

Creating Legitimacy for the Indonesian Sustainable Palm Oil Certification Scheme

An analysis of the use of legitimacy instruments within the National Action Plan and the ISPO Strengthening process and the legitimacy games played in the domestic and international arena by the Indonesian government.



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Abstract

The Indonesian government faces challenges with respect to its legitimacy over the governing of palm oil in both the domestic and the international arena. In the domestic arena, the lack of coordination between Indonesian ministries and the slow implementation of the Indonesian Sustainable Palm Oil (ISPO) certification scheme form a challenge. At the same time, in the international arena the legitimacy of the Indonesian government with respect to the governing of palm oil is contested by the EU. Therefore the following question was asked: *“How does the Indonesian government attempt to create legitimacy for the governing of sustainable Indonesian palm oil and in particular the ISPO, in the domestic and the international arena?”* In order to answer this question, 44 interviews with representatives from the Indonesian government and other actors involved with the governing of Indonesian palm oil, were conducted in the period of November-December 2017. It was found that the Indonesian government refers to a mix of state and non-state instruments to create legitimacy. Besides, horizontal and vertical legitimacy games were played in order to stretch the authority and legitimacy of the Indonesian government with respect to the governing of palm oil and the ISPO in particular.

Preface

My studies into environmental policy at Wageningen University and Research made me to look into palm oil and to conduct research in Indonesia to acquire insights into the perspectives of the Indonesian government. This journey has taught me about many aspects of doing research and in particular provided me with insights regarding the governing of the Indonesian Sustainable Palm Oil (ISPO). Apart from the knowledge and skills it equipped me with, many of the experiences will prove to become live long memories that I hope to remember and learn from time and times again.

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List of abbreviations and organisations

Amanah	(Independent smallholder organisation)
AMDAL	Analisis Mengenai Dampak Lingkungan (Environmental Impact Assessment (EIA))
APBD	Provincial and District Budget
APBN	(Indonesian State Budget)
APINDO	Asosiasi Pengusaha Indonesia (Indonesian Employers Association)
APKASINDO	Asosiasi Petani Kelapa Sawit Indonesia (Indonesian palm oil smallholder association)
APL	Areal Penggunaan Lain (Other land use status)
Asian Agri	(Indonesian palm oil plantation company)
ATR	Ministry of Agrarian Affairs and Spatial Planning
BAPPEDA	Badan Perencana Pembangunan Daerah (Regional body for planning & development)
BIG	Badan Informasi Geospasial (Geospatial Information agency)
BIT(s)	Bilateral Investment protection agreements
BPDPKS	Badan Pengelola Dana Perkebunan Kelapa Sawit (CPO Fund and Palm Oil Plantation Fund Management Agency)
BPN	Badan Pertanahan Nasional (National Land Agency)
CAGR	Compound Annual Growth Rate
CEPA	Comprehensive Economic Partnership Agreement
CGF	Consumer Goods Forum
CIFOR	Centre for International Forestry Research
CPO	Crude Palm Oil
CPOPC	Council for Palm Oil Producing Countries
CSPO	Certified Sustainable Palm Oil
CSR	Corporate Social Responsibility
Daemeter	(Indonesian consulting company)

DG	Directorate General
Dinas Perkebunan	(Provincial agricultural office)
Dinas Kehutanan	(Provincial forestry office)
DMSI	Dewan Minyak Sawit Indonesia (Indonesian Palm Oil Board)
EU	European Union
EFI	European Forestry Institute
ENVI	Environment, Public Health, and Food Safety Committee
FFB	Fresh Fruit Bunches
FFG	Farmers Fire Group
FFV	Fire Free Village
FLEGT	Forest Law Enforcement, Governance and Trade
FoKSBI	Forum Kelapa Sawit Berkelanjutan Indonesia
Fortasbi	Forum Petani Sawit Berkelanjutan (Indonesian Sustainable Palm Oil Farmers Forum)
FPIC	Free Prior Informed Consent
FP2SB	Forum Pengembangan Perkebunan Strategis Berkelanjutan (Estates Strategic Sustainable Development Forum)
FWI	Forest Watch Indonesia
GAP	Good Agricultural Practices
GAPKI (IPOA)	Gabungan Pengusaha Kelapa Sawit Indonesia (Indonesian Palm Oil Association)
GAR	Golden Agri Resources
GDP	Gross Domestic Product
GGGI	Global Green Growth Initiative
GOLS	Governing Oil palm Landscapes for Sustainability
Greenpeace	(International Ngo)
Ha	Hectare
HGU	Hak Guna Usaha (Land Cultivation Rights Title)

