

GREENPEACE

Burning Issues :

FIVE YEARS OF FIRES

**INDONESIA'S PRO-BUSINESS
'OMNIBUS LAW' GIVES MORE
IMPUNITY TO BIGGEST PLANTATION
SECTOR BURNERS**

Greenpeace Southeast Asia- Indonesia
2020

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Executive Summary

Forest Fires in Central Kalimantan
23 September 2019 - Palangkaraya
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The 2015 fire season in Indonesia was the worst in nearly two decades, with the blazes for almost a month emitting daily carbon emissions that exceeded those from the entire US economy.¹ In response to this crisis, the Government of Indonesia pledged to impose strict accountability measures on the companies responsible for preventing land under their management from burning.² The goal was to prevent a repeat of the disastrous 2015 fire episode, the haze from which caused respiratory and other illnesses in hundreds of thousands of people across the Southeast Asia region and led to an estimated \$16 billion in losses to the country's forestry, agriculture, tourism and other industries.³

However, despite the promises, over the following years the government failed to enforce its own laws while hundreds of thousands more hectares of forest and peatland burned within palm oil and pulp concessions. Some of the biggest plantation companies in the world have been responsible for the areas suffering the worst of the fires, yet they have largely evaded criminal punishment and continue to operate business as usual:

- Between 2015 and 2019, 4.4 million hectares of land – an area larger than the Netherlands – have burned in Indonesia, according to a Greenpeace⁴ analysis. Some 789,600 ha of this area (18%) has burned repeatedly.
- The plantation sector bears considerable responsibility for the fires in this period, with 27% of the mapped burned areas in 2019 located in palm oil and pulpwood concessions.
- The data available to Greenpeace shows that over this five-year period the government has broken its promise to strictly enforce the laws for palm oil and pulp companies, with only a very limited number of cases resulting in criminal charges, civil lawsuits or payment of fines by these companies. The data shows that between 2015 and 2019 a total of 258 administrative sanctions were issued, with 51 criminal charges and 21 civil lawsuits filed. These numbers are different from

those reported by the Ministry of Environment and Forestry, which Greenpeace was not able to verify. The ministry claims to have filed 19 civil lawsuits and says guilty verdicts have been returned in nine of these cases, with the companies ordered to pay fines for material compensation and restoration⁵ – yet according to the ministry, as of April 2020 only one company had complied.⁶ The ministry itself has brought criminal charges against companies in just five cases, resulting in four guilty verdicts.⁷ Considering the scale of the burning, with the damage in 2019 approaching that seen in 2015, the government's response does not seem to indicate serious and effective law enforcement.

Today Indonesia's forests, peatlands and communities face a new threat. Working hand-in-glove with the plantation sector, the Government of Indonesia has drafted and passed into law an 'omnibus bill' that contains numerous deregulation measures designed to weaken environmental protections and lower the standards to which companies from the palm oil and pulp sectors are held when opening up new areas for their plantations. This means a potentially even greater risk of fire within the plantation sector, with even less liability risk. Criticisms of the bill, widely viewed as prioritising business interests at the expense of the people and the environment, include:

- **Undue influence by vested interests:** Indonesia's palm oil and pulp business associations (GAPKI and APHI) were part of the task force charged by the government with drafting the omnibus bill, and thus had wide scope to influence its design to the benefit of these sectors. Their members include many of the palm oil and pulp companies identified by Greenpeace as having the largest burned areas within their concessions over the 2015–2019 period.
- **Weakened liability:** Under the new law, companies with fires in their concessions will enjoy even more impunity as the concept of strict liability for environmental harms has been weakened.

- **Weakened transparency and weakened enforcement:** These efforts to limit companies' responsibility for the damage caused by land and forest fires are being made at the same time as transparency on law enforcement is diminishing. Together, these factors are a recipe for more major fire disasters to happen in the future, contributing to a health, climate, biodiversity and economic crisis affecting the region and the world.

Our planet and its people are facing a triple emergency of climate change, threats to biodiversity and vulnerability to novel diseases. Radical and systemic transformation of the natural resource economy is essential to addressing this challenge while upholding social justice. The Indonesian government, its trade partners, the plantation sector and the consumer companies that profit from it must recognise their role in creating these crises and assume their responsibility for tackling them.

Radical action is needed from consumer companies, traders, plantation companies and governments to ensure that law enforcement, policy, trade and finance drive – rather than undermine – the urgent need to protect, restore and regenerate natural ecosystems, rein in greenhouse gas emissions and uphold the rights of communities and workers.

The Indonesian government must:

- **Align the economy with goals of biodiversity and climate protection, along with social justice:**

Ensure that public finance, trade policy and overseas cooperation do not drive further deforestation, but instead support nature restoration and a transition to a green, just and resilient economy. Urgent action must be taken to:

- Revise the omnibus law to prioritise people and the environment.
- Undertake and expand the long-promised concession review covering all natural resource

sector landholdings, rather than just oil palm.

- **Increase transparency:** Indonesia's constitution supports the principles that access to public information is a fundamental right and that disclosure of public interest information is an administrative duty. Greater transparency must be provided with regard to company concessions, including locations and beneficial ownership, and the progress of law enforcement efforts (with a focus on accountability).

- **Ensure joined-up action:** by responsible authorities on cases involving fire and other legal violations within the natural resource sector, including the plantation sector.

- **Defend Indigenous rights:** Support Indigenous Peoples in securing recognition and protection of their lands and customary rights.

The market must:

- **Drop destroyers:** Close the market to groups linked to deforestation, ecosystem destruction and abuses of human rights, in particular the rights of Indigenous Peoples.

- **Drastically reduce trade of forest and ecosystem risk commodities (FERCs):** To create space for economies that work with nature and respect local communities, overall trade and consumption of commodities such as palm oil and pulp needs to be reduced. This starts with the rapid phase-out of biofuel from food crops.

- **Stand for transparency:** Honour zero-deforestation commitments and make full supply chain transparency a condition of trade. Require suppliers to have open and comprehensive monitoring systems in place by no later than 1 January 2021.

¹ Straits Times (2016), Harris N et al (2015)

² See eg Gumilang P (2015) and Bisnis.com (2017).

³ World Bank (2016) p4

⁴ In this briefing, mentions of 'Greenpeace' should be read as references to Greenpeace Southeast Asia unless otherwise stated.

⁵ Ministry of Environment and Forestry (2020b)

⁶ Letter S.159/HUMAS/PP/PP/Hms.3/4/2020, dated 13 April 2020. Copy held by Greenpeace Indonesia.

⁷ Three of these cases were disclosed in letter no. S.159/HUMAS/PP/PP/Hms.3/4/2020, dated 13 April 2020 (copy held by Greenpeace Indonesia). The others were reported in the media: see Saputra A (2017) and Tribun Jambi (2019). See also Supreme Court of the Republic of Indonesia (2019).

Political Context

In 2015, one of the greatest environmental disasters of the 21st century unfolded in Indonesia as nearly 2,600,000 hectares (ha) of land burned⁸. Deliberate fire setting to clear land for oil palm plantations was identified as a likely contributing factor⁹. Reacting to the large-scale destruction, the Indonesian government promised to do better, saying it had learned from its mistakes and would focus more on prevention measures and law enforcement.¹⁰

But despite government promises to punish companies found to be deliberately burning concessions in a bid to tackle the recurring fires crisis, palm oil and

pulp firms continue to operate with few or no serious sanctions.¹¹ Without strong deterrence, fires again flared up across large swathes of land and forest inside companies' concessions in 2019, contributing to the burning of another 1,638,500 ha of land¹² – an area 27 times the size of Greater Jakarta. In total, 4,440,500 ha burned in Indonesia from 2015 to 2019, equal to nearly 8 times the area of the island of Bali, according to Greenpeace analysis of the official government burned area maps.¹³

Indonesia Burned Area 2015-2019 (Hectares)

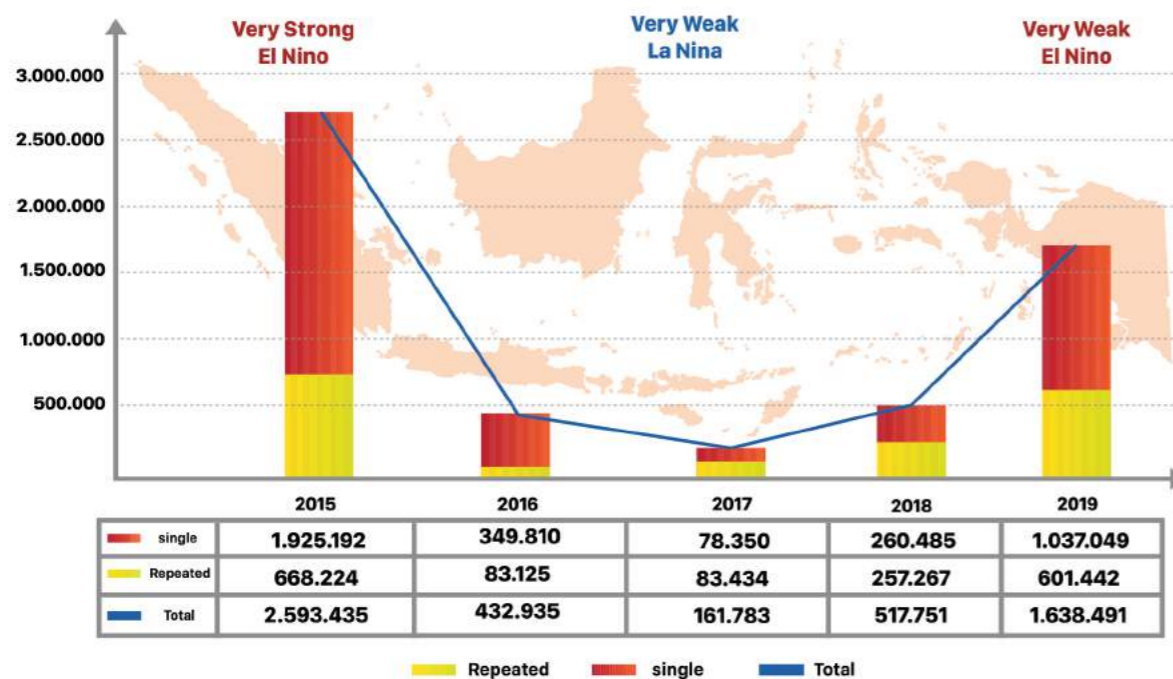


Fig 1. Indonesia burned area 2015–2019 (source data from the Ministry of Environment and Forestry).¹⁴

⁸) SIPongi (Ministry of Environment and Forestry) website 'Rekapitulasi luas kebakaran hutan dan lahan (ha) per provinsi di Indonesia tahun 2015–2020'

⁹) Jong HN (2019c)

¹⁰) Soeriaatmadja W (2018)

¹¹) Greenpeace International (2019)

¹²) Based on spatial analysis by Greenpeace of the Ministry of Environment and Forestry's burned area maps, available at <https://geoportal.menhk.go.id/arcgis/rest/services/KLHK>. Official government sources put this figure at 1,649,300 ha; see SIPongi (Ministry of Environment and Forestry) website 'Rekapitulasi luas kebakaran hutan dan lahan (ha) per provinsi di Indonesia tahun 2015–2020'

¹³) This figure represents the total geographical area where fires occurred over this period, based on spatial analysis of the Ministry of Environment and Forestry's burned area maps for 2015–2019, available at <https://geoportal.menhk.go.id/arcgis/rest/services/KLHK>. Some of these areas burned once, and others two, three, four or even five times.

¹⁴) Based on spatial analysis of the Ministry of Environment and Forestry's burned area maps, 2015–2019, available at <https://geoportal.menhk.go.id/arcgis/rest/services/KLHK>. El Niño/La Niña information from <https://ggweather.com/enso/oni.htm>. Without discounting areas that burned repeatedly in more than one year, the total cumulative area burned was 5,344,400 ha.

Instead of making good on its promises to hold errant companies accountable to help avoid further repeats of these fire disasters, the government and lawmakers recently passed an omnibus deregulation bill into law that weakens law enforcement on polluters.¹⁵ The bill was deliberated by lawmakers at breakneck speed, despite criticism over proposed changes that will dismantle environmental protections for the sake of attracting investment. The omnibus law waters down a stipulation in the 2009 Environmental Protection and Management Law that says companies are strictly responsible for fires that occur in their concessions, however they are caused.¹⁶

The new law was drafted with the involvement of the palm oil and pulp business associations, both of which have long campaigned for the weakening of fire prevention efforts – particularly peatland protection policies¹⁷ – and law enforcement measures such as permit revocation.¹⁸

Keeping peatland wet is an integral part of fire prevention policies, as dry peat ignites very easily and can burn for a long period of time.¹⁹

The associations were also behind a lawsuit in 2017 that demanded that the Constitutional Court rule that companies can only be held responsible for burning in their concessions if there is evidence that shows they are the ones that started the fires – the same thing proposed in the omnibus law.²⁰

With the law having been passed, the palm oil and pulp sectors will be relieved of responsibility for prior damage that they have inflicted on Indonesia's peatlands, and it will protect them from future liability for damage to the environment and fires in their concessions. This perception of immunity could well embolden them to persist in clearing land by burning, exacerbating the risk of future haze episodes and public health crises in Indonesia and throughout Southeast Asia that could match or even surpass the intensity of those faced in 2015 and 2019.

After the disastrous fires in 2015, Indonesia's fire

season saw a temporary decline in intensity as weak El Niño conditions resulted in a wetter climate and mild dry seasons. But in 2019 there was a significant uptick in fires,²¹ approaching the levels reached in 2015. That year also saw the return of the transboundary haze, as winds bore toxic smog from burning lands and forests on the islands of Sumatra and Kalimantan all the way to the neighbouring countries of Singapore and Malaysia. This triggered a diplomatic spat between Indonesia and Malaysia, with ministers engaging in heated debate over who was to blame for the haze crisis.²²

As top officials continued to bicker, nearly a million people in Indonesia were suffering from respiratory problems, with their lungs filled with hazardous pollutants from the toxic haze.²³ Neighboring Malaysia and Singapore also suffered from the pollution as air quality across the region worsened to unhealthy levels during the fire episode, resulting in a public health crisis.²⁴

The recurring fires have also resulted in tremendous economic losses. The World Bank estimates the 2015 fires to have chipped away \$16.1 billion from the country's economy, equivalent to 1.9% of its GDP,²⁵ and the 2019 fires to have resulted in \$5.2 billion in damage, equivalent to 0.5% of the country's economy.²⁶

¹⁵) Tani S (2020)

¹⁶) Jong HN (2019c)

¹⁷) Redaksi (2016)

¹⁸) Laoli N (2015a), Suryowati E (2015)

¹⁹) University of Leicester website 'Peat wildfires'

²⁰) Jong HN (2020a)

²¹) European Commission Copernicus Programme (2019)

²²) Jong HN (2019b)

²³) Nur Hakim R (2019), Paddock RC & Suhartono M (2019)

²⁴) Yeung J (2019)

²⁵) World Bank (2016) p4

²⁶) World Bank (2016) p7

SATELLITE IMAGERY VISUALIZING TRANSBOUNDARY HAZE ORIGINATING FROM INDONESIA IN 2015 AND 2019.

