standard and certification systems and associated facilities (i.e. MSPO Trace) can furnish operators with data relevant for conducting due diligence. Other nationally available datasets provide information of relevance for risk assessment and in relation to the EC’s role under the EUDR of conducting assessment of countries/benchmarking.

Traceability holds a central role in both the Malaysian and EUDR policy frameworks, and there are several aspects that deserve special attention in establishing legal and deforestation-free supply chains to meet global market requirement:

- Aligning key concepts and definitions;
- Enhancing the ecosystem of MSPO standards;
- Regulatory opportunities to improve the integrity of deforestation-free claims;
- Data integration towards a more unified approach in data collection systems.

4.1 Aligning key concepts and definitions

Key concepts must be aligned in relevant areas to ensure that EUDR requirements can be met prior to application on 31 December 2024. The MSPO-EUDR Joint Gap Assessment provides recommendation of potential solutions to better align MSPO certification with the EUDR information requirements (MSPO and EFI, 2024).

In the wider context of the Malaysian government and other relevant stakeholders, the following could be considered:

Addressing varying definitions: Implementing clear and universally accepted definitions of key terms, such as "forest," is crucial for ensuring consistent implementation of traceability measures across the palm oil supply chain. The 2nd Meeting of the Ad Hoc Joint Task Force on the EUDR further affirmed this, with the respective governments indicating a willingness to collaborate in developing comprehensive and accurate national forest maps based on the FAO/EUDR forest definition. Such collaborative efforts would signal a step towards harmonisation and cooperation among stakeholders in facilitating implementation of harmonised traceability measures.

Resolving differences in deforestation-free criteria: Differences in criteria for deforestation-free status in relation to palm oil production, such as canopy cover thresholds (10% per the EUDR/FAO definition versus 30% in Malaysia), should also be addressed. Given MSPO's reference to the Accountability Framework Initiative (AFI) guidance documents and the fact that AFI follows the FAO definition, an adjustment permitting auditors to verify deforestation-free production per the EUDR/FAO forest definition could be considered. A solution proposed by MSPO is to align the forest definition in the HCV Guidelines with the FAO/EUDR definition so that the deforestation-free status of new plantings can be verified through HCV mechanism (Tan, 2024).

Collaboration in improving the accuracy of forest maps and spatial data: Malaysia has an opportunity to pursue collaboration with European Commission's Joint Research Centre (JRC) in providing information to improve the accuracy of the JRC Global Forest Cover map or, potentially, to develop a Malaysian FAO/EUDR definition forest map. Improved accuracy of maps could provide EU operators with an enhanced non-mandatory, non-exclusive and not legally binding source of information while supporting the Malaysian palm oil industry in exporting EUDR-compliant commodities and products.

4.2 Enhancing the ecosystem of the MSPO standards

MSPO should prioritise improving geolocation information in its MSPO Trace system. Polygon mapping should be used to map plantations of more than 4 hectares, ensuring precise boundary delineation and land use. Meanwhile, smaller areas can use single-point geolocation pins. It is critical to leverage MPOB's initiative to map all smallholder plantations. Using accredited Certification Bodies to verify geolocation data is also critical. This enhancement would not only benefit smallholders, but also improve Malaysian palm oil's overall sustainability credentials.

MSPO should continue to use, and expand the use of its Segregated model, given the EUDR's need for full traceability. This initiative should include certification of all dealers to ensure traceability. Segregated models meet EUDR requirements by ensuring complete traceability from plantation to export. Unlike Mass Balance systems, which can be difficult to manage and verify, a segregated supply chain makes compliance easier while maintaining transparency and accountability.

MSPO should expand its guidance to include a list of international conventions ratified by Malaysia, with a focus on those related to human rights and labour standards. Prioritising these areas of transparency will not only strengthen compliance efforts, but also provide EU operators with clear and accessible information on Malaysia's adherence to global standards. This will build confidence among international partners and reinforce Malaysia's commitment to ethical and sustainable palm oil production.

