United Plantations certified despite gross violations of RSPO Standards



INTRODUCTION

This Greenpeace investigation conducted by Greenpeace Netherlands (from here on referred to as "Greenpeace") reveals that deforestation, deep peat conversion, land disputes and illegal practices continue to occur in the plantation estates owned by a company that is RSPO certified for part of its operations.

The findings in this report clearly shows the failure of the company, the RSPO (Roundtable on Sustainable Palm Oil) and the certification process to tackle the issue of deforestation. How can it be that United Plantations have received their certification for plantations in Malaysia, whilst they continue 'business as usual' destructive practices in Indonesia? This shows that the RSPO is failing to enforce even its own minimum, and from Greenpeace's point of view, insufficient criteria.

The certifiers have ignored several issues including land conflicts, operations in breach of Indonesian law, development without High Conservation Value assessments and continued clearance of forests and peatlands, even though some of this land clearing took place on peat more than 2 m deep and is therefore illegal under Indonesia law.

The granting of the first sustainability certificate by the Roundtable on Sustainable Palm Oil (RSPO) to United Plantations seems little else but a cover up of business-as-usual including land grabbing, deforestation, peatland conversion, and the violation of Indonesian law.

To end the rampant deforestation for palm oil urgent action is needed. The RSPO must implement and toughen up its existing criteria. But voluntary certification alone cannot be sufficient to protect the last forests of South-East Asia and help to tackle climate change.

Greenpeace calls for a moratorium on further deforestation and and peatland degradation in South-East Asia.

The link between palm oil and deforestation

On November 11th 2008 the industry will celebrate the arrival of the first batch of certified palm oil in Europe, meanwhile massive deforestation in South-East Asia continues. Millions of hectares of forests have already been converted into palm oil plantations in the last decade, and the industry is planning to open up millions of hectares more, especially in Indonesia.1 In Sumatra the last remaining primary forests, home to endangered species such as the orangutan and the Sumatran tiger are almost gone. The clearing and burning of forests and peatlands are contributing hugely to climate change. Indonesia's Greenhouse Gas (GHG) emissions from destroyed or degraded peatlands alone are around 1.8 gigatonnes of CO2 per year,2 equivalent to 4% of the world's entire greenhouse gas emissions.3 Peatland destruction and deforestation makes Indonesia the third largest emitter of GHGs in the world.4

There is growing pressure on the palm oil industry to break the link between palm oil, deforestation and climate change. The industry (producers, traders, manufacturers and retailers), and some governments have placed their faith in the RSPO (Round Table on Sustainable Palm Oil) as the solution to these problems in the palm oil sector. This voluntary initiative has developed a certification system for the production of sustainable palm oil based on a set of principles and criteria, 5 which have taken four years to develop. These include expecting companies applying for certification to refrain from clearing primary forests and areas of High Conservation Value (HCV) within any of their operations.

These criteria have been criticized by various environmental NGOs for not stopping the clearing of vast forest areas, that are still of high significance for climate protection as carbon stores. The RSPO principles and criteria also only vaguely limit the development of plantations on peatlands, even though these comprise one of the largest carbon stocks on earth and the protection of these soils is crucial in the fight against climate change.

Whilst the RSPO has made some progress, for many stakeholders, it is failing on a number of fronts. In the last twelve months Greenpeace has produced two reports, 'Cooking the Climate' and 'Burning up Borneo' both⁶ of which show that key RSPO members, who have yet to get their plantations certified, are actively involved in rainforest destruction, breaking the spirit of the RSPO.

But now that companies are actually getting certified, will this mean a change from business as usual? Greenpeace has investigated the case of the first company group certified under RSPO: United Plantations

United Plantations

United Plantations (UP) is one of the most prominent Malaysian oil palm plantation companies, with a turnover of RM674 million in 2007 (€ 145 million). With just under 40,000 hectares (ha) of existing oil palm plantations in Malaysia, the company now intends to double its plantation area through the acquisition of plantation companies near Pangkalanbun in Central Kalimantan (Indonesia). 8