Fig 2.22 September 2015 - MODIS Aqua

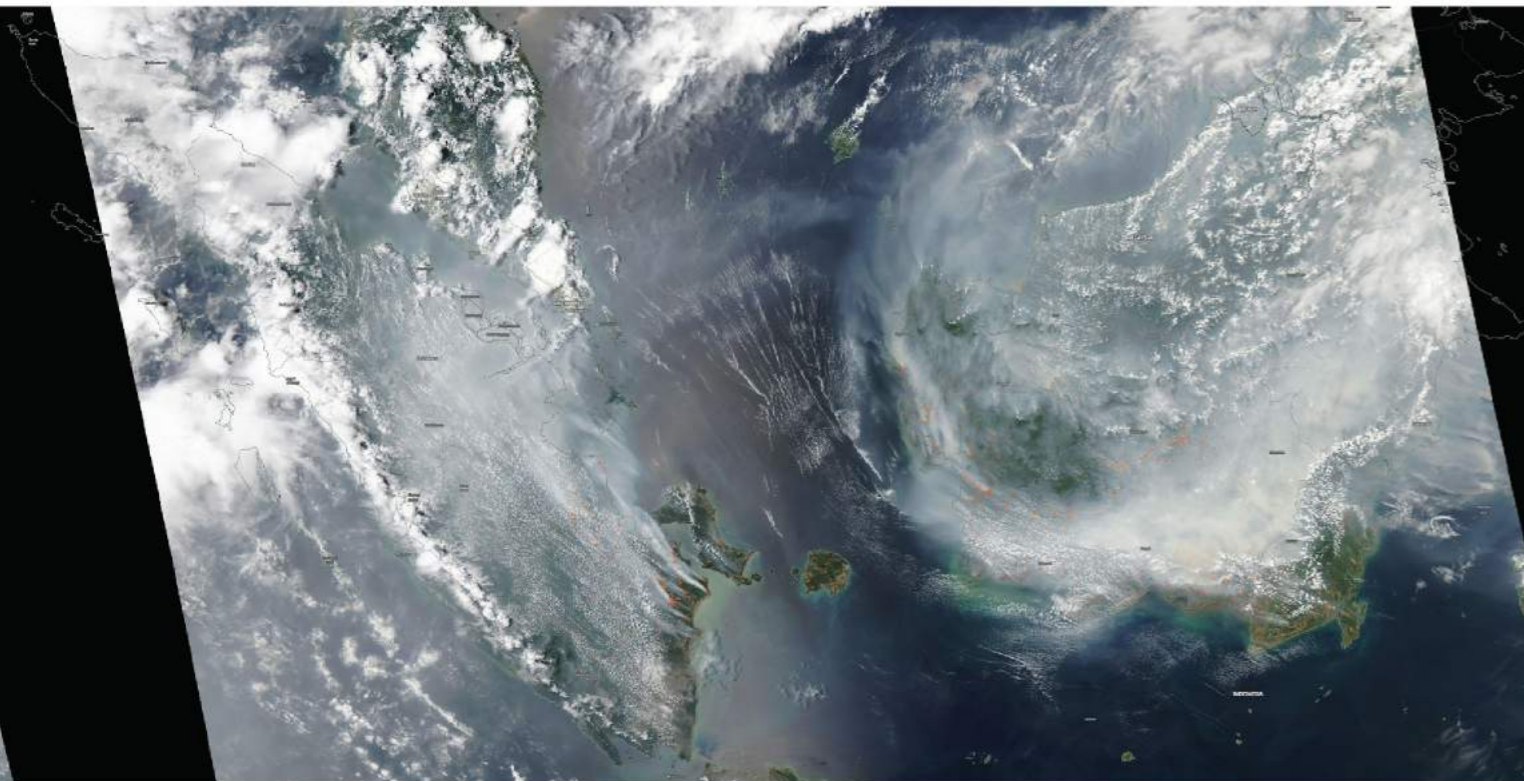
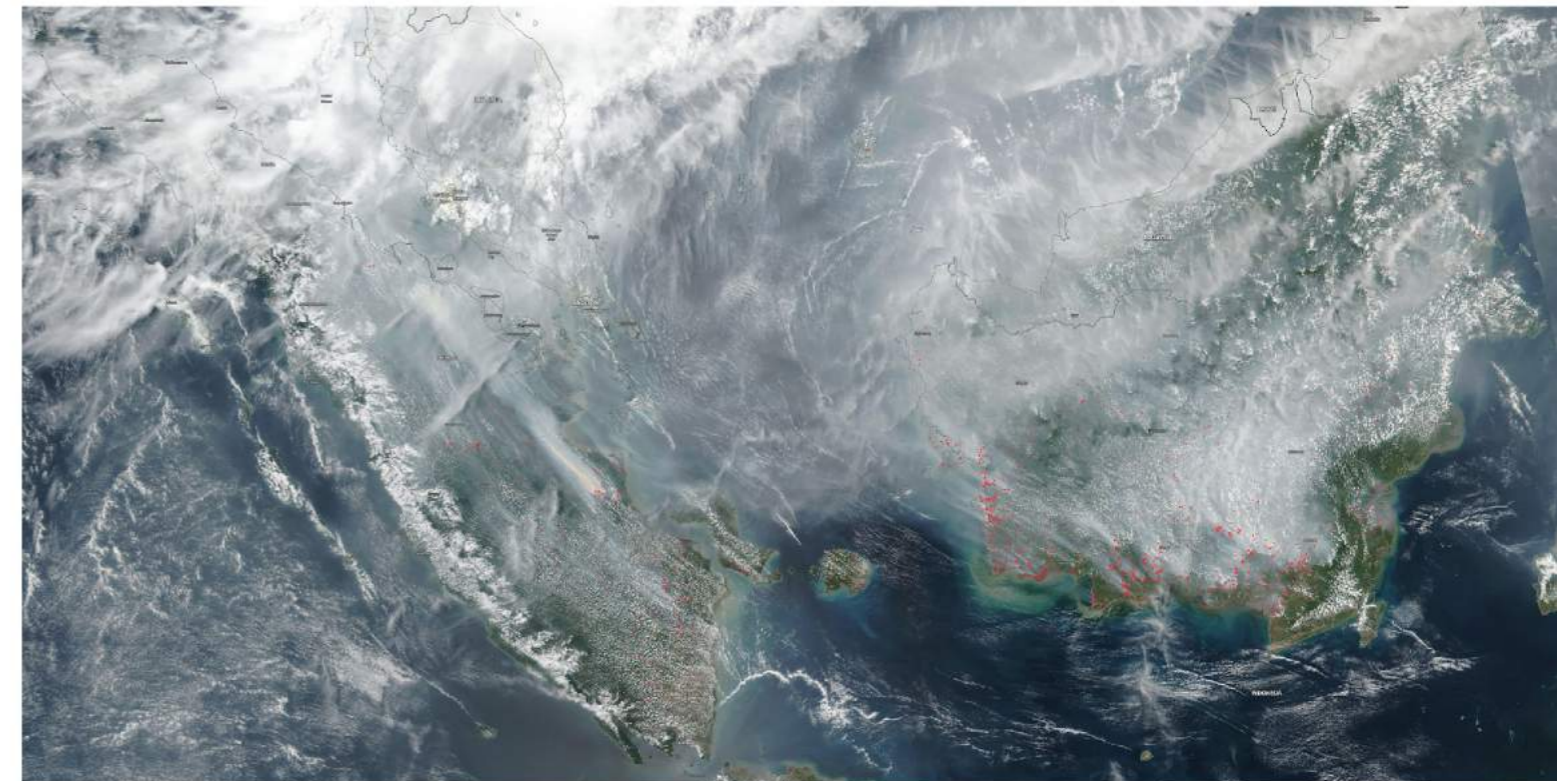


Fig 3. 18 September 2019 - Suomi NPP



The 2019 haze crisis is a reminder that land and forest fires are still very much a problem in Indonesia. It occurred in spite of government efforts that saw hundreds of millions of dollars spent on water-bombing helicopters, firefighters and weather modification efforts²⁷ – and of the government promising to hold to account those responsible, including companies that had fires on their land.²⁸

According to article 49 of Indonesia's Forestry Law of 1999, license owners are responsible for forest fires in their areas.²⁹ This concept, known as strict liability, is backed up by article 88 of the 2009 Environmental Protection and Management Law, which stipulates that anyone whose actions or business activities pose a serious threat to the environment is strictly responsible for any losses that are caused, without the need to prove their misdoings.³⁰

If a company's concessions burn it can therefore be punished with a wide variety of sanctions, such as fines, revocation of permits and civil and criminal lawsuits.³¹ But in spite of having a range of legal tools available to tackle these issues, the evidence suggests that the government is using them only selectively, and in some cases not at all, with law enforcement measures seemingly not touching many of the companies whose concessions have seen the most land burn. And now, the concept of strict liability has been weakened by the omnibus law.³²

Greenpeace mapping analysis using official government data,³³ combined with available data on government actions taken against companies that had fires on their land, confirms that many of the companies with the largest burned areas across their concessions between 2015 and October 2019 (the end of the fires season) have largely gone unpunished. The majority of concession holders operate with seeming impunity,

even if in some cases the same concessions burn every year. Indeed, the available data shows that eight of the 10 palm oil companies with the largest burned areas in their concessions during this period have not received any sanctions. Between 2015 and 2019 only one palm oil³⁴ company and three pulp companies³⁵ had their permits revoked by the government for fires in their concessions, and none of these were on the compiled lists of the companies with the largest burned areas across that period.

The present analysis is a follow-up to last year's *briefing Indonesian forest fires crisis: Palm oil and pulp companies with largest burned land areas are going unpunished*, which similarly found that almost none of the palm oil and pulp companies whose concessions had seen the largest areas of land burn during the 2015–2018 period had been punished through serious government sanctions.³⁶ Many of these companies had fires in their concessions again in 2019.

This year's analysis has been complicated by a decline in transparency on the part of the government. Whereas last year the Indonesian government provided Greenpeace with a relatively complete dataset of information about the more serious civil and administrative sanctions that had been imposed, this year extremely little data has been shared, in spite of numerous Freedom of Information requests and follow-ups. Greenpeace is therefore working with best available data, consisting of government data supplemented with data from other sources, in order to carry out the present analysis. It is likely, as a result, that there is some underreporting of sanctions within this briefing.

²⁷ Associated Press (2019), Purnamasari DM (2019)
²⁸ Greenpeace Southeast Asia (2019), Utama A (2019)
²⁹ President of the Republic of Indonesia (1999)
³⁰ President of the Republic of Indonesia (2009)
³¹ Minister of Environment and Forestry & Head of National Police of the Republic of Indonesia (2020)
³² Jong HN (2020a)
³³ See annex 1 of Greenpeace International (2019) for further details on methodology and data.
³⁴ Directorate General of Law Enforcement Kalimantan, Ministry of Environment and Forestry (2020) p95
³⁵ Letter no. S.447/HUMAS/PP/PHMS.3/7/2019, dated 17 July 2019. Copy held by Greenpeace Indonesia.
³⁶ Greenpeace Southeast Asia (2019)

Key findings

Palm Oil

All 10 of the palm oil companies that had the largest areas of land burn in their concessions between 2015 and 2019 had fires on their land in multiple years. Nine of them had significant areas (> 5%) burn more than once, and three of the companies had fires in their concessions in four of the five years.

Four of the five companies that saw the most land burn in their concessions across the 2015–2019 period were also among the five with the most area burned in 2019. None of them has received any government sanctions.

In total, 67,200 ha of land, representing 26% of the total burned area (253,200 ha) inside palm oil concessions in Indonesia last year, went up in flames in the concessions of the 10 companies with the largest burned areas in 2019.

PT Samora Usaha Jaya had the most burned area of all the palm oil companies, both across the period 2015–2019 – a total of 26,600 ha – and in 2019, when 17,500 ha burned within its concession boundaries.

PT Samora Usaha Jaya's parent group, Sungai Budi/Tunas Baru Lampung, is also the palm oil group with the largest burned area across its holdings in the period 2015–2019 – some 28,600 ha – and in 2019, when 18,800 ha within its concession areas were engulfed in flames. The group received two administrative sanctions in 2019, but none from 2015 to 2018. Despite the fires in PT Samora Usaha Jaya's concession being responsible for the vast majority of the group's total burned area, the sanctions it received were not related to this company.

Pulp

All 10 of the pulp companies with the biggest burned areas in their concessions from 2015–2019 had some of their land burn repeatedly. Eight of these saw significant areas burn more than once.

Six of the companies had fires in their concessions during either three or four years between 2015 and 2019, while two – PT Selaras Inti Semesta of Medco Group and PT Sumatera Sylva Lestari, controlled by the Tanoto family/Royal Golden Eagle (RGE)/APRIL – had their concessions burn every single year.

Three of the five companies with the largest burned areas in their concessions from 2015 to 2019 are linked to the Widjaja family, who control the Sinar Mas group and Asia Pulp & Paper (APP).³⁷ This includes the company that had the largest total burned area across Indonesia – 87,600 ha, an area larger than Singapore – PT Bumi Mekar Hijau. In this one concession some 40,400 ha burned in 2019 alone. The total burned area across all pulp concessions linked to the Widjaja family group amounted to 314,200 ha over the 2015–2019 period, with 77,300 ha burning – a quarter of this not for the first time – in 2019. The available data shows that the group received a total of 30 sanctions between 2015 and 2018, but just one in 2019.