4.3 Regulatory opportunities

Two newly introduced regulatory measures that have the potential to strengthen legal and deforestation-free palm oil production are:

Planting licensing requirement: To enhance regulatory oversight and environmental protection, MPOB is proposing a planting license requirement. The current licensing requirement, which is applicable only during the sale and transportation of oil palm fruits, only becomes relevant two to three years after planting. By implementing a licensing requirement before plantation establishment, authorities will be able to assess proposed areas in advance of planting, ensuring compliance with the MSPO standard's deforestation cut-off date. This proactive measure will help prevent illegal deforestation and promote sustainable land-use practices from the outset.

Inclusion of MPOB and MSPO on the Environmental Impact Assessment review panel: the two lead palm oil agencies (MPOB and MSPO) will be granted a seat on the EIA review panel for projects proposing new oil palm plantation areas which exceed 500 hectares. Currently, the application for an MPOB license for the movement and sale of Fresh Fruit Bunches (FFBs) requires an EIA report, but this alone does not effectively prevent deforestation for new plantings. By securing a position on the EIA review panel, MPOB and MSPO would actively participate in the assessment process, providing expertise on sustainable practices and ensuring that new projects comply with environmental regulations and deforestation cut-off dates.

4.4 Data integration

This study reveals that the data necessary for due diligence and risk assessments under the EUDR is scattered across various sources, including Malaysia's national and state government departments, palm oil supply chains, NGOs, and oil palm production areas. The SIMS and MSPO systems are recognised for their potential to enhance Malaysia's supply chain management, improve transparency, and ensure compliance with environmental and regulatory standards in the palm oil industry. However, the opportunity to integrate these initiatives into a unified system remains untapped. Such a system, with palm oil as a pilot commodity, would facilitate the consolidation of data from multiple stakeholders and ensure accessibility for operators subject to the EUDR framework.

References

Bernama, 2023. More Than 97 Pct of Oil Palm Planted Areas Mspo-Certified. Available at: <https://bernama.com/en/business/news.php?id=2168539>

Chain Reaction Research, 2020. NDPE Policies Cover 83% of Palm Oil Refineries; Implementation at 78%. Available at: <https://chainreactionresearch.com/wp-content/uploads/2020/04/NDPE-Policies-Cover-83-of-Palm-Oil-Refining-Market.pdf>

Department of Environment, 2015. Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 2015.

Department of Orang Asli Development (2023). The indigenous peoples. Available at: <https://data.gov.my/dashboard/orang-asli>.

Department of Statistics Malaysia (2022). Sarawak population. Available at: <https://data.sarawak.gov.my/home/data/dataset/bdc23af1-4525-42eb-8580-8f9233522ce4>.

Department of Standards Malaysia (2022). Malaysian Sustainable Palm Oil (MSPO) MS2530:2022. Department of Standards Malaysia, Cyberjaya.

Economic Planning Unit Sarawak (2021). Sarawak Facts and Figures 2021. Economic Planning Unit Sarawak. Available at: https://sarawak.gov.my/web/home/article_view//353/.

European Commission (2023). 24th Meeting of the “Multi-Stakeholder Platform on Protecting and Restoring the World’s Forests” With a focus on Deforestation and Forest Degradation. Commission Expert Group/Multi-Stakeholder Platform on Protecting and Restoring the World’s Forests, including the EU Timber Regulation and the FLEGT Regulation (E03282). Available at: <https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=51099&fromExpertGroups=3282>.

European Commission Joint Research Centre (2024). EC JRC global map of forest cover 2020, V1. Available at: https://developers.google.com/earth-engine/datasets/catalog/JRC_GFC2020_V1

Forestry Department of Peninsular Malaysia (2021). Annual report. Available at: <https://www.forestry.gov.my/my/pusat-sumber/penerbitan/laporan-tahunan>.

Forestry Department of Peninsular Malaysia (2023). Laporan tahunan 2021. Available at: <https://www.forestry.gov.my/en/2016-06-07-02-53-46/publication/annual-report>.

Global Forest Watch (2024). Primary forest loss in Malaysia. Available at: <https://www.globalforestwatch.org/dashboards/country/MYS/?category=forest-change&location=WyJjb3VudHJ5IiwuTVITII0%3D>.

ISCC (International Sustainability & Carbon Certification) (2024a). All ISCC Certificates. Available at: <https://www.iscc-system.org/certification/certificate-database/all-certificates/>.