HCV	High Conservation Value
HCS	High Carbon Stock
IDH	Internationale Duurzame Handel (International Sustainable Trade)
ISDS	Investor-State Dispute Settlement mechanism
IFC	International Finance Corporation
IPB	Institut Pertanian Bogor (Agricultural University Bogor)
InPOP	Indonesian Palm Oil Platform
IP4T	Inventarisasi Penguasaan, Peilikan, Penggunaan dan Pemanfaatan Tanah (Inventory of the Control, Ownership Use and Utilisation of Land)
ISPO	Indonesian Sustainable Palm Oil
Jikalahari	(Indonesian national Ngo)
JIPK	Jaringan Pemantau Independen Kehutanan (Independent Forest Monitoring Network)
KAN	Komite Akreditasi Nasional
Kaoem Telapak	(Indonesian Ngo)
KEE	Kawasan Ekosistem Esensial (Essential Ecosystem Areas)
Kehati	Keanekaragaman Hayati Indonesia (The Indonesian Biodiversity Foundation)
Kementraan	(Partnership for governance reform in Indonesia)
KPK	Komisi Pemberantasan Korupsi (Corruption Eradication Commission)
LEI	Lembaga Ekolabel Indonesia (Indonesian ecolabel institute)
Lembaga Sertifikasi	Certification bodies
MEP	Member of European Parliament
MoA	Ministry of Agriculture (Kementan)
MoEaF	Ministry of Environment and Forestry (Kemen LHK)
MoEA	Ministry of Economic Affairs (Kemenko Ekonomi)
Mol	Ministry of Industry (Kementerian Perindustrian)

MSPO	Malaysian Sustainable Palm Oil
NAP	National Action Plan
NES	Nucleus Estate and Smallholder
Ngo ('s)	Non-Governmental Organizations
NKT	Nilai Konservasi Tinggi (Indonesian regulation with respect to HCV)
PAP	Public Administration and Policy group
PASPI	Palm Oil Agribusiness Strategic Policy Institute
PBS	Perkebunan Besar Swasta (plantations cultivated by private sector companies)
PIR-TRANS	Perkebunan Inti Rakyat-Trans (Transmigration program linked to the NES)
PNP	Perusahaan Negara Perkebunan (publicly owned palm oil companies)
PRP	Plantation Revitalization Program
PTP	Perseroan Terbatas Perkebunan (semi-publicly owned palm oil companies)
KPO	Kernel Palm Oil
POME	Palm Oil Mill Effluent
RED	Renewable Energy Directive
RSPO	Roundtable for Sustainable Palm Oil
RSPOI	Roundtable for Sustainable Palm Oil Indonesia
SHM	Sertifikat Hak Milik (Freehold title)
SIAP	Strategic Investment Action Plan
SKT	Surat Keterangan Tanah (Land ownership status)
SME(s)	Small & Medium Enterprise's
SNV	Stichting Nederlandse Vrijwilligers (Dutch development organisation)
SPKS	Serikat Petani Kelapa Sawit (Oil Palm Smallholders Union)
SPOI	Sustainable Palm Oil Initiative
SPPL	Surat Pernyataan kesanggupan Pengelolaan dan Pemantauan Lingkungan hidup (Statement of Ability to Manage and Monitor the Environment)
STDB	Surat Tanda Daftar Usaha Budidaya Perkebunan (Certificate Letter for Cultivation)