In 2019, the 10 pulp companies with the largest burned areas in their concessions saw a total of 86,600 ha of their land go up in flames, accounting for 47% of the total burned area inside pulpwood concessions (185,600 ha).

Four of the five companies that saw the most land burn in their concessions across the 2015–2019 period were also among the top five in 2019 alone. All of these companies received sanctions related to fires on their lands between 2015 and 2018, yet all of them still saw parts of their concessions burn in 2019. According to the available data none of the four were sanctioned for the fires that year, despite being repeat offenders.

³⁷ See APP's sustainability dashboard for a full list of suppliers: <https://sustainability-dashboard.com/web/fcp/riau-supplier-management>.



Ulet Harsasti / Greenpeace

How was this analysis undertaken?



03 Desember 2015 - Ketapang
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©ifansasti / Greenpeace

a. Methodology

To conduct this year's analysis, Greenpeace used best available data from various sources, including official data that was either publicly available or obtained from Freedom of Information requests. Figures about burned areas in this briefing have been rounded up or down to the nearest hundred hectares, except where otherwise mentioned.

Since 2015 the Government of Indonesia has been producing annual data and maps on total areas burned,³⁸ which enables the spatial analysis of burned areas year by year in different regions and across Indonesia. For the present analysis Greenpeace used the latest burned area map, released in March 2020, which shows areas burned in 2019. This map has been combined with the annual burned area maps for the years 2015 to 2018 to determine the total area burned during the period 2015–2019, as well as which areas that burned in 2019 had already seen fires in one or more of the previous years.³⁹ For the cumulative total, such areas are counted only once.

In order to identify concessions that had fires within their boundaries between 2015 and 2019 and the companies and groups that control these concessions, the burned area maps were then overlaid with Greenpeace's pulp and palm oil concession maps.⁴⁰ Despite ongoing efforts by non-governmental organisations (NGOs) to press the government to release concession data, a nationwide consolidated dataset on concessions is still not readily available in Indonesia. Therefore, Greenpeace is working with the best data available obtained from a variety of sources. While all reasonable effort has been made to ensure that the concession data is accurate, due to the multiple data sources and lack of government and company transparency, there may be some inaccuracies in the data used for the analysis. And because the concession data is

being constantly updated and the changes integrated into Greenpeace's concession boundary maps, a direct comparison between last year's and this year's datasets of burned concession areas is not possible.

For this briefing, Greenpeace also conducted an analysis of burning in areas covered by right-to-cultivate (Hak Guna Usaha, HGU) licenses. The methodology used for this is similar to that used for the analysis of burned concessions, but this analysis focuses only on burned lands within HGU areas. Greenpeace relied on official government data for this segment, and this data is assumed to be accurate. In cases where companies have taken issue with the accuracy of the data, they have been asked to provide evidence that they have sought changes or corrections to the government's figures. In cases where that evidence has been provided, reference to it is included in this report.

To identify company groups which control the burned concessions and HGU areas,⁴¹ Greenpeace used a broad definition of corporate group – one that is not restricted by formal parent–subsidiary company relationships. Instead, companies are considered to belong to a group if they have shared family, financial, managerial and/or operational control, or if they self-describe as being part of the group. Thus, if a plantation company and a corporate group are owned or run by members of the same family, the plantation firm is presumed to be a part of the group. This is because a large segment of the plantation industry, especially in Southeast Asia, is controlled by individuals and families who do not organise their businesses as traditional groups with a parent company and subsidiaries, but instead rely on complicated, informal and opaque group structures. The approach used to determine group affiliation for the companies covered in this briefing is in line with the Accountability Framework initiative (AFI) guidelines.⁴² As with the compilation of concession boundary data, group identification is a continuous process, reflecting

thediscovery of new links and information.

Prior to publication, presumed groups were provided with the opportunity to comment.

To gauge the effectiveness of law enforcement in mitigating land and forest fires in Indonesia, Greenpeace then cross-checked the accumulated data with details of sanctions given to companies. There are three forms of sanctions: administrative, civil and criminal⁴³. Administrative sanctions may include warning letters (surat peringatan), written warnings (teguran tertulis), government compliance orders (paksaan pemerintah), freezing of licenses (pembekuan izin) and revocation of licenses (pencabutan izin).⁴⁴ In the case of civil sanctions, the government files civil lawsuits against companies whose concessions burn; if found guilty, the firms are required to pay fines as compensation for the environmental damage caused by the fires and rehabilitate the burned areas. Criminal sanctions are imposed by law enforcers – usually the police – and can result in prison sentences of up to 15 years and fines of up to 10 billion rupiah (\$680,000)⁴⁵ for individuals and companies found to be responsible for fires.

To obtain details about government sanctions that have been imposed, including the names of the companies that have received administrative, civil and criminal sanctions, Greenpeace made a series of Freedom of Information requests to the Ministry of Environment and Forestry. The data provided by the ministry to Greenpeace, however, is incomplete, particularly for the year 2019 and with information on administrative sanctions notably missing. Greenpeace is making use of official complaint procedures to try to obtain complete information about the sanctions that have been issued; this process is ongoing.

In the meantime, where possible, the data provided by the ministry has been supplemented with information from other sources, such as reports and PowerPoint

presentations published by the government and media reports. While some of the data on criminal sanctions this briefing reports on was obtained from media reports, most of this information was acquired through Freedom of Information requests.

Due to the uncertainty surrounding the 2019 sanction data, the decision was taken to report the data for that year separately from the sanction data for the 2015–2018 period.

Even though the majority of the sanction data was obtained from official sources, Greenpeace found some disparities in the reporting. For example:

- Data from various official sources shows that a total of 82 administrative sanctions were imposed by the government in relation to the 2019 fires. However, according to the Ministry of Environment and Forestry's latest law enforcement performance report, 341 administrative sanctions were issued in 2019.
- An official at the Ministry of Environment and Forestry is quoted by the media as saying that at least 63 companies received administrative sanctions for fires that occurred in 2015, but the ministry's law enforcement report states that only 27 administrative sanctions were issued in 2015.

³⁸ Annual data on burned areas is available at <http://webgis.menlhk.go.id:8080/kemenhut/index.php/en/feature/download> (in section 1.8). Burned area maps are available at <http://geoportal.menlhk.go.id/arcgis/rest/services/KLHK>.
³⁹ In its annual release of burned area maps the Ministry of Environment and Forestry includes areas of repeated burning between years. Total burned area over the period 2015–2019 as calculated in this analysis counts areas that burned repeatedly as one burned area. Note that updates to data about concession boundaries and ownership can have an effect on the figures reported from one year to the next.
⁴⁰ The calculation of total burned area inside a concession is accumulative. A large burned area in one concession could be a cluster of dispersed burned areas inside the concession.
⁴¹ Greenpeace analyses burned areas within HGU permit boundaries by specific HGU numbers, so in the case of one concession having multiple HGU licenses, the burned areas are not accumulated.
⁴² AFI includes a list of factors to determine the full range of ownership, from formal to informal, that defines a corporate group. See AFI website 'Definitions - Different types of supply chain actors.'

Fires are closely related to palm oil and pulp companies



While slash-and-burn agriculture has long been practiced by farmers in Indonesia, it was not until the practice was industrialised by large corporations in recent decades that the problem of land and forest fires grew out of control. These companies own long-term concessions to develop plantations within forested areas, many in swampy peat landscapes rich in carbon.

One of the crops whose production has increased massively in Indonesia in recent years is oil palm. Fueled by growing demand for vegetable oil for consumption as well as biofuel, the area of oil palm plantations in Indonesia has exploded from 295,000 ha in 1980 to 16.4 million ha in 2019,⁴⁹ catapulting the country into the world's top slot as a producer and exporter of palm oil.⁵⁰ This unbridled expansion of the palm oil industry has come at the expense of the degradation and destruction of rainforests across Indonesia, with clearance often involving the use of fire.

On-the-ground investigations have found indications of palm oil companies deliberately burning aging crops to replace them with new ones, with fires blazing only in unproductive areas.⁵¹ New oil palm trees usually appear shortly after the burning.

Pulpwood companies also have been accused of still using fire to clear land for plantations, despite the practice having been declared illegal by the Indonesian government.⁵² For example, a new investigative report by Indonesian and Malaysian media and NGOs (Tempo, Mongabay, Betahita, Malaysiakini and Auriga) on the 2019 fires in PT Bumi Mekar Hijau's two concessions in South Sumatra province found indications of the company preparing to establish new pulp plantations by building canals to drain water from peatlands in June–August 2019, before fires were detected in these areas. Aerial photographs taken for the investigation by a hidden drone camera in August 2020 show that the burned areas had turned into blocks of cleared peat ready to be planted with acacia trees.⁵³

a. Findings in palm oil concessions

Greenpeace analysis of official government data on burned areas together with best available concession maps shows that a significant percentage of the fires that ravaged Indonesia in the 2015–2019 period occurred within palm oil concessions.⁵⁴ As Table 1 shows, a total of 67,200 ha burned in the 10 palm oil concessions identified as having the largest burned areas within their borders in 2019 alone. Including the years 2015–2018, that total increased to 105,300 ha. The available data on government sanctions shows that remarkably few of the palm oil companies identified here received any administrative, civil or criminal sanctions for the extensive burning that occurred on their land, even though in all cases there were fires in at least two years of the period considered.

⁴⁹ Katadata (2019)

⁵⁰ Hirschmann R (2020)

⁵¹ Fitria N (2020)

⁵² See President of the Republic of Indonesia (1999) and President of the Republic of Indonesia (2009).

⁵³ Mongabay (2020)

⁵⁴ According to Greenpeace's analysis, some 253,200 ha of the approximately 1,638,500 ha that burned in Indonesia in 2019 – 15% of the total burned area – were located inside the boundaries of palm oil concessions.

BURNING ISSUES: FIVE YEARS OF FIRES

Indonesia's pro-business 'omnibus law' gives more impunity to biggest plantation sector burners



Dayak, Toba, Nias, Kalimantan
12 September 2019 - 14:00:00
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Table 1: Top 10 palm oil companies ranked according to the total burned area mapped in their concessions for the period 2015–2019.

No	Palm Oil Company	Palm Oil Group	Burned Area				Sanctions	
			Hectares		Percentage		2015-2018	2019
			2015-2019	2019	2019	Repeated 2015-2019		
1.	PT Samora Usaha Jaya	Sungai Budi/Tunas Baru Lampung	26,600	17,500	66%	28%		
2.	PT Katingan Mujur Sejahtera	LIPPO/Agro Inti Semesta	13,700	1,000	7%	2%		
3.	PT Globalindo Agung Lestari	Genting	12,300	8,100	66%	8%		
4.	PT Rezeki Alam Semesta Raya	Soechi	10,800	10,000	92%	6%		
5.	PT Bangun Cipta Mitra Perkasa	Best Agro Plantation	10,400	7,200	69%	41%		
6.	PT Dendymarker Indah Lestari	SIPEF	7,000	3,700	53%	34%		
7.	PT Mekar Karya Kahuripan	MAKIN	6,300	6,000	94%	12%		
8.	PT Arrtu Energie Resources	Rajawali/Eagle High	6,100	5,800	94%	7%		2
9.	PT Bulungan Citra Agro Persada	TSH Resources	6,100	4,300	70%	40%	1	1
10.	PT Karya Luhur Sejati	Best Agro Plantation	6,000	3,600	61%	56%		

* See comment concerning PT Globalindo Agung Lestari in Table 2.

Table 1 also lists the palm oil groups to which the individual companies with the largest burned areas belong. As part of its analysis, Greenpeace identified the 10 groups with the largest burned areas across all their holdings during the period from 2015 to 2019 (Table 2). Most of these groups also appear in Table 1. All but one of them saw fires in its concessions in 2019 as well as one or more previous years, with significant areas (> 5%) burning repeatedly in eight of the 10 cases. Six of the groups received sanctions, but in most cases these were not related to the concessions identified above.

Table 2: Top 10 palm oil corporate groups ranked according to the total burned area mapped in their concessions for the period 2015–2019.

No	Palm Oil Group	Burned Area				Sanctions	
		Hectares		Percentage		2015-2018	2019
		2015-2019	2019	2019	Repeated 2015-2019		
1.	Sungai Budi/Tunas Baru Lampung ⁵⁵	28,600	18,800	66%	26%		2
2.	Soechi	19,000	15,500	82%	7%		
3.	Rajawali / Eagle High	17,700	11,200	63%	7%		4
4.	Genting*	17,600	11,200	63%	10%		1
5.	Best Agro Plantation	17,300	10,800	62%	44%		
6.	Bakrie	14,700	5,000	34%	28%		2
7.	LIPPO/Agro Inti Semesta	13,700	1,000	7%	2%		
8.	Rachmat/Amara ⁵⁶	13,000	7,500	57%	52%	3	
9.	Korindo	11,300	0	0%	0%		
10.	Sampoerna Agro**	9,300	5,400	58%	35%		1

* In response to Greenpeace's opportunity to comment letter, a representative of Genting Plantations Bhd (GENP) stated that the company has no management control or any direct relation with PT Varita Majutama, one of the concessions included in the group's total. However, Greenpeace identified PT Varita Majutama as a subsidiary of Genting Bhd, which according to its 2019 annual report has a 95% share in PT Varita Majutama and a 55.4% share in GENP.⁵⁷ The company also stated, as it did in response to last year's briefing, that the map Greenpeace has for PT Globalindo Agung Lestari is incorrect. Greenpeace has considered the information provided by GENP regarding this concession but found again that it does not contain evidence that changes the present analysis.⁵⁸

** In response to Greenpeace's opportunity to comment letter, a representative of Sampoerna Agro stated that the land in PT Tania Binatama's concession had been returned to the government in February 2016 and that the company was dissolved and liquidated in July 2016. However, Sampoerna Agro's 2019 annual report lists PT Tania Binatama as a subsidiary in the development stage, with a note that it is 'currently under liquidation'.⁵⁹ Greenpeace therefore stands by its decision to consider PT Tania Binatama as part of the Sampoerna Agro group.