ISCC (2024b). Certification Scheme: ISCC-EU. Available at: <https://www.iscc-system.org/certification/iscc-certification-schemes/iscc-eu/>.

ISCC (2024c). Certification Scheme: ISCC Plus. Available at: <https://www.iscc-system.org/certification/iscc-certification-schemes/iscc-plus/>.

ISIS Malaysia (n.d.). Policy brief on Roundtable on Palm Oil, March 2020.

Johor State Forestry Department (2023). Laporan tahunan 2021. Available at: <https://forestry.johor.gov.my/index.php/info/penerbitan/laporan-tahunan/15-laporan-tahunan-jabatan-perhutanan-negeri-johor-jpni>.

Li W, Fu D, Su F, Xiao Y (2020) Spatial-temporal evolution and analysis of the driving force of oil palm patterns in Malaysia from 2000 to 2018. ISPRS Int J Geo-Inf 9(4):280.

Malaysia Budget Speech 2019, 2020, 2021, 2022, 2023.

Malaysian Palm Oil Board (Quality) Regulations 2005.

Malaysian Palm Oil Board Act 1998 (Act 582).

Malaysian Palm Oil Council (MPOC). 2021. Malaysian Palm Oil Industry. Available online: <https://mpoc.org.my/malaysian-palm-oil-industry/>.

Malaysian Sustainable Palm Oil (MSPO) and the European Forest Institute (EFI), 2024. Joint gap assessment of the EUDR information needs and information availability from the Malaysian Sustainable Palm Oil (MSPO) certification. https://efi.int/sites/default/files/files/flegtredd/KAMI/MSPO_Joint_Gap_Assessment.pdf

MPOB, 2022. Overview of the Malaysian Oil Palm Industry 2022. <https://bepi.mpob.gov.my/images/overview/Overview2022.pdf>.

MPOB (2023a). Number of MPOB license holders until 31 December 2022. Available at: <http://led.mpob.gov.my/wp-content/uploads/2023/03/Statistik-MyLesen-270323-1.pdf>.

MPOB (2023b). Mills: Location by state/district. Available at: <https://prestasisawit.mpob.gov.my/en/processing-location>.

MPOB (2023c and 2024). Plantations: Planted area. Available at: <https://prestasisawit.mpob.gov.my/en/plantations-planted>.

MPOB (2024). Production. Available at: <https://bepi.mpob.gov.my/index.php/summary-2/263-summary-2020/1008-summary-of-the-malaysian-palm-oil-industry-2020>.

MPOCC (Malaysian Palm Oil Certification Council) (2022). Social Impact Assessment Guidelines & Approach for the Malaysian Sustainable Palm Oil Standards MS2530:2022. Available at: <https://www.mpocc.org.my/mpocc-announcements/the-launching-of-sia-guidelines-and-approach-for-the-mspo-standards>.

MPOCC (2023). MSPO Trace. Available at: <https://mspotrace.org.my/>.

Ministry of Energy and Natural Resources (2021). Malaysia Policy on Forestry. Available at: <https://www.nrecc.gov.my/en-my/medialibrary/Pages/MinistryPublication.aspx>.

Ministry of Human Resources (2021). National Action Plan on Forced Labour (2021-2025). Ministry of Human Resources, Putrajaya.

Ministry of Natural Resources, Environment and Climate Change. (2022). Malaysia Fourth Biennial Update Report under the United Nations Framework Convention On Climate Change.

Ministry of Natural Resources, Environment and Climate Change (2021). National Forest Monitoring System. Ministry of Natural Resources, Environment and Climate Change, Putrajaya. https://redd.nrecc.gov.my/wp-content/uploads/2021/10/National_Forest_Monitoring_System.pdf.

Ministry of Plantation and Commodities (2024). Agricommodity Pocket Stats 2023. Available at: https://www.kpk.gov.my/kpk/images/mpk_statistik/Pocket_Stats/2023/poket-stats-2023-full/index.html#page/1.

NRECC (Ministry of Natural Resources, Environment and Climate Change), 2023, Malaysia's Commitment to Sustainable Forest Management. Available at: www.nrecc.gov.my/ms-my/pustakamedia/KenyataanMedia/.