Founded in 1906 by the Danish national Sven Aage Westenholz, UP is still largely foreign owned, with the two brothers Martin and Carl Bek-Nielsen holding the majority of shares – over 45% each. The Bek-Nielsens are also major shareholders and on the board of directors of Aarhus Karlshamn (AAK), based in Sweden and (according to their own publications), the world's leading manufacturer of high value-added specialty vegetable fat.9

AAK is a major buyer of United Plantation's palm kernel oil and related products¹⁰, while United Plantation processes a big part of its crude palm oil production through its own Unitata refinery into edible oils, specialty fats and soap products. The rest of the oil is sold on the local market.¹¹ AAK processes palm kernel oil into a wide range of products, with a focus on confectionary ingredients.¹² It supplies global players including Nestlé and United Biscuits.¹³

United Plantations: the first test case for RSPO?

In August 2008, United Plantations was the first company to be certified under RSPO standards. They were assessed and certified by the Dutch certifier Control Union Certification.14 United Plantations applied for certification of their Malaysian operations only. United Plantations' new concessions in Kalimantan are therefore subject to the RSPO rules for so-called partial certification.¹⁵ According to these rules companies must ensure that all their operations (including all of their plantations) meet certain minimumcriteria (see box).16 NGOs pushed RSPO to adopt this condition to prevent big company groups from certifying a show case plantation, while businessas-usual continues in the other plantations owned by the group.

What these minimum criteria mean is that even if only one concession within a company group is getting certified, all concessions majority owned by the group must meet these minimum criteria.¹⁷ If the company fails to comply with this then "Certificates for all of the company's holdings shall be suspended...".¹⁸

In the certification announcement (January 2008), ¹⁹ United Plantations listed two different majority held plantation companies in Kalimantan to be certified at a later stage: PT Surya Sawit Sejati ("PT SSS1"–15,650 ha) and PT Sawit Seberang Seberang ("PT SSS2"-18,000 ha). The acquisition of a 95% stake in PT SSS1 had been completed as of 9th of June 2006²⁰. The acquisition of PT SSS2 was still pending approval by Malaysian and Indonesian authorities as of May 2008.²¹

United Plantations committed to ensure that these two operations are RSPO certified by 2013 and 2016 respectively.²² Full compliance with the minimum RSPO-criteria for the Indonesian operations of UP were claimed in an attachment²³ to the assessment announcement.²⁴ The certifier then confirmed this in their final public summary audit in August 2008.²⁵

Minimum criteria

The key minimum-criteria for "partial certification" set out in section 4.2.4 of the RSPO Certification Systems document are:²⁶

- "a time-bound plan for achieving certification of all relevant entities. The certification body will be responsible for reviewing the appropriateness of this plan (in particular, that the time scale is sufficiently challenging),....
- no significant land conflicts
- no replacement of primary forest or any area containing HCVs [High Conservation Value] since November 2005
- no labour disputes that are not being resolved through an agreed process
- no evidence of non-compliance with law in any of the non-certified holdings."

RSPO certified in Malaysia, business as usual in Indonesia

In October 2008, Greenpeace investigated the reality on the ground in Central Kalimantan, using the RSPO minimum-criteria as a reference – although we did not investigate labour conflicts. The results of the Greenpeace study demonstrate that United Plantations does not comply with any of the RSPO standards for partial certification that we investigated. The results show clearly that United Plantation may have their RSPO certification of Malaysian plantations but continue with business as usual in their Indonesian concessions.

In addition to violating these RSPO minimum criteria, in Kalimantan United Plantations has cleared and continues to clear significant forests that are very important carbon stocks, crucial to combating climate change.

How United Plantations' failed to deliver

Check 1:

Time bound plan for full certification

RSPO's requirements for partial certification stipulate that company groups that apply for the certification of part of their plantations must have in place adequately ambitious and realistic plans for the full certification of their other plantations.

In January 2008, in the attachment to the Control Union announcement of the main assessment, it is stated that United Plantation's Indonesian plantations will be certified within three years upon the issuance of the first RSPO certificate.²⁷ This means that United Plantations Indonesian plantations should be certified by August 2011. However, without any further elaboration, the Control Union audit report²⁸ states that it was adequately "challenging and realistic" that the Indonesian estates will only be certified by 2013 and 2016.