Table 3 shows the number of years that fires occurred in the concessions of the palm oil companies identified in Table 1 during the 2015–2019 period, as well as which of these companies are members of the Indonesian Palm Oil Association (Gabungan Pengusaha Kelapa Sawit Indonesia, GAPKI).⁶⁰ GAPKI is a powerful lobbying group representing close to 700 member companies that has historically opposed government actions to improve the sustainability of the palm oil industry.

⁵⁵ Tunas Baru Lampung is a member of the Sungai Budi group. See Tunas Baru Lampung (2020) pp11,29.

⁵⁶ Rachmat/Amara is part of the group Rachmat, which also includes subgroups Triputra, Dharmasetya Nusanantara (DSN) and Union Sampoerna Triputra Persada. See Greenpeace International (2019) p53.

⁵⁷ Genting Berhad (2020) pp184,191

⁵⁸ For details on the company's response and Greenpeace's assessment of their claims, see Greenpeace International (2019) pp62–63.

⁵⁹ Sampoerna Agro (2020) p50

⁶⁰ GAPKI website 'GAPKI members'

Table 3: Top 10 palm oil companies including number of years of fire occurrences and GAPKI membership.

No	Palm Oil Company	Palm Oil Group	Years Fires Occured 2015-2019	GAPKI Member
1.	PT Samora Usaha Jaya	Sungai Budi/Tunas Baru Lampung	3	
2.	PT Katingan Mujur Sejahtera	LIPPO/Agro Inti Semesta	2	
3.	PT Globalindo Agung Lestari	Genting	4	✓
4.	PT Rezeki Alam Semesta Raya	Soechi	4	
5.	PT Bangun Cipta Mitra Perkasa	Best Agro Plantation	4	
6.	PT Dendymarker Indah Lestari	SIPEF	2	✓
7.	PT Mekar Karya Kahuripan	MAKIN	3	
8.	PT Arrtu Energie Resources	Rajawali/Eagle High	3	✓
9.	PT Bulungan Citra Agro Persada	TSH Resources	3	
10.	PT Karya Luhur Sejati	Best Agro Plantation	3	✓

Here are some of the key findings related to these tables, with additional details provided where relevant:

- All 10 of the palm oil companies that saw the most land burn within their concessions across the 2015-2019 period had fires on their land in 2019, despite the government already having detected major fires in their areas in previous years.

- Only two of these companies – PT Bulungan Citra Agro Persada and PT Arrtu Energie Resources – received sanctions for fires in their concessions during any of these years, according to the available data. Both companies had multiple fires in their concessions, with burning taking place during three different years in the 2015-2019 period.

- Three of the five palm oil companies with the largest burned areas on their land over the 2015-2019 period – PT Globalindo Agung Lestari, PT Rezeki Alam Semesta Raya and PT Bangun Cipta Mitra Perkasa – had fires in their concessions during four of those years. The available data shows that none of them has received any sanctions from the government.

- Of the two companies that were issued with government sanctions as a result of fires on their land, only one – PT Bulungan Citra Agro Persada, a member of Sabah-based plantation firm TSH Resources Berhad, which supplies major palm oil traders and global consumer brands⁶¹ – received sanctions in the period of 2015-2018 as well as in 2019, according to the available data. While the government had already suspended the company's license in 2015,⁶² PT Bulungan Citra Agro Persada's concessions continued to suffer from repeated burning. In 2019 fires scorched 4,300 ha of the company's land, resulting in another administrative sanction.⁶³

- PT Arrtu Energie Resources received sanctions only in 2019, when a civil lawsuit and criminal charges were brought against the company after 5,800 ha of its land burned.⁶⁴

- The palm oil company with the largest burned area across the 2015-2019 period was PT Samora Usaha Jaya, which saw fires on a total of 26,600 ha of its land (including 17,500 ha in 2019).

- PT Samora Usaha Jaya is part of the Sungai Budi/Tunas Baru Lampung group,⁶⁵ which – largely as a result of the fires in this concession – was also the palm oil group with the largest burned area across its holdings in the 2015-2019 period. In total, 28,600 ha of land burned in Sungai Budi's palm oil concessions between 2015 and 2019, a quarter of this repeatedly. The data obtained by Greenpeace shows that during this period the government issued the group with three administrative sanctions and one criminal sanction – but none of these sanctions were imposed on the Sungai Budi concession with the largest burned area, PT Samora Usaha Jaya, despite fires occurring on its land during three years over that period. PT Samora Usaha Jaya

finally had its concession sealed in 2019, but this action in itself is not a sanction and is only a part of the investigative process. As in most other cases where concessions have been sealed, no clear information has been provided by the ministry about the area sealed or when the seal will be lifted. At this point it is not clear if the sealing of PT Samora Usaha Jaya's concession was or will be followed up with sanctions.

- Soechi – the palm oil group with the second-largest burned area across its holdings in the 2015-2019 period, a total of 19,000 ha – has received no sanctions at all from the government, according to the available data.



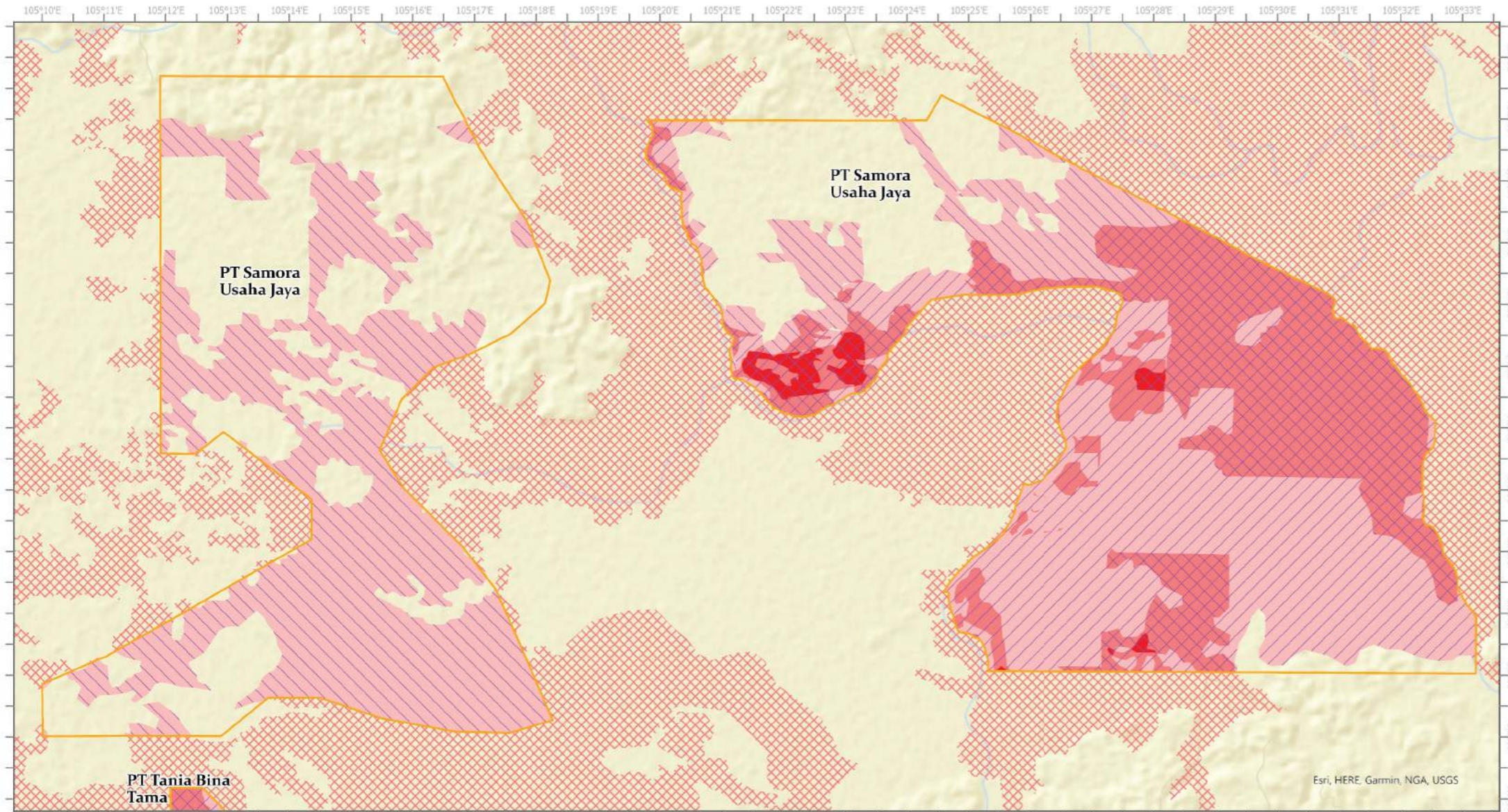
⁶¹ TSH Resources Bhd (2020) p29

⁶² Letter no. 447/HUMAS/PPH/HMS.3/7/2019, dated 17 July 2019. Copy held by Greenpeace Indonesia.

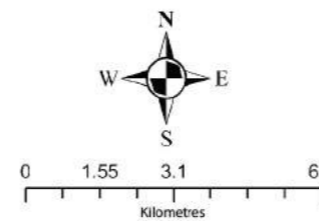
⁶³ Kalimantan Environment and Forestry Law Enforcement Centre (2020) p95

⁶⁴ Ministry of Environment and Forestry (2020a)

⁶⁵ Tunas Baru Lampung website: Head office / Factories / Subsidiaries



**BURNED AREA 2015 - 2019
INSIDE PALM OIL CONCESSIONS**



Sources:
 1. KLHK burned area maps 2015-2019
 2. Greenpeace concession maps 2020
 3. Greenpeace analysis 2020



b. HGU analysis

The Indonesian government has a number of legal tools that in theory it can use as part of its law enforcement efforts to tackle land and forest fires. One of these is a regulation issued by the Ministry of Agrarian and Spatial Planning in 2016 (Regulation 15/2016) stipulating that the government has the right to reclaim any state-owned burned land for which an HGU (right to cultivate) permit has been issued for agricultural use, by stripping its permit. If the burned area covers less than 50% of the total area covered by the permit, the land use rights can be revoked for just the burned area. If more than 50% of the area is burned, the permit holder can either be made to pay fines amounting to 1 billion rupiah (\$68,000) for every hectare that is burned or have the permit for the entire area revoked.⁶⁶

To see how this regulation has been implemented, Greenpeace made a Freedom of Information request to the Ministry of Agrarian and Spatial Planning in 2019. The response showed that as of 24 September 2019, no company had had its license revoked, despite numerous HGU permit holders having had fires in their concessions after the law was passed and despite various government officials, including President Joko Widodo, having issued multiple threats to revoke the permits of companies whose concessions burned.⁶⁷

Therefore, Greenpeace decided to do a separate analysis on plantation companies and burned HGU areas to see which firms should have had their licenses revoked and/or paid fines for fires in their areas.

Table 4: Palm oil companies with more than 50% of HGU licensed areas burned in 2019.

No	Palm Oil Company	Palm Oil Group	HGU Number	HGU Area (ha)	Burned Area 2019 (ha)	HGU Burned Percentage	Potential Fine (TRP)	Sanctions		GAPKI Member
								2015-2018	2019	
1.	PT Bulungan Citra Agro Persada	TSH Resources	1606000020003	5,218	2,908	56%	2.908	1		
2.	PT Proteksindo Utama Mulia	Cempaka Mas Abadi	4060000200006	1,971	1,153	59%	1.153			✓
3.	PT Selatan Agro Makmur Lestari	Sriwijaya Palm Oil	4070000200007	1,101	701	64%	0.701			✓
4.	PT Borneo Indo Tani		17020000200030	1,034	636	62%	0.636		2	
5.	Koperasi Tanjung Pawan Mandiri		14070000200124	636	537	56%	0.357			
TOTAL					9,960	5,755	5.755			

Note: HGU areas based on data from http://atlas.atrbpn.go.id/layers/geonode/hgu_seluruh_indonesia, accessed 22 February 2019. This table includes only palm oil companies that had more than 300 ha burn inside HGU areas. Areas in this table are not rounded to the nearest 100 ha, to permit an accurate calculation of the fines that could be levied by the government. Confirmed HGU number, commodity and location data is available at <https://bhumi.atrbpn.go.id/>. TRP = trillion rupiah. Sanctions here refers to sanctions from the police and the Ministry of Environment and Forestry.



10 August 2019 - Palangkaraya
Ifansasti/Greenpeace

Greenpeace analysis revealed five concessions where more than 50% of the confirmed HGU areas burned in 2019, and where the burned area totaled more than 300 ha. The total area burned across these five concessions amounted to nearly 5,800 ha. Among the concessions is that of PT Bulungan Citra Agro Persada, which also appeared in the list of the 10 palm oil companies with the largest burned areas. An analysis of the government's burned area map overlaid with HGU data from the Ministry of Agrarian and Spatial Planning shows 2,900 ha – 56% of the company's HGU area – burned within PT Bulungan Citra Agro Persada's concession in North Kalimantan in 2019. According to article 5 of Regulation 15/2016 from the Ministry of Agrarian and Spatial Planning,⁶⁸ based on the size of the burned HGU area PT Bulungan Citra Agro Persada should have paid a fine of 2.9 trillion rupiah (\$197 million) to the government for the 2019 fire alone, or have had the permit for the company's entire concession revoked.

Another concession on this list is PT Borneo Indo Tani (parent company unknown). In 2019 nearly 640 ha of PT Borneo Indo Tani's HGU area – some 62% – was burned, resulting in thick smog choking nearby villages.⁶⁹ In the same year, the police launched an investigation into the fire; however, the result of the investigation remains unclear to this day and the concession remains in operation, with law enforcers not using the ministry's regulation to revoke the company's permit. Based on article 5 of the regulation, Greenpeace calculated that PT Borneo Indo Tani should be liable for 636 billion rupiah (\$43.2 million) in fines.

In its response to Greenpeace's inquiry on the matter,⁷⁰ dated 24 September, 2019, the Ministry of Agrarian and Spatial Planning said it had never enforced its regulation by revoking the HGU permits of burned concessions or forcing companies to pay fines, despite having the authority and indeed the obligation to do so. To justify its lack of action the ministry claimed that it had not found evidence of any companies deliberately setting fires in their HGU areas, which it argued would be necessary to revoke the HGU permits. However, the regulation does not include this stipulation. Were the ministry to exercise its right to hold just these five companies to account by imposing the mandated fines, the state would stand to receive some 5.75 trillion rupiah (\$390 million) in compensation for the fires on their lands – nearly 7% of the country's healthcare budget for COVID-19 in 2020 (88 trillion rupiah, or \$6 billion).⁷¹

The regulation also states that HGU permit holders with fires on their land covering less than 50% of the total area should be punished by immediate revocation of their land use rights for the burned areas. Greenpeace analysis revealed 10 palm oil companies that fall into this category and that saw over 1,000 ha of confirmed HGU areas burn in 2019. In total, fires razed 20,700 ha of land in these companies' concessions during that year.