NST, 2023. Sustainable palm oil: Nearly 500k smallholders to become compliant with platform that traces transactions. Available at: <https://www.nst.com.my/business/economy/2023/10/972840/sustainable-palm-oil-nearly-500k-smallholders-become-compliant>.

Pahang State Forestry Department (2023). Laporan tahunan 2021. Available at: <https://forestry.pahang.gov.my/index.php/penerbitan/laporan-tahunan>.

Penang State Forestry Department (2023). Kedudukan serta keluasan hutan simpanan kekal di Pulau Pinang. Available at: <https://jhn.penang.gov.my/index.php/en/features/2015-06-29-07-27-04/hutan-simpanan-kekal>.

Peteru, S., Komarudin, H., & Brady, M. A. (2022). Sustainability certifications, approaches, and tools for oil palm in Indonesia and Malaysia. European Forest Institute. Available at: <https://efi.int/sites/default/files/files/flegtredd/KAMI/Resources/Sustainability%20certifications%20and%20approaches%20and%20tools%20for%20oil%20palm%20in%20Indonesia%20and%20Malaysia%20report.pdf>

Perak State Forestry Department (2023). Laporan tahunan 2021. Available at: <https://www.perakforestry.gov.my/index.php/en/informasi/penerbitan/laporan-tahunan>.

Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010. Official Journal of the European Union, L150/206-247.

RESCU (Resources Stewardship Consultants Sdn Bhd) (2022). Impact of Malaysian laws on its green economy ambitions. Available at: <https://jaresourcehub.org/publications/impact-of-malaysian-land-laws-on-its-green-economy-ambitions/>.

Rimbawatch (2024). State of the Malaysian Rainforest 2024. Available at: https://9b2d2d75-7adf-4ea5-8c47-1b96d3a7eaf6.filesusr.com/ugd/a4715a_ad144495d1fa46bf857166bda8e2e8a9.pdf

RSPO (2024). Search members: Certified growers. Available at: <https://rspo.org/search-members/certified-growers/>.

Sabah Biodiversity Enactment 2000 (2017). No. 7 of 2000.

Sarawak Biodiversity Centre Ordinance 1997 (2016). Sarawak Biodiversity Regulations, 2016. The Sarawak Government Gazette Part II, Vol. LXXI, No. 74.

SUHAKAM (Human Rights Commission of Malaysia) (2013.) Report of the National Inquiry into the Land Rights of Indigenous Peoples. SUHAKAM.

Tan, C. Y. (2024). Potential solutions: How MSPO can meet EUDR. Presented at the MPOC Webinar 3.0 - Assessment of EUDR Requirement and the Role of the MSPO Certification Scheme, held on 2 May 2024. Available at: <https://www.mpoc.org.my/assessment-of-eudr-requirements-and-the-role-of-the-mspo-certification-scheme-download-papers/>.

Terengganu State Forestry Department (2023). Laporan tahunan 2021. https://trgforestry.terengganu.gov.my/index.php?option=com_content&view=article&id=268&Itemid=386&lang=my.

Tey, N. P., Lai, S. L., Chan, J. K. L. (2021). Demographic and Socioeconomic Changes in Sabah. Penerbit Universiti Malaysia Sabah. Available at: https://malaysia.unfpa.org/sites/default/files/pub-pdf/promotional_copy_of_demographic_and_socioeconomic_changes_in_sabah_report.pdf.

Appendix: List of key expert discussions and interviews

No.	Date	Key informant's organisation
1	3 Aug 22	MPOB
2	15 Aug 22	PACOS Trust & Forever Sabah
3	16 Aug 22	Sabah Jurisdictional Certified Sustainable Palm Oil
4	17 Aug 22	Sabah Climate Change Action Council
5	18 Aug 22	Department of Agriculture Sabah
6	19 Aug 22	Sabah Forestry Department
7	24 Aug 22	MPOCC (now MSPO)
8	2 Sept 22	Forever Sabah
9	15 Sept 22	Ministry of Local Government Development
10	16 Nov 22	MPOCC (now MSPO)
11	16 May 23	National Geospatial Centre
12	28 July 23	MPOB
13	1 Sept 23	MPOB
14	27 Oct 23	MPOCC (now MSPO)
15	31 Oct 23	MPOB