The extended time frame is very worrying. A similar sized United Plantations' concession in Malaysia could be certified in 6 months. This seems to suggest that UP is using its certificate for its Malaysian plantations just as a showcase. While speedily getting their older, largely developed Malaysian plantations certified, United Plantations is setting a long time-frame for achieving certification in Indonesia. In the meantime, it continues to develop its new plantations in Indonesia and clear the forests. The uncritical acceptance of United Plantations time-bound plan also sets a dangerous precedent for other companies starting certification. So far, other company groups (e.g. NBPOL, Sime Darby, KLK) have committed to achieving full certification of their company groups within one to three years.

Check 2:

Land conflicts

The RSPO requirements for partial certification require that a mutually agreed resolution process is in place when significant land disputes exist.

Between June and August 2008, four community members were jailed allegedly as a result of their opposition to land clearing activities by United Plantations subsidiary PT SSS1 in Runtu village. As of October 2008, the Runtu four are still imprisoned in Palangkalanbun. Two villagers were charged with assault of a worker and village leader after an incident on the day that company workers brought in heavy machinery to clear the land claimed by these villagers. The other two were charged with producing false land ownership documents. Regardless of the validity of these charges, the imprisonment of four villagers indisputably demonstrates that significant land conflicts exist in the PT SSS1 oil palm concession owned by United Plantations.

One of the arrested community members was Mr. Suryansyah. Arrested on June 17, 2008, he was still in jail at the time of writing this report. The case of Mr. Suryansyah and his son Hendra, who was detained after his father's arrest, was made public by Indonesian NGOs on 25 June 2008.²⁹ Mr. Suryansyah's land was converted into an oil palm plantation while he was imprisoned and he had no means to further defend his case or his land (see picture A). Both the certifier and the RSPO Review Panel failed to investigate the conflict and instead awarded United Plantations with the first certificate for sustainable palm oil.



Picture A: The remains of a shed and land belonging to the community member Suryansyah after it has been planted with oil palms in the PT SSS1 Runtu estate, while he was in jail allegedly for objecting to the development. © Greenpeace.

Check 3:

Replacement of primary or High Conservation Value forest since November 2005

RSPO rules for partial certification requires that companies provide evidence that from November 2005 onward, new developments did or do not involve the replacement of primary forest or any area containing High Conservation Values.³⁰
However, if areas were cleared between November 2005 and November 2007 and the High Conservation Value status of these areas was unknown or disputed, these areas are to be excluded from the RSPO program until a compensation program has been put in place. Meanwhile, all land clearing in that period must be proven to be legal.³¹ As of November 2007, all new developments have to have High Conservation Value assessments.

High Conservation Value assessments

In the January 2008 announcement of the main assessment United Plantations stated that in its Indonesian estates, there is *nil* replacement of primary forest or any area containing High Conservation Value's since November 2005.³²

The same document states that a High Conservation Value (HCV) assessment was obtained for one estate and that two other HCV assessments were in progress. However, all these were in PT SSS2, a plantation that at that point had not even been acquired by United Plantations.

For the estates of PT SSS1 that were at the time owned by United Plantations no information was provided, strongly suggesting that there are no HCV assessments for these United Plantations estates at all. This is remarkable because United Plantations should have had completed HCV assessments for all of its estates by November 2007. Furthermore,



Picture B: Forest clearance in PT SSS1 Runtu estate in October 2008. In January the company claimed no development would take place, so no HCVF assessment was conducted.

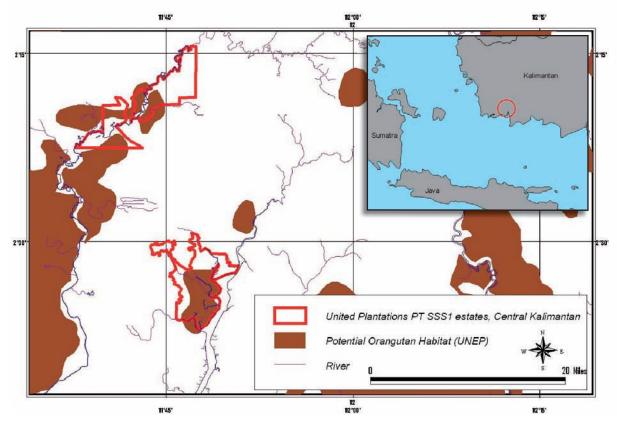
the Greenpeace investigation team observed that areas with potential HCVs had been and were still being cleared by PT SSS1. In fact, investigators on the ground found recent clearing of forests in PT SSS1 areas, where UP had claimed "no development" was to take place (see picture B & C).³³