Forest Fires in Jekan Raya, Central Kalimantan
08 August 2019 - Palangkaraya
Ransasti/Greenpeace

⁶⁶ See Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia (2016) article 5, pp5-6.

⁶⁷ See eg Idhom AM (2017), Maharani E (2015) and Zulfikar M (2019).

⁶⁸ Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia (2016) pp5-6

⁶⁹ Muslim D (2020)

⁷⁰ Letter no. 459/SRT-100.8.DI.02.02/IX/2019 dated 24 September, 2019. Copy held by Greenpeace Indonesia.

⁷¹ Akhlaq AW (2020)

Table 5: Palm oil companies with more than 1,000 ha but less than 50% of HGU licensed areas burned in 2019.

No	Palm Oil Company	Palm Oil Group	HGU Number	HGU Area (ha)	Burned Area 2019 (ha)	HGU Burned Percentage	Sanctions		GAPKI Member
							2015-2018	2019	
1.	PT Dendy Marker Indah Lestari ⁷⁷	SIPEF	4100712200004	17,213	3,749	22%			✓
2.	PT Plantindo Agro Subur Berkedudukan Di Banjarmasin		17030000200005	12,225	3,478	29%			
3.	PT Sumber Alam Selaras	NPC Resources	16090000200172	7,899	2,286	29%			
4.	PT Kintap Jaya Wattindo	Jaya Agra Wattie	17080000200071	5,991	2,127	36%			✓
5.	PT Tri Setia Usaha Mandiri		5160000200146	5,875	1,785	30%			
6.	PT Primatama Kreasimas	Bakrie	6080720200007	11,165	1,669	15%			
7.	PT Monrad Intan Barakat	Bakrie	17020000200043	3,958	1,669	42%		2	
8.	PT Monrad Intan Barakat	Bakrie	17020000200044	3,999	1,505	38%		2	
9.	PT Agrolestari Mandiri	Sinar Mas (GAR)	14070000200118	6,278	1,361	22%			✓
10.	PT Sawit Sukses Sejahtera	Rajawali/Eagle High	16090000200066	11,188	1,021	9%			✓
TOTAL				85,791	20,651				

Note: HGU areas based on data from http://atlas.atrbpn.go.id/layers/geonode:hgu_seluruh_indonesia, accessed 22 February 2019. This table includes only palm oil companies that had more than 1,000 ha burn inside HGU areas. Areas in this table are not rounded to the nearest 100 ha to permit an accurate calculation of the percentage burned. Confirmed HGU number, commodity and location data is available at <https://bhumi.atrbpn.go.id/>. Sanctions here refers to sanctions from the police and the Ministry of Environment and Forestry.

One of these companies, PT Monrad Intan Barakat, had two separate HGU areas burn in 2019. It was the only company to receive any government sanctions.

Of the 10 companies in this list, PT Dendy Marker Indah Lestari had the largest burned area. Even though only 22% of the company's HGU area was burned in 2019, fires still razed some 3,700 ha.

⁷⁷This is an alternative spelling of the same company name referenced in Tables 1 and 3. The name appears as Dendy Marker in the HGU database.

c. Findings in pulp plantations

A significant percentage of the land and forest fires that ravage Indonesia each year also occur within pulpwood concessions.⁷³ By comparing the best available maps of concession areas with official government burned area maps, Greenpeace was able to identify the 10 pulp companies with the largest burned areas in their concessions over the 2015–2019 period. The analysis shows that a total of 385,600 ha burned in these 10 concessions alone over this five-year period, with a significant percentage of the burning taking place in 2019 and at least some areas in each concession burning more than once.

Table 6: Top 10 pulp companies ranked according to the total burned area mapped in their concessions for the period 2015–2019.

Pulp Company	Pulp Group	Burned Area				Sanctions	
		Hectares		Percentage		2015-2018	2019
		2015-2019	2019	2019	Repeated 2015-2019		
PT Bumi Mekar Hijau	Widjaja family/Sinar Mas/(APP affiliated)*	87,600	40,400	46%	19%	2	
PT Bumi Andalas Permai	Widjaja family/Sinar Mas/(APP affiliated)	84,400	11,000	13%	10%	2	
PT Musi Hutan Persada	Marubeni	74,100	5,600	8%	7%	1	
PT Sebangun Bumi Andalas Wood Industries	Widjaja family/Sinar Mas/(APP affiliated)	52,000	7,200	14%	6%	1	
PT Sumatera Riang Lestari	Tanoto family (Royal Golden Eagle (RGE) /APRIL affiliated)**	21,000	6,700	32%	2%	3****	
PT Paramitra Mula Langgeng	Sungai Budi	16,700	9,600	58%	48%	1	1
PT Selaras Inti Semesta	Medco	15,000	2,800	18%	29%		
PT Arara Abadi	Widjaja family/Sinar Mas/APP***	12,300	1,400	11%	5%	1	
PT Sumatera Sylva Lestari	Tanoto family (Royal Golden Eagle (RGE) /APRIL affiliated)**	12,000	400	3%	13%	2****	
PT Rimba Hutani Mas (Sumatera Selatan)	Widjaja family/Sinar Mas/(APP affiliated)	10,500	1,400	14%	7%	1	

* This designation includes all third-party suppliers of APP that are not recognised as APP's subsidiaries – that is, there is no direct APP share ownership relationship with these companies. Nevertheless, as direct suppliers of APP they are considered linked to the Widjaja family/Sinar Mas group and some appear to be owned by the Widjaja family/Sinar Mas outside the APP structure.⁷⁴

** This designation includes all third-party suppliers of APRIL that are not recognised as APRIL's subsidiaries – that is, there is no direct APRIL share ownership relationship with these companies. Nevertheless, as direct suppliers of APRIL they are considered linked to the Tanoto family/Royal Golden Eagle group.

*** This includes APP and its subsidiaries.

**** APRIL's response to Greenpeace's opportunity to comment letter states that PT Sumatera Riang Lestari and PT Sumatera Sylva Lestari have each received only one

administrative sanction, with the complaint against PT Sumatera Riang Lestari closed in 2016. This contradicts the information provided to Greenpeace by the Ministry of Environment and Forestry. APRIL also contested Greenpeace's findings with regard to the burned area figures presented to them (see comment in Table 7).

The one pulp group name that jumps out in Table 6 is the Widjaja family/Sinar Mas, which is linked to five of the 10 pulp companies with the largest burned areas in their concessions between 2015 and 2019. Unsurprisingly, this name is also at the top of the list of the pulp groups Greenpeace identified as having the largest burned areas across all of their holdings during this period (Table 7). Nine of these groups were issued with one or more government sanctions between 2015 and 2018, only to see fires on their lands again in 2019.

⁷³ According to Greenpeace's analysis, some 185,600 ha of the approximately 1,638,500 ha that burned in Indonesia in 2019 – accounting for 11% of the total burned area – were located inside the boundaries of pulp concessions.

⁷⁴ Koalisi Anti Mafia Hutan et al (2018)

Table 7: Top 10 pulp corporate groups ranked according to the total burned area mapped in their concessions for the period 2015–2019.

No	Pulp Group	Burned Area				SANCTIONS	
		Hectares		Percentage		2015-2018	2019
		2015-2019	2019	2019	REPEATED 2015-2019		
1.	Widjaja family/Sinar Mas/ (APP affiliated)*	283,400	73,300	26%	11%	22	1
2.	Marubeni	74,100	5,600	8%	7%	1	
3.	Tanoto family (Royal Golden Eagle (RGE)/APRIL affiliated)**	39,400	7,300	18%	6%	18	2
4.	Widjaja family/Sinar Mas/APP*	30,800	4,000	13%	5%	8	2
5.	Perum Perhutani	28,600	14,200	50%	7%	11	
6.	Sungai Budi75	18,300	9,900	54%	45%	1	
7.	Medco	15,000	2,800	18%	29%	1	
8.	Tanoto family/Royal Golden Eagle (RGE)/APRIL**	14,700	600	4%	3%	1	
9.	Royal Lestari Utama (Barito Pacific / Michelin JV)***	9,500	2600	27%	16%	1	
10.	Multistrada Arah Sarana (MASA)****	9,400	8,000	85%	1%		

* Greenpeace analysis shows a total burned area in all the concessions linked to the Widjaja family group in the palm oil and pulp sectors of 321,500 ha. In response to Greenpeace's opportunity to comment letter, an APP representative stated that PT Artelindo Wiratama, included in this analysis, is considered as still in the preparation phase to become part of APP's supply chain. Concerning sanctions, the response letter stated '23 companies received administrative sanctions while 2 received operational sanctions. These sanctions were all lifted following the fulfilment of obligations set for the respective companies. As of Dec 2019, there were no pending investigations or outstanding penalties on APP or APP supplier companies. You may also wish to note that in 2019 there were no sanctions handed out to APP nor its suppliers.'

** According to Greenpeace analysis, the total burned area in all the concessions linked to the Tanoto family group in the palm oil and pulp sectors is 65,100 ha. In response to Greenpeace's

opportunity to comment letter, an APRIL representative argued that in various cases the mapped burned areas and/or the calculations of total burned areas differed from the company's information and that the methodology Greenpeace had applied might be overestimating the burned areas identified within the group's concessions. The company sent a similar response to Greenpeace last year. Greenpeace is using the latest official data from the Indonesian government, as explained in the methodology section, and assumes this data to be correct. Potential inaccuracies of mapped burned areas therefore should be resolved between the company and the responsible department of the government. The information concerning sanctions shared by APRIL in their response letter contradicts the information communicated to Greenpeace by the Ministry of Environment and Forestry. Greenpeace has no further details to understand these differences.

⁷⁶ Tunas Baru Lampung, which is at the top of the list of palm oil groups with the largest burned area across their concessions for the 2015–2019 period, is a member of the Sungai Budi group. See Tunas Baru Lampung (2020) pp11,29.

*** In response to Greenpeace's opportunity to comment letter, a representative of Royal Lestari Utama stated that PT Lestari Asri Jaya operates only in the natural rubber industry despite holding an industrial forest plantation (*Hutan Tanaman Industri*, HTI) permit, and that Greenpeace's findings regarding the burned areas within the concession were wrong. However, the company did not provide any evidence to substantiate these claims.

**** In response to Greenpeace's opportunity to comment letter, a Multistrada Arah Sarana representative stated that the company 'no longer has ownership in PT Multistrada Agro International (MAI) or its subsidiary PT Sylvaduta', having divested 'before Michelin's acquisition in March 2019'. In fact, the Indonesia Stock Exchange company profile for MASA shows that it is now 99.64% owned by Michelin and the two companies are listed subsidiaries.⁷⁶ As the period considered in this briefing relates primarily to the period prior to the Michelin

acquisition, Greenpeace maintains the MASA listing for what are now Michelin operations.

Table 8 shows the number of years during which fires occurred in the concessions of the pulp companies identified in Table 6 in the 2015–2019 period. Most of these companies are members of the Association of Indonesian Forest Concessionaires (*Asosiasi Pengusaha Hutan Indonesia*, APHI),⁷⁷ an organisation that has long campaigned for the relaxation of environmental safeguards to facilitate the wood industry.

Table 8: Top 10 pulp companies including number of years of fire occurrences and APHI membership.

No	Pulp Company	Pulp Group	Burned Area				Sanctions	
			Hectares		Percentage		2015-2018	2019
			2015-2019	2019	2019	Repeated 2015-2019		
1.	PT Bumi Mekar Hijau	Widjaja family/Sinar Mas/(APP affiliated)	87,600	40,400	46%	19%	2	
2.	PT Bumi Andalas Permai	Widjaja family/Sinar Mas/(APP affiliated)	84,400	11,000	13%	10%	2	
3.	PT Musi Hutan Persada	Marubeni	74,100	5,600	8%	7%	1	
4.	PT Sebangun Bumi Andalas Wood Industries	Widjaja family/Sinar Mas/(APP affiliated)	52,000	7,200	14%	6%	1	
5.	PT Sumatera Riang Lestari*	Tanoto family (Royal Golden Eagle (RGE) /APRIL affiliated)**	21,000	6,700	32%	2%	3****	
6.	PT Paramitra Mulia Langgeng	Sungai Budi	16,700	9,600	58%	48%	1	1
7.	PT Selaras Inti Semesta	Medco	15,000	2,800	18%	29%		
8.	PT Arara Abadi	Widjaja family/Sinar Mas/APP***	12,300	1,400	11%	5%	1	
9.	PT Sumatera Sylva Lestari*	Tanoto family (Royal Golden Eagle (RGE) /APRIL affiliated)**	12,000	400	3%	13%	2****	
10.	PT Rimba Hutani Mas (Sumatera Selatan)	Widjaja family/Sinar Mas/(APP affiliated)	10,500	1,400	14%	7%	1	

The following are some of the key findings from these tables, with additional context where relevant:

- Nine of the 10 pulp companies with the largest burned areas in their concessions over the 2015–2019 period received government sanctions between 2015 and 2018. In spite of these sanctions, fires continued to blaze across these companies' pulp concessions – all 10 had fires on their lands in 2019, for the second, third, fourth or even fifth year. According to the available data, only one of these 10 companies received sanctions for the 2019 fires. PT Paramitra Mulia

Langgeng, a member of the Sungai Budi group,⁷⁸ was named as a suspect in a criminal case for the burning of 9,600 ha land in its concession.⁷⁹ The company had previously received a warning letter in 2016.⁸⁰

- Half of the companies listed in Table 6 – including the concession with the largest burned area in 2015–2019, PT Bumi Mekar Hijau – are linked to the Widjaja family/Sinar Mas/APP.⁸¹

⁷⁸ Indonesia Stock Market website 'Company profile detail: Multistrada Arah Sarana Tbk'

⁷⁹ APHI website 'Daftar anggota'

⁸⁰ Tunas Baru Lampung (2020) p91

⁸¹ Al Ayyubi S (2019)

⁸² Letter no. S. 237/HUMAS/PP/PHms.3/7/2020, dated 6 July 2020. Copy held by Greenpeace Indonesia.