SVLK	Sistem Verifikasi Legalitas Kayu (Timber Legality Verification System)
TBG(I)	Transnational Business Governance (Interaction)
TBG(S)	Transnational Business Governance (Schemes)
TORA	Tanah Objek Reforma Agraria (Agrarian Reform program)
UNDP	United Nations Development Program
USAID Lestari	(American-Indonesian partnership organisation)
USD	United States of America Dollar
UUPA	Undang-Undang Pokok Agraria (Agrarian Basic Law)
VPA	Voluntary Partnership Agreement
WUR	Wageningen University & Research
WTO	World Trade Organisation
WWFI	World Wildlife Fund Indonesia

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1. Introduction

Palm oil is one of the world's most important commodities, since it is used as a biofuel, for cooking, and is an ingredient in over half of all supermarket products, including shampoos and food products (Pacheco, Gnych, Dermawan, Komarudin & Okarda 2017a). Indonesia is both the largest producer (53% ¹) and exporter (53% ²) of palm oil in the world. Together with Malaysia, Indonesia produces 85%³ of the world's palm oil (Pacheco et al., 2017a). For Indonesia, palm oil provides important economic benefits, since it is good for 17.4 billion United States Dollar (USD) annually ⁴ and 2.5 percentage of GDP (Palm Oil, 2017). Therefore, palm oil is seen as a crucial factor for contributing to development and poverty alleviation in Indonesia (Pramudya, Hospes & Termeer, 2017). At the other hand, palm oil production is internationally associated with severe environmental and social challenges such as deforestation, carbon emissions and conflicts about land rights (Obidzinski, Andriani, Komarudin & Andrianto, 2012; Pacheco et al., 2017a).

It were these environmental and social challenges that are associated with palm oil production, that attracted the attention of (inter)national non-governmental organisations (Ngo's). Consequently, they pushed (multi)national companies to adopt a standard for 'sustainable' palm oil. In 2004 the Roundtable for Sustainable Palm Oil (RSPO), a voluntary private certification scheme for sustainable palm oil, was therefore founded (Hospes, 2014; Ivancic & Koh, 2016). In the academic literature, palm oil certification is seen as a governance regime that has been at the forefront of governance changes (Wijaya & Glasbergen, 2016), including the involvement of private actors and private steering mechanisms (Schouten & Glasbergen, 2011). Furthermore, the foundation of the RSPO was interpreted as part of the wider shift from government to governance (Glasbergen, 2011; also see Arts, 2006) and as private authority challenging public legitimacy (Schouten & Glasbergen, 2011; also see Grabosky, 2013). Correspondingly, the Indonesian state was portrayed as 'weak', and incapable of governing the complexity within the palm oil sector or addressing sustainability (McCarthy & Zen, 2010; also see Wanandi, 2002).

However in 2011, the Indonesian government set up the Indonesian Sustainable Palm Oil (ISPO) standard, a mandatory public certification scheme for sustainable Indonesian palm oil (Efeca, 2016). In the literature, the foundation of the ISPO is understood as a response of the Indonesian government, to the challenging of their legitimacy and authority over Indonesian palm oil, by the RSPO (Giesen, Burns, Sahide & Bibowo, 2016; Sahide, Burns, Wibowo, Nurrochmat & Giessen, 2015; Schouten & Bitzer, 2015). In addition, Hospes (2014) and Wijaya & Glasbergen (2016) emphasized the strategic positioning of the Indonesian government towards the RSPO over time, while Gulbrandsen (2014), focused on the role of the Indonesian state in facilitating non-state private authority. Furthermore, Deike (2015) and Hospes, Schouten & Deike, (2014), characterised the Indonesian government as a 'cunning state', that is capable to strategically act upon (trans)national developments (also see Randeria, 2003; 2007). Some scholars also have begun to evaluate the ISPO and its potential to govern sustainable Indonesian palm oil, analysing its success factors (Harsono, Chozin & Fauzi, 2012), or more critically, addressing the ISPO's lack of governance capacity (Hidayat,

¹ Production and consumption of palm oil in 2015. Author elaboration based on IndexMundi (2016)

² Exports of palm oil and its fractions originating from Indonesia based on information from the International Trade Center (2016).

³ Production and consumption of palm oil in 2015. Author elaboration based on IndexMundi (2016)

⁴ Palm oil and its fractions: Exports by country and imports by region for 2014. Author elaboration based on