Some of the forests cleared and continuing to be cleared by United Plantation in Kalimantan are on peat³⁴ or overlap with potential orangutan habitats identified by the United Nations Environmental Program (see map 1).³⁵ The RSPO has adopted HCV criteria that clearly include the protection of endangered species (as is the case for orangutans) and of forests that "provide basic services of nature in critical situations (e.g. watershed protection...)", which would cover peatlands.³⁶

However, as of the first quarter 2008, United Plantations has completed a High Conservation Value assessment for one unit only (PT SSS2) with apparently no plans to start such an assessment for PT SSS1, where forest clearance continues.



Picture C: Oil palm plantation established in February 2008 in the Runtu estate (PT SSS1). In January the company had claimed that no development would take place in this estate. © Greenpeace 2008.



Map 1: Oil palm concessions of United Plantations subsidiary PT SSS1 overlaps to a large extent with potential orangutan habitat, mapped by UNEP in 2004.³⁷

Deforestation

Forests as such are not protected by the RSPO Principles & Criteria. However, in various publications³⁶ United Plantation creates the impression that the newly acquired areas in Indonesia are largely made up of grassland.

Picture D is taken from United Plantations' annual report from 2007, supporting their claim of mainly developing grasslands, instead of clearing forests.



Picture D is taken from UP's annual report 2007, with the caption saying "Grassland makes up a vast area of the landbank acquired." The picture is taken at Runtu shortly before land preparation and field planting took place. © United Plantations.



Investigations on the ground show a different picture – United Plantation's estates in Central Kalimantan are not just empty grasslands, with the forested areas not fully being spared from deforestation. Due to the lack of proper forest cover monitoring in Indonesia, the total area of forest cleared by United Plantation is yet to be established. However, evidence gathered by Greenpeace (as in picture E) suggests that dense forest has recently been cleared by the company.

Picture E: This image was taken by field investigators in October 2008 in the PT SSS1 Runtu estate. The wood debris suggests, that the forest cleared has been the same type of forest as that in the background. © Greenpeace 2008.

Check 4:

Compliance with law

Permits

One of the RSPO's key principles is that plantation companies should be familiar with local law, and are expected to respect and follow that law even when local governments appear to divert from regular practices often violating national laws themselves. This principle applies also to non-certified subsidiaries within groups who have estates that are certified ("partial certification").

It is important that local governments and plantation companies follow the logical order of the Indonesian licensing process. The basic process (2002-2006) can be represented as follows: Plantation Operation Permit (IUP) > Location Permit/Izin Lokasi > Land Use Permit.

If a company accepts a Location Permit without first having secured the Plantation Operation Permit, any plantation development activities will be illegal. If a company requests for, and is issued a Plantation Operation Permit without having secured the legally required prior approval of its Environmental Impact Assessment (in Indonesian: AMDAL), the permit should be revoked because all activities undertaken on the ground will be illegal.

In the summary audit report, the certifier states that licensing issues were fully investigated during the audit. The audit team were satisfied that United Plantations conform with the RSPO requirements for partial certification. Thus PT SSS1 "is going ahead as planned", while planting in PT SSS2 had stopped in February 2008 pending approval of outstanding permits.³⁸

Greenpeace disputes the certifier's conclusion that legal requirements and (thus) the RSPO requirements were met by United Plantations.

PT SSS1, for example, irregularly obtained several Location Permits prior to having secured Plantation Operation Permits. Companies are usually quick to blame the local government for such "irregularities". But in the case of PT SSS1, the company proactively approached the District Plantation Service with requests for Plantation Operation Permits, without presenting the legally required approval of Environmental Impact Assessments from the AMDAL Commission. For example, PT SSS1 applied for Plantation Operation Permits for its Sungai Rangit estates in October 2006, merely noting that its AMDAL was "forthcoming". The company was granted the permit for the estates in December 2006, but it was not until almost a year later (1 December 2007) that the AMDAL for the estates was approved. UP's own planting records⁴⁰ suggest that some

2,000 ha were planted in 2007. In actual fact, sign-boards on the ground indicate that well before the issuance of even the Plantation Operation Permit, PT SSS1 was already actively planting oil palms in this estate (since at least February 2006).