⁸³ For an in-depth analysis of the ownership and management structures of APP's pulpwood suppliers, see Koalisi Anti Mafia Hutan et al (2018).

• PT Bumi Mekar Hijau had fires in its concession during four years in the 2015–2019 period. In 2015, the Ministry of Environment and Forestry filed a civil lawsuit against the company as a result of fires on 20,000 ha of its land in 2014. After initially being acquitted, the company was found guilty by the high court in 2016 and ordered to pay 79 billion rupiah (\$6 million) in fines – a sliver of the 7.9 trillion rupiah sought by the Ministry of Environment and Forestry.⁸² PT Bumi Mekar Hijau also had its license temporarily suspended for the 2015 fires.⁸³ Shortly after the government announced the suspension of the company's license, the Widjaja family/Sinar Mas/APP denied having control over PT Bumi Mekar Hijau, claiming that it was 'independently owned and operated'.⁸⁴ However, a detailed analysis of corporate registry documents in 2018 shows apparent close links between PT Bumi Mekar Hijau and the group.⁸⁵

Despite the sanctions it received for earlier fires on its lands, the company saw 40,400 ha of its concession burn in 2019 – the largest area of any pulp concession in Indonesia that year. In total, an area larger than Singapore (87,600 ha) burned between 2015 and 2019 in PT Bumi Mekar Hijau's concession area.

Besides the recurring fires, peatland clearing – a practice that is typically done ahead of planting pulpwood trees such as acacia and eucalyptus and renders the peat extremely flammable – also continues to happen in PT Bumi Mekar Hijau's concession. According to an analysis by Greenpeace, at least 2,110 ha of peat were cleared between August 2018 and June 2020 within the concession boundaries.⁸⁶

– Another Widjaja family/Sinar Mas/APP-related company, PT Arara Abadi, had fires in its concession during every year in the 2015–2019 period, with a total of 84,400 ha of its land burning – yet it received no sanctions from the government. Greenpeace also found evidence of peat clearing on this company's land and in another concession linked to the Widjaja family/Sinar Mas/APP, PT Bumi Andalas Permai.⁸⁷

In 2020, fires were burning again in PT Arara Abadi's concession in Riau, with the company accused of having set them deliberately to clear the land to plant acacia.⁸⁸

– The corporate groups with the largest burned areas across their pulpwood concessions in the 2015–2019 period are all private firms, with the exception of one state-owned forestry company, PT Perhutani. This company saw a total of 28,600 ha burn in its concessions during this period, the fifth-largest amount of any pulp group. Nevertheless, the data Greenpeace was able to obtain shows that PT Perhutani has never received any serious sanctions, such as criminal charges or civil lawsuits; the company has only received warning letters pertaining to the fires on its land. No sanctions have been issued for fires in 2019, according to the available data, despite 50% of the burning (14,200 ha) taking place during that year.

⁸¹ For an in-depth analysis of the ownership and management structures of APP's pulpwood suppliers, see Koalisi Anti Mafia Hutan et al (2018).

⁸² Mongabay Haze Beat (2016), Wijaya T (2016)

⁸³ Fahriza R (2015)

⁸⁴ Lim J (2015)

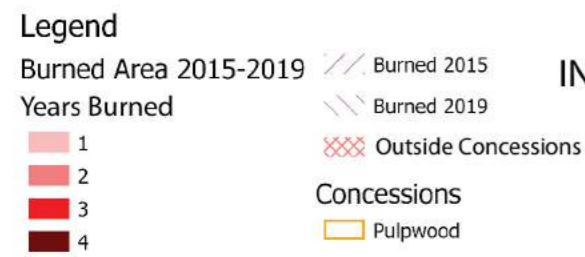
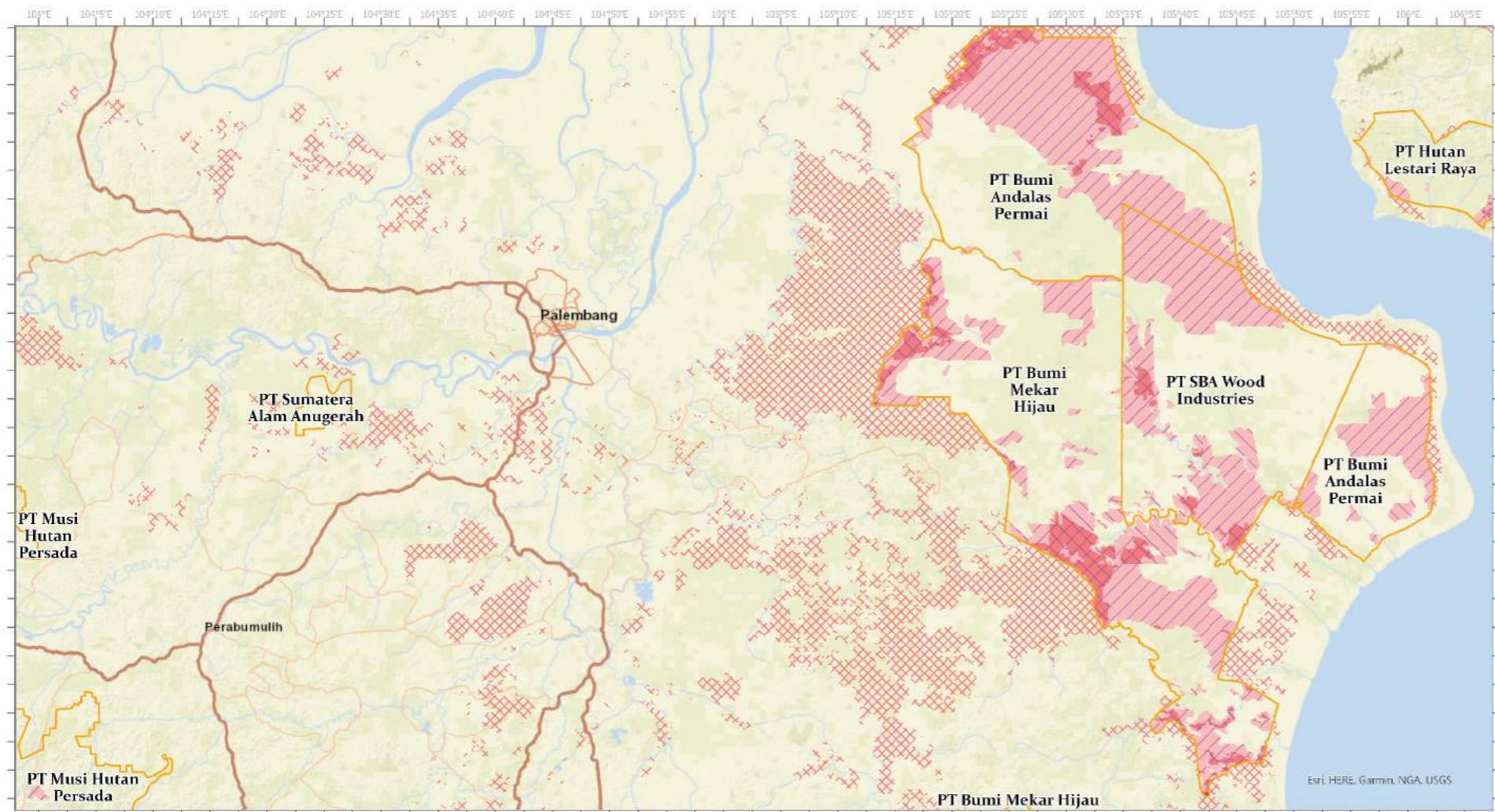
⁸⁵ Koalisi Anti Mafia Hutan et al (2018)

⁸⁶ Greenpeace Southeast Asia (2020)

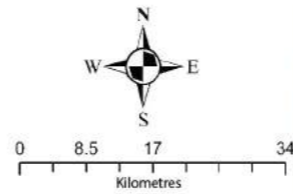
⁸⁷ Greenpeace Southeast Asia (2020)

⁸⁸ Greenpeace Southeast Asia (2020)





**BURNED AREA 2015 - 2019
INSIDE PULPWOOD CONCESSIONS**



Sources:
1. KLHK burned area maps 2015-2019
2. Greenpeace concession maps 2020
3. Greenpeace analysis 2020



Law enforcement commitment

a. Overview of commitments

Even before the disastrous haze episode of 2015, the Indonesian government had acknowledged the importance of law enforcement and protecting peatlands in tackling the recurring fires. In 2014, Kuntoro Mangkusubroto, the former chief of the now-defunct Presidential Work Unit for Development, Monitoring and Control (UKP4), reportedly stated that if burning occurred in the concessions of companies that were failing to meet fire prevention and control standards, they should immediately have their permits revoked.⁸⁹

In the same year, President Joko Widodo visited Sungai Tohor in Riau province, which had been shrouded in toxic smog from peat fires for years. During the visit, made a month after he was sworn into office, the president vowed to combat the annual fires. Among the promises he made were to protect all peatlands and to review the permits of companies that converted peatlands into monoculture plantations, such as for pulp and palm oil.⁹⁰

⁸⁹) Bel L (2014)

⁹⁰) Ministry of State Secretariat, Republic of Indonesia (2014)

Toward the end of the haze crisis in October 2015, Luhut Binsar Panjaitan, then Coordinating Minister of Political, Legal and Security affairs, suggested that the root cause of the annual forest fires was the unbridled expansion of monoculture plantations. This massive expansion resulted in the clearance of large swathes of peat forests in Indonesia, rendering them highly flammable. Therefore, Luhut recommended that companies that failed to prevent their concessions from burning should have their permits revoked. He also said the law should be enforced for all parties responsible for the annual land and forest fires.⁹²



'This is the mistake of a policy that we made, distributing peatlands to become plantations. I do not want to look for past mistakes, but do not repeat them again in the future.'

'We have to enforce the law indiscriminately. Even if he/she is the richest person in Indonesia, if he/she does something wrong, then it is wrong.'

Luhut Binsar Panjaitan, 21 October 2015⁹³

Luhut's message was further reinforced by President Widodo in 2017, when he recommended that companies whose concessions burned should have their permits frozen or revoked. Acknowledging that strict penalties were key to solving the issue, Widodo said that warnings should no longer be used as a form of punishment.⁹⁴



'I've already told the forestry minister to review again [the permits of] companies that convert peatlands into monoculture plantations.'

'If [we] look from above, it doesn't [look problematic]. It looks green. But what kind of green? Is it green [from] forests, or is it green [from] palm oil [trees] or monoculture forests?'

President Joko Widodo, 27 November 2014⁹¹

⁹¹) Ministry of State Secretariat, Republic of Indonesia (2014)

“

'I think in 2015 and 2016 there were [companies' permits] revoked, some were frozen [and] some were given warnings. I hope in 2017 warnings are no longer used [as a form of punishment]. [If] freeze, just freeze [the permits]. [If] revoke, just revoke [the permits]. If [we are] stern, all will protect [land from] fires.'

'The figure of [state] losses in 2015 isn't a small number. There were 220 trillion rupiah [in losses]. Law officers have to be stern and solve existing forest fire cases. I remind again that there should not be compromise no more in relation to forest fires.'

'Firmly process [the cases] and immediately execute [the perpetrators] when there are already legally binding verdicts so that there is no more [companies] dare to act recklessly.' **President Joko Widodo, 23 January 2017⁹⁵**

Besides threatening to revoke companies' licenses, President Widodo has also repeatedly threatened to sack public officials and law enforcers who fail to protect their areas from fires.⁹⁶



“

'If in your area there is a fire and it is not handled properly, the rules of the game will remain the same, it should be removed. I repeat, should there be fires, I will call the police chief, change the police chief.'

President Joko Widodo, 06 February 2018⁹⁷

⁹⁵ Bleris.com (2017)
⁹⁶ Suara Pembaruan (2016), Aini N (2018), Ihsanuddin (2019), Nur Hakim R (2020)
⁹⁷ Aini N (2018)

Despite the repeated calls for harsher action and threats of enforcing the relevant laws, Rasio Ridho Sani, the Director General of Law Enforcement at the Ministry of Environment and Forestry, stated in June 2020 that the current efforts are still not enough.⁹⁸

“

'Our enforcement capacity is not sufficient yet and we have not achieved the deterrent effect.'

Rasio Ridho Sani, 8 June 2020⁹⁹



⁹⁸ Violeta PT (2020)
⁹⁹ Violeta PT (2020)

b. Overview of sanction

The government has made many promises over the past few years about finally holding companies to account for fires on their lands – but how many of these have been fulfilled?

The data obtained by Greenpeace from government and other sources shows that between 2015 and 2019 a total of 239 companies received 258 administrative sanctions relating to fires in their concessions, in the form of warning letters, written warnings, government compliance orders, freezing of licenses and revocation of licenses.¹⁰⁰ These sanctions are in principle imposed based on the severity of the fires, with warning letters being the mildest form of administrative sanction and revocation of licenses being the harshest. The majority of these companies – 121 – received government compliance orders; 115 got warning letters, 1 had a written warning and 17 had their permits frozen. Despite multiple threats from various government officials about being more proactive with permit revocation, only four companies – three pulp producers and one palm oil company – were stripped of their licenses during that period, and none of the companies that had their permits revoked appeared in the lists Greenpeace compiled of those with the largest amounts of land burned in their concessions.¹⁰¹

The Ministry of Environment and Forestry claims that there has been a large increase in the number of administrative sanctions related to forest fires issued during this period – from 27 in 2015 to 341 in 2019, according to the ministry's 2019 law enforcement report,¹⁰² although Greenpeace was unable to confirm this number. While the recent increase could in theory be attributed to the spike in fires in 2019, the numbers of civil lawsuits and criminal charges have remained relatively stable over the last five years.¹⁰³ Therefore, the jump in the number of administrative sanctions may have more to do with the government's decision to focus on this type of sanction as the main form of punishment for companies in forest fire cases.

The ministry's Director General of Law Enforcement, Rasio Ridho Sani, stated in September 2019 that the government had been prioritising administrative sanctions because they can be issued more quickly than other forms of sanctions.¹⁰⁴ He also claimed administrative sanctions had proven to be effective, as shown by the declining intensity of forest fires in 2016, 2017 and 2018. However, Greenpeace's analysis shows that the decline in land and forest fires in those years might have more to do with wetter dry seasons than sanctions imposed by the

government.¹⁰⁵ For instance, the available data shows that nine of the pulp concessions with the largest burned areas across the 2015–2019 period received administrative sanctions – in some cases more than one – yet all of them had fires on their lands in multiple years, including 2019. PT Sumatera Riang Lestari (a member of the Tanoto family/RGE/APRIL-affiliated group) received three administrative sanctions between 2015 and 2018 – the most out of the 10 companies – but still had 6,700 ha of its area burn in 2019. Another company linked to the same group, PT Sumatera Sylva Lestari, received two administrative sanctions and yet had fires in its concession during every single year from 2015 to 2019. Clearly, the deterrent factor of these sanctions remains unproven.

Environment and Forestry Minister Siti Nurbaya Bakar has argued that by using administrative sanctions, the government can force companies to obey the regulations and improve their fire prevention and mitigation facilities in order to prevent future fires.¹⁰⁶ In the case of a company failing to obey the government's order laid out in the administrative sanction, the ministry will impose harsher sanctions on the firm, according to Siti. For example, if a company has had its permit frozen but still doesn't put in place the proper equipment to fight fires, then its permit will be revoked. The ministry might even file a civil lawsuit if it finds the administrative sanction to be ineffective in deterring the company from having its concession burn again. But if the ministry were enforcing these rules, then a company like PT Sumatera Riang Lestari should have had its license revoked when its concession burned in 2019, because its permit had previously been frozen by the ministry in 2015.

To further investigate the deterrent effect of government sanctions, Greenpeace looked at companies that received serious administrative sanctions in 2015 or 2016 and had fires in their concessions in subsequent years. There were seven companies that had their permits suspended as a result of fires on their lands in 2015¹⁰⁷ only to have their concessions burn again in 2019. Four of them – PT Bulungan Citra Agro Persada, PT Pesona Belantara Persada, PT Tempirai Palm Resources and PT Russelindo Putra Prima – only received government compliance orders in response to the 2019 fires.¹⁰⁸ One, PT Industrial Forest Plantation, was named as a suspect in a criminal investigation in addition to receiving a government compliance order.¹⁰⁹ The remaining two, PT Bumi Mekar Hijau and PT Waringin Agro Jaya, only had their concessions sealed in 2019¹¹⁰ despite also having had civil lawsuits brought against them because of the earlier fires on their land.¹¹¹ The follow-up on these cases is unclear.

Besides imposing administrative sanctions, the available data shows that the ministry filed criminal charges (pidana) against five companies between 2015 and 2019.¹¹² Four of the companies – PT Jatim Jaya Perkasa, PT Triomas FDI, PT National Sago Prima and PT Ricky Kurniawan Kertapersada – received guilty verdicts,¹¹³ and one, PT Kaswari Unggul, was ultimately acquitted.¹¹⁴ PT Kaswari Unggul also received a government compliance order relating to the fires in 2015¹¹⁵, and both it and PT Ricky Kurniawan Kertapersada had civil charges brought against them.¹¹⁶

In 2019, both companies' concessions burned again. Despite them having prior convictions, the available data suggests that the sanctions they received were light: PT Kaswari Unggul was issued with another government compliance order and both concessions were sealed,¹¹⁷ without clarity on the follow-up.¹¹⁸

Several other companies have also been taken to civil court by the Ministry of Environment and Forestry. Media reports suggest that the ministry filed civil lawsuits against as many as 50 companies in forest fire cases between 2015 and June 2020, with 11 final and binding verdicts being issued.¹¹⁹ However, according to a ministry press release issued on 7 August, 2020, only 19 companies have been sued by the ministry, with nine verdicts returned.¹²⁰ The nine companies that were found guilty in the 2015–2019 period were reportedly ordered to pay a total of 3.15 trillion rupiah (\$212 million) in penalties – a result the Indonesian government has regularly referred to in its claim of significant progress being made in law enforcement – but the ministry told Greenpeace that as of April 2020 only one of them, PT Bumi Mekar Hijau, had actually paid its fine.¹²¹ As reported earlier in this briefing, that company's concession also burned in 2019, and it has also apparently escaped sanctions for this repeat offense, with the concession being sealed but no further information available. When asked about the repeated burning in PT Bumi Mekar Hijau's concession, local law enforcers said the case was being handled by the central government, in this case the Ministry of Environment and Forestry. However, the ministry has reportedly not responded to multiple inquiries by reporters following up on the case.¹²²

Another company that had civil charges brought against it by the ministry because of fires in its concession in 2015 was PT

Arjuna Utama Sawit.¹²³ It appears that the company was also investigated by the ministry in 2016 with a view to bringing criminal charges,¹²⁴ but the results of this investigation are unclear. Even with this past history, when fires broke out on the company's land again in 2019 it was only issued with a government compliance order.¹²⁵

Despite government claims of strengthening law enforcement and cracking down on companies with fires on their land, so far in 2020 only two companies have been named suspects by the police in forest fire cases, compared to 137 individuals.¹²⁶ The huge disparity between the number of individuals and companies prosecuted in these cases highlights a recurring trend in Indonesia: law enforcers tend to prosecute small farmers who are practicing slash-and-burn agriculture instead of the big corporations profiting from the fires. In Riau, 64 farmers were named suspects by the police between August 2018 and September 2019,¹²⁷ while 35 farmers in Central Kalimantan had been charged by the police as of December 2019.¹²⁸ Law enforcers have also failed to respond to civil society reports of burning concessions in 2020, with NGO Jikalauhari criticizing the police for not naming PT Arara Abadi a suspect for fires in its area even though the NGO had reported the case to the police on 4 August.¹²⁹

As these cases show, being issued with strong sanctions (permit suspensions or even civil or criminal charges) provides no guarantee that a company will put the necessary measures in place to prevent fires from occurring on its lands in the future. Moreover, the government often does not appear to take into account previous offenses when considering what sanctions to apply to repeat offenders. The lack of a consistent strong response from the government weakens the deterrent effect of even the most serious of sanctions.

¹⁰⁰ Reporting on the total number of companies that received administrative sanctions in 2019 is based on information gathered from various sources, including the 2019 law enforcement performance report by the Ministry of Environment and Forestry (Directorate General of Law Enforcement, Ministry of Environment and Forestry (2020)). In all, the available data shows that 258 sanctions were issued.

¹⁰¹ Letter no. S.447/HUMAS/PP/PI/HMS.3/7/2019, dated 17 July 2019 (copy held by Greenpeace Indonesia), and Directorate General of Law Enforcement Kalimantan, Ministry of Environment and Forestry (2020) p95

¹⁰² Directorate General of Law Enforcement, Ministry of Environment and Forestry (2020) p47

¹⁰³ Directorate General of Law Enforcement, Ministry of Environment and Forestry (2020) p47

¹⁰⁴ Merdeka (2019)

¹⁰⁵ Studies have shown that the intensity of fires and the duration of the fire season in Indonesia are influenced by climate variability, specifically by El Niño and the Indian Ocean Dipole (IOD). See eg Pan X et al (2018).

¹⁰⁶ RiauPos.co (2020)

¹⁰⁷ Letter no. S.447/HUMAS/PP/PI/HMS.3/7/2019, dated 17 July 2019. Copy held by Greenpeace Indonesia.¹⁰⁸ See Directorate General of Law Enforcement Kalimantan, Ministry of Environment and Forestry (2020) p95 and Directorate of Complaints, Supervision and Administrative Sanctions & Directorate General of Environmental and Forestry Law Enforcement, Ministry of Environment and Forestry (2020) pp61,62,67,69.¹⁰⁹ See Alaidrus F (2019) and Directorate General of Law Enforcement Kalimantan, Ministry of Environment and Forestry (2020) p95.¹¹⁰ See Sutarnidji S (2020) p11 and Directorate of Complaints, Supervision and Administrative Sanctions & Directorate General of Environmental and Forestry Law Enforcement, Ministry of Environment and Forestry (2020) p61.¹¹¹ Letter no. S.447/HUMAS/PP/PI/HMS.3/7/2019, dated 17 July 2019. Copy held by Greenpeace Indonesia.¹¹² Three of these cases were disclosed in letter no. S.159/HUMAS/PP/PI/Hms.3/4/2020, dated 13 April 2020 (copy held by Greenpeace Indonesia). The others were reported in the media: see Saputra A (2017) and Tribun Jambi (2019).¹¹³ PT Jatim Jaya Perkasa and PT Triomas FDI were each ordered to pay a fine of 1 billion rupiah (~\$70,000), with the latter company additionally ordered to pay 13 billion rupiah (\$900,000) in restoration costs (see kumparanNews (2017) and GagasanRiau.com (2018)). The general manager of PT National Sago Prima was sentenced to three years in prison and fined 3 billion rupiah (\$225,000) for his role in the fires in the company's concession in 2015; in a separate civil case the company was ordered to pay over 1 trillion rupiah (\$76 million) in fines and restoration costs (Saputra A (2017)). The head of operations of PT Ricky Kurniawan Kertapersada was found guilty of negligence; he was sentenced to 18 months in prison and ordered to pay a fine of 2 billion rupiah (\$140,000). Tribun Jambi (2019).

¹¹⁴ Supreme Court of the Republic of Indonesia (2019)

¹¹⁵ Letter no. 447/HUMAS/PP/PI/HMS.3/7/2019, dated 17 July 2019. Copy held by Greenpeace Indonesia.

¹¹⁶ Letter S.159/HUMAS/PP/PI/Hms.3/4/2020, dated 13 April 2020. Copy held by Greenpeace Indonesia. PT Kaswari Unggul was ordered to pay material compensation and environmental restoration costs of 25.5 billion rupiah (\$1.8 million; Astuti I (2019)). PT Ricky Kurniawan Kertapersada was ordered to pay compensation and restoration costs totalling 192 billion rupiah (\$14.2 million; Ministry of Environment and Forestry (2017)).

¹¹⁷ Directorate of Complaints, Supervision and Administrative Sanctions & Directorate General of Environmental and Forestry Law Enforcement, Ministry of Environment and Forestry (2020) pp61,74

¹¹⁸ Before any administrative sanctions are imposed, the government usually seals (penyegelan) recently burned land. The sealing is intended to halt company activities in the sealed area to give the concession holders time to improve their on-the-ground practices. Companies are not allowed to resume their activities in the sealed concessions before making the required improvements. However, information about what sort

¹¹⁹ Aql AMI & Iswara MA (2020)

¹²⁰ Ministry of Environment and Forestry (2020b)

¹²¹ Letter S.159/HUMAS/PP/PI/Hms.3/4/2020, dated 13 April 2020. Copy held by Greenpeace Indonesia.

¹²² Laia K (2020)

¹²³ Letter S.159/HUMAS/PP/PI/Hms.3/4/2020, dated 13 April 2020. Copy held by Greenpeace Indonesia. PT Arjuna Utama Sawit was sentenced to pay fines and restoration costs totalling 192 billion rupiah (\$18.6 million) in 2019 (see Jong HN (2019a)).

¹²⁴ Directorate General of Law Enforcement, Ministry of Environment and Forestry (2017) p64

¹²⁵ Directorate of Complaints, Supervision and Administrative Sanctions & Directorate General of Environmental and Forestry Law Enforcement, Ministry of Environment and Forestry (2020) p61

¹²⁶ Melida K (2020)

¹²⁷ Haloriau.com

¹²⁸ Anshori R

¹²⁹ Laia K (2020)

¹³⁰ Rauone (2020)

Oligarchs behind forest fires and efforts to weaken law enforcement

Indonesia's natural resources sector is dominated by the country's oligarchs,¹³⁰ with the majority of palm oil and pulp plantations controlled by a small number of people.¹³¹ These powerful families and individuals are able to amass tremendous riches by exploiting Indonesia's natural resources and subsequently use their power to defend their fortunes. Those fortunes enable them to climb political ladders and subsequently to influence policies and political decisions in their favour. If their powers are left unchecked, these oligarchs are capable of unleashing environmental damage far out of proportion to their numbers in society. This risk is particularly evident when looking at palm oil and pulp companies that have fires on their land over and over with apparent impunity, with the resulting haze polluting the air and harming people's health.

¹³⁰ See eg Morse I (2019).

¹³¹ Mongabay (2016)

¹³² Tunas Baru Lampung website 'Management'

¹³³ GlobeAsia (2019)

Burned concessions tied to tycoons



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Sungai Budi/Tunas Baru Lampung, the palm oil group with the largest burned area across its holdings (28,600 ha) in the 2015–2019 period, is controlled by Widarto Oey,¹³² who appeared on the GlobeAsia list of the 150 richest people in Indonesia in 2019 with a total fortune of \$415 million.¹³³

The group with the third-largest burned area across its palm oil concessions in this period (17,700 ha), Rajawali, is controlled by Peter Sondakh.¹³⁴ Sondakh is currently the 16th richest person in Indonesia, with a net worth of \$1.65 billion.¹³⁵




The group with the largest burned area across its pulp concessions (283,300 ha) in the 2015–2019 period, Sinar Mas/APP, is controlled by the Widjaja family.¹³⁶ With a net worth of \$9.6 billion, the family currently occupies the second spot in the Forbes list of Indonesia's 50 richest.¹³⁷

Royal Golden Eagle, the pulp group with the third-largest burned area across its concessions during this period, is controlled by the family of Sukanto Tanoto.¹³⁸ With a net worth of \$1.4 billion, at present he is Indonesia's 22nd richest person.¹³⁹



¹³⁴ Rajawali website 'Our founder'
¹³⁵ Forbes website 'Indonesia's 50 richest'
¹³⁶ Esita U (2019)
¹³⁷ Forbes website 'Indonesia's 50 richest'
¹³⁸ RGE website 'Sukanto Tanoto'
¹³⁹ Forbes website 'Indonesia's 50 richest'

Ties to business associations

Many of the companies identified by Greenpeace as having the largest burned areas in their concessions in the 2015–2019 period are also members of the Indonesian palm oil or pulp business associations.