To develop land without an approved AMDAL can have severe adverse impacts on the environment and local communities and requires the District Head to withdraw the Plantation Operation Permit. RSPO requires that there shall be no evidence of non-compliance with law in any of the non-certified holdings. This applies not only at the moment of assessment, but applies retrospectively from November 2005 onward.⁴²

Another legally required document for companies planning to log or clear a forested area in any forestland and who applies for a Plantation Operation Permit, is the Timber Removal Permit (IPK). The IPK permit ensures that taxes are paid over wood harvesting. PT SSS1's land clearing contractor in Runtu village was identified as "CV Prima Karya". A former senior member of the Kotawaringin Barat Forest Service alleges that neither PT SSS1, nor CV Prima Karya had secured IPKs for land clearing for forested areas in Runtu village as of October 2008. Yet, trees are being cut in these areas.

Peatlands

Indonesian law stipulates that development or degradation of peatlands deeper than 2 m is not allowed.⁴³

While it is true, that much of United Plantation's estates in Kalimantan are on mineral soils, in our field investigations it was found that United Plantations' subsidiary PT SSS1 had been clearing peatlands, including deep peat (at least 3m thick) in Runtu village (see picture F).



Picture F: Recent and ongoing conversion of peatland of a depth of 3 meters in PT SSS1, near Runtu village. Villagers reported that land clearing commenced in early 2008.

© Greenpeace 2008.

Buffer zones

Indonesian law states that areas surrounding lakes are conservation areas and should not be opened up for plantation development 50-100 m land inward.⁴⁴

During field investigations, the buffer zone of the Runtu tidal lake complex of Lake Soba, Suwakai, Kelapa Timbul and Pataloran, located within the concession area of PT SSS1, was found partially cleared. It is not known when this land clearing took place, but the sites showed tracks of recent movement of heavy equipment (see picture G).

This is in stark contrast with United Plantation's conservation initiatives in Malaysia where the certifiers' assessment team was impressed with United Plantations' "Lagoon Nature Reserve", where United Plantations incorporated a lagoon in its estates, planting rare Malaysian tree species.45



Picture G: Recent opening of the buffer zone of Lake Soba seemingly to allow heavy machinery accessing the lake. © Greenpeace 2008.



Picture H: The water in this picture is part of Lake Suwakai, Runtu; the company's contractor constructed a road and piled up wood debris in the lake, presumably when the water level in this tidal lake was low. © Greenpeace 2008.

Maximum concession area

Indonesian regulations specify that a single plantation company cannot control a plantation area in excess of 20,000 ha in each district.⁴⁶ On April 27, 2007, United Plantations entered into an agreement with the former owners of PT SSS1 and PT SSS2 to purchase both companies and to merge PT SSS2 into PT SSS1. This would have led to a company owning 40,000 ha in one district. When this inconsistency with national law was duly noted by UP it announced: "due to Indonesian authorities' administrative differences restricting a single company holding areas in excess of 20,000 hectares, the

Company has decided not to pursue the merger. Thus, PT SSS1 and PT SSS2 will remain as separate entities."⁴⁷ The company then goes on describing its solution to circumvent this legal problem: "The Company is in the process of acquiring the shares of PT SSS2 directly vide another Malaysian subsidiary company, and obtaining the approvals of the relevant Indonesian and Malaysian authorities."⁴⁸ While this procedure may not be illegal, it certainly violates the spirit of the Indonesian law, which is attempting to restrict regional dominance of major industry players.

Summary: United Plantation as a testcase for RSPO

This Greenpeace investigation demonstrates that deforestation, deep peat conversion, land disputes and illegal practices continue to occur in the plantation estates owned by a company that is RSPO certified for part of its operations.