Four of the 10 palm oil companies on the list – PT Globalindo Agung Lestari, PT Dendymarker Indah Lestari, PT Arrtu Energie Resources and PT Karya Luhur Sejati – are GAPKI members, while eight of the 10 pulp firms – PT Bumi Mekar Hijau, PT Bumi Andalas Permai, PT Musi Hutan Persada, PT Sebangun Bumi Andalas Wood Industries, PT Paramitra Mulia Langgeng, PT Selaras Inti Semesta, PT Arara Abadi and PT Rimba Hutani Mas – are members of APHI.

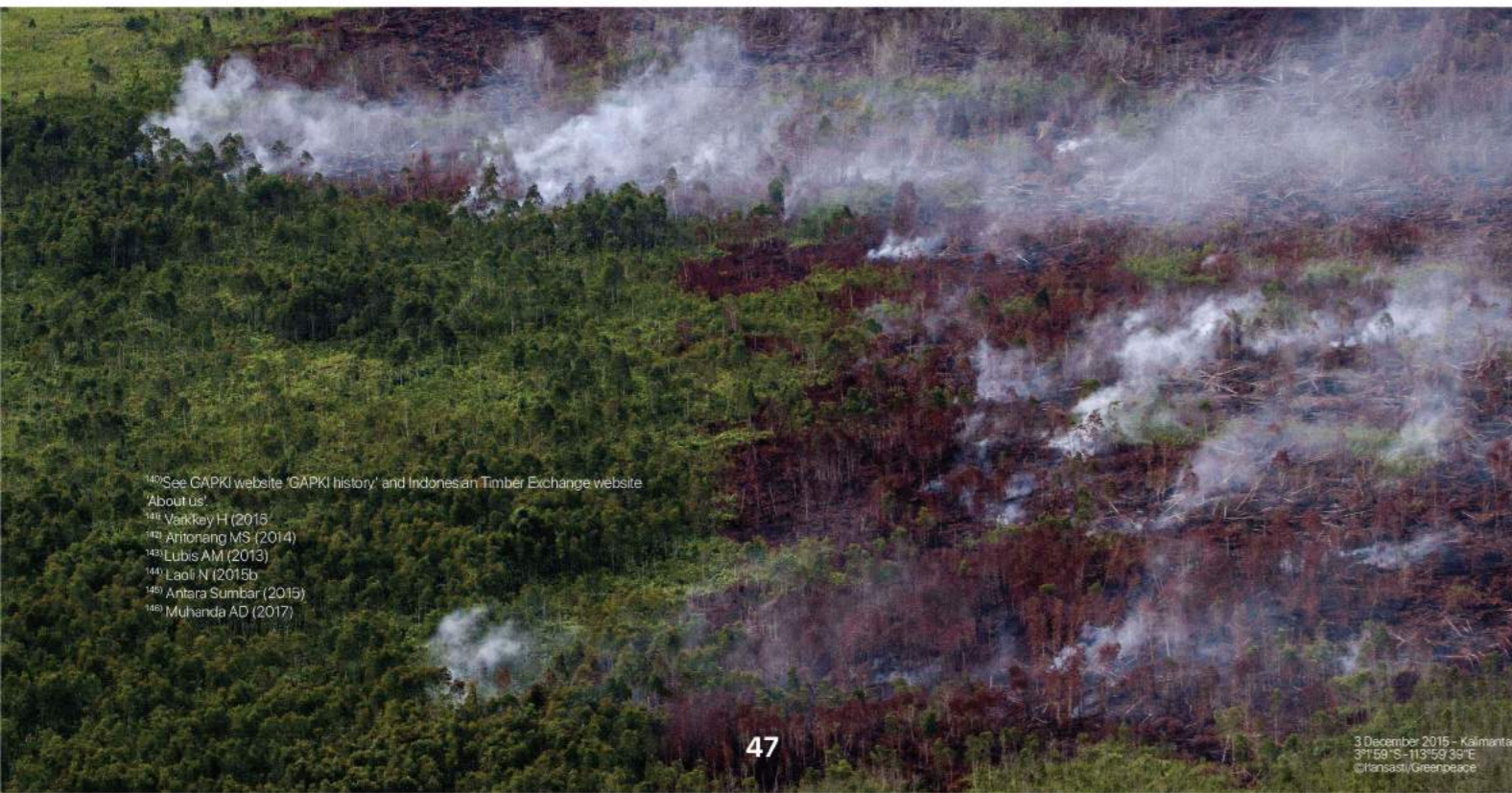
While claiming to support sustainable forestry practices,¹⁴⁰ both GAPKI and APHI have been campaigning for the relaxation of environmental safeguards in the management of the country's land and forests.

GAPKI is a strong force in Indonesia, described as having 'the power and influence to mould the future of the Indonesian palm oil industry'.¹⁴¹ The association was instrumental in preventing the government from ratifying the ASEAN Agreement on Transboundary Haze Pollution, a legally binding environmental agreement signed in 2002 by the Association of Southeast Asian Nations (ASEAN) member states to reduce haze pollution in the region. GAPKI was strongly against the ratification of the agreement, as this would enable ASEAN member states to pressure the Indonesian government to take more serious action to combat the haze problem. It took 12 years for Indonesia to take this step, becoming the last country in the region to do so in 2014.¹⁴²

In 2013, GAPKI opposed the government's plan to extend its moratorium on new forest concessions, arguing that it would hinder the expansion of the palm oil industry in Indonesia.¹⁴³

When the government pushed for stricter regulations in peatland management in 2014 by banning companies from cultivating on deep carbon-rich peatlands, APHI planned to challenge the peat protection regulation in court.¹⁴⁴ Both APHI and GAPKI objected to the regulation's stipulation that the water level of peatlands should be maintained at less than 0.4 meters below ground to ensure that the peat stays wet and is less prone to fires. GAPKI argued that the condition was unfair to the industry as companies need to drain water from peatlands in order to render them suitable for industrial crops such as acacia and oil palm.¹⁴⁵

And when the government issued a revision of the peat protection regulation in 2016, APHI sent an objection letter to President Widodo.¹⁴⁶ In the letter, APHI argued that the regulation would effectively kill the pulp industry as it mandated that companies set aside parts of their concessions for conservation as a part of a larger effort to rehabilitate degraded and easily combustible peatlands across the country.



¹⁴⁰ See GAPKI website 'GAPKI history' and Indonesian Timber Exchange website 'About us'.
¹⁴¹ Varkkey H (2015)
¹⁴² Arifonang MS (2014)
¹⁴³ Lubis AM (2013)
¹⁴⁴ Laoli N (2015b)
¹⁴⁵ Antara Sumbar (2015)
¹⁴⁶ Muhandia AD (2017)



Weakening of law enforcement

Besides lobbying against forest and peat protection measures, both palm oil and pulp businesses have also been campaigning for the weakening of law enforcement with regard to land and forest fires.

In 2015 – Indonesia's worst annual fire season since 1997¹⁴⁷ – the government decided to freeze the permits of 23 pulp companies whose concessions had burned that year. In total, the permits for more than 900,000 ha of land were frozen. This decision triggered an immediate backlash from APHI, which demanded the government lift the ban, arguing that it would hamper the supply of raw materials to the pulp and paper industry.¹⁴⁸

In 2017, both GAPKI and APHI tried to have a legal stipulation that holds companies strictly liable for fires in their concessions struck down by filing a judicial review at the country's Constitutional Court.¹⁴⁹ The concept of strict liability was introduced in the 2009 Environmental Protection and Management Law and has been used by the government to hold companies to account for land and forest fires.¹⁵⁰ In the lawsuit, the groups also requested the elimination of a regulation that allows small farmers to practice slash-and-burn agriculture, a mainstay of Indigenous cultures in Indonesia – palm oil and pulp companies have long blamed small farmers for fires in their concessions, claiming that the fires are set elsewhere and spread onto their land.¹⁵¹

GAPKI and APHI eventually dropped their lawsuit, saying they needed more time to study the case.¹⁵² But the same language used in the lawsuit appeared again in a draft of the recently passed omnibus law, which has been widely criticised as weakening social and environmental safeguards to accommodate business interests.¹⁵³ The bill downgrades the strict liability provision by removing the phrase 'without having to prove fault' from the article in question.¹⁵⁴

GAPKI chairman Joko Supriyono and APHI chairman Indroyono Soesilo were members of the government committee tasked with drafting the bill.¹⁵⁵



¹⁴⁷ Straits Times (2016)
¹⁴⁸ Amin K (2015)
¹⁴⁹ Esita U (2019)
¹⁵⁰ Cokkon B (2017)
¹⁵¹ RGE website 'Sukanto Tanoto'
¹⁵² Forbes website 'Indonesia's 50 richest'
¹⁵³ See GAPKI website 'GAPKI history' and Indonesian Timber Exchange website 'About us'
¹⁵⁴ Varkkey H (2015)
¹⁵⁵ Artonang MS (2014)

Conclusion

The evidence in this briefing highlights the ineffectiveness of past and current government efforts to combat land and forest fires in Indonesia by holding companies to account. The available data on government-issued sanctions – while admittedly incomplete, due to lack of information forthcoming from the Ministry of Environment and Forestry – shows how many of the palm oil and pulp companies and groups with the largest burned areas in their concessions over the 2015–2019 period have largely gotten away with no serious sanctions, despite fires occurring on their lands repeatedly. In the cases where sanctions have been issued, in most cases those sanctions do not appear to take appropriate account of the extent or frequency of the burning. The issue is further compounded by the lack of transparency, with little to no information readily available to the public on the exact locations of companies' concessions or on the progress of law enforcement efforts.

The analysis shows that the government already has at its disposal multiple legal means to hold companies accountable for fires in their concessions. While there is no rule that forbids different government agencies from imposing sanctions on the same companies, there seems to be a lack of coordination among state institutions, which often results in companies only receiving one or two sanctions from a single institution, such as the Ministry of Environment and Forestry or the police. This coordination vacuum between the different authorities results in missed opportunities to follow through with legal actions in a stepwise manner.

The government's failure to implement measures with a true deterrent effect contradicts the narrative that Indonesia has pushed to the global community, which is that the country has succeeded in reducing its emissions from deforestation and forest degradation and thus is eligible to participate in the UN-REDD Programme. The REDD+ scheme enables forest-rich countries like Brazil and Indonesia to request payments from other countries or organisations like the United Nations' Green Climate Fund (GCF) if they can prove that they have succeeded in curbing their emissions by protecting their forests from destruction or degradation.¹⁵⁶ This year, Indonesia has managed to get its REDD+ payment requests approved by the GCF and Norway. The former has agreed to pay \$103.8 million¹⁵⁷ and the latter \$56 million,¹⁵⁸ with the money to be used for forest conservation and community empowerment programs. These decisions have been widely criticised, on the grounds that while

taxpayers' money from other countries is being spent on conserving Indonesia's forests, the Indonesian government has failed to force companies responsible for some of those fires and their resulting emissions to pay for their mistakes.¹⁵⁹

Not only has the government not delivered on its promises to punish errant companies for forest fires, but it is also failing to protect the health of its citizens. Researchers noted that the air quality in Palangkaraya, one of the Indonesian cities affected the most by the haze from the devastating fires in 2015, was 'perhaps the worst sustained air quality ever recorded worldwide'. Yet as fires continue to burn across the country on a recurring basis, the government has considerably downplayed the scale of their impact on human health. While the official death toll from the 2015 fires is just 24, epidemiologists estimate that tens of thousands of people have died prematurely and tens of millions had their health affected by the resulting toxic smog. As long as companies with burning concessions are allowed to continue to operate as usual with few or no legal repercussions, the issue of forest fires will not go away in the foreseeable future

¹⁵⁶ UN-REDD Programme website 'About REDD+'

¹⁵⁷ Green Climate Fund website 'FP130: Indonesia REDD-plus RBP for results period 2014-2016'

¹⁵⁸ Pinandita A (2020)

¹⁵⁹ Farand C (2020), Jong HN (2020c)

¹⁶⁰ Wooster M.J et al (2018)

¹⁶¹ Jensen F & Munthe BC (2016)

¹⁶² Koplitz SN et al (2016), EurekAlert (2016)

Demands

The key barriers to ending deforestation and the use of fire to clear land are political, not scientific or technological. Transparency is key to ensuring that government does its job properly and that the commodities sector, including palm oil and pulp companies, does its part in limiting the global temperature increase to 1.5°C above pre-industrial levels. Beyond transparency, the Government of Indonesia needs to align the country's economy with the goals of biodiversity and climate protection and social justice. That means ensuring that public finance and trade policy do not drive further deforestation, but do support nature restoration and a transition to a green, just and resilient economy. Law enforcement – ensuring consequences for companies and political actors who fail to defend the public good – is key to ensuring that public government statements translate into meaningful action.

Based on this analysis and its findings, Greenpeace recommends the following specific measures within the necessary wider rethink of government and corporate policy:

1. The Indonesian government must step up its **law enforcement** efforts by having state institutions with authority to enforce the law on errant companies coordinate with each other and impose the heaviest sanctions possible. This is crucial to deter companies from allowing their concessions to burn again in the future.
2. The government and the private sector must provide greater **transparency**, not only with regard to concession data and beneficial ownership but also on the implementation and progress of law enforcement. This will enable more meaningful participation and engagement by civil society organisations in tackling the fire issue and allow them to monitor the government's and companies' efforts to fulfill their promises.
3. The government must revoke contentious articles in the **omnibus law** that potentially weaken law enforcement on forest fire cases and give more impunity to errant companies.
4. Palm oil and pulp companies must immediately **stop using fire** in their (land) management practices and instead implement practices that reduce fire risk and land-use emissions.
5. Palm oil and pulp companies with fires on their land must report these to the public, together with the results of independent investigations concerning the verification of the fire occurrences and their origins, and reports on the progress of any legal proceedings.
6. Both the government and palm oil and pulp companies must drastically increase their fire prevention efforts by taking steps to develop resilient landscapes, including through **ecosystem and peatland restoration**. Strong coordination between stakeholders is urgently required to develop effective and sustainable measures. The highly fragmented peat and forest landscapes of Indonesia, especially in Kalimantan and Sumatra, will otherwise see more frequent and intense fires happening in the near future.
7. One of the important underlying causes of land and forest fires is the large number of unresolved land right conflicts between palm oil and pulp companies and communities. As part of effective fire prevention, **recognition of the land rights of local communities**, customary land rights and customary forest (Hutan Adat) needs to be a principal condition.

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