This case clearly shows the failure of the company, the RSPO and the certification process. How could it be that United Plantations received their certification for plantations in Malaysia, while destructive practices in Indonesia continued as business-as-usual? This shows a fundamental flaw within the RSPO as it fails to monitor the obligations of their members to comply with even the minimum criteria at a company level. The certifiers have ignored several issues including land conflicts, operations in breach of Indonesian law, development and continued clearance of forests and peatlands without High Conservation Value assessments, even though some of this land clearing took place on peat more than 2 m deep and is therefore illegal.

Greenpeace calls for the suspension of the United Plantations RSPO certificate on the following grounds:

- For not having "challenging and realistic" frame for the certification of its estates in Central Kalimantan
- For having triggered significant land conflicts without a mutually agreed resolution process in place
- For having cleared potential HCV areas, seemingly without HCV assessments
- For non compliance with Indonesian law, namely.
 - developing peatlands with more than 2 m depth
 - intrusion into the buffer zones around the Runtu lake complex
 - plantation development without an approved Environmental Impact Assessment (AMDAL)
- instigating the issuance of irregular permits by local authorities
- efforts to try to circumvent Indonesian regulations on maximum plantation areas to be held by a single company

The RSPO must:

- Take concrete action to stop deforestation and peatland conversion for "sustainable" oil palm expansion
- Ensure that its members prevent land disputes, and proactively resolve current conflicts
- Ensure good governance by insisting that its members follow the legal procedures that exist for plantation development

The standards of RSPO are both insufficient and voluntary and in its current form the RSPO will not solve the problems of deforestation in South-East Asia. The case of United Plantations is a first

indication that the fears of Greenpeace that companies use the RSPO as a greenwash while expanding in the last forests of this region seems to come true. Meanwhile, European governments merely rely on RSPO to sort out the problems while they boost the demand for palm oil by setting mandatory targets on bio-fuels. However while RSPO-members, even those certified, continue to clear forests and peatlands it is clear that there is no sustainable palm oil on the market. Voluntary measures from industry will not stop the rampant deforestation in South-East Asia and urgent political action is required.

Greenpeace is calling for the Indonesian government to implement a moratorium on further deforestation and peatland clearance, to not allocate any more concessions of forested estate for conversion and to revoke those concessions on forested estate that have been allocated but not yet been cleared.

This call for a moratorium is supported by major palm oil users, like Unilever and other companies. We call for the RSPO to support this moratorium and pressure the Indonesian government to take urgent action. The RSPO standards must be tightened to ensure that members stop deforestation and peatland clearance in all their operations.

European governments must:

- Support the call for a moratorium on further deforestation and peatlands clearance
- Allocate funds to protect forests and peatlands
- Refrain from policies that stimulate the expansion of the palm oil industry, like the mandatory target for bio-fuels, and subsidies for palm oil in electricity production.

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- 1 see e.g. Legowo (2007)
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- 3 IPCC WG III (2007)
- 4 WRI (2008)
- 5 RSPO (2007b)
- 6 Greenpeace (200); Greenpeace (2008)
- 7 United Plantations (2007a)
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- 14 http://www.controlunion.com
- 15 RSPO (2007a)
- 16 RSPO (2007a), section 4.2.4 of the RSPO Certification Systems document approved on June 26, 2007
- 17 The RSPO Executive Board decided on 28
 February 2008 that special exceptions apply for all new plantation development in areas where the HCV status was known, unknown or disputed between November 2005 and November 2007. This decision and its details, however, has up to date not been made public by the RSPO secretariat.
- 18 RSPO (2007a)
- 19 Control Union (2008a)
- 20 United Plantations (2006)
- 21 United Plantations (2008)
- 22 Control Union (2008b)
- 23 Control Union (2008a); this attachment is supposed to be filled in by the company that intends to be certified. In this case it remains unclear if this was indeed done by United Plantation or the certifier Control Union. The document was prepared to be signed by UP's director Carl Bek-Nielsen on January 7, 2008, but his actual signature is missing.

- 24 Control Union (2008a)
- 25 Control Union (2008b)
- 26 RSPO (2007a)
- 27 Control Union (2008a). The document states: "We [UP] herby state our plan to certify the balance of our management units [i.e. the Indonesian estates] (and/or other autonomous companies in which we have more than a 51% controlling interest) within 3 years from the date of the issuance of the first certification certificate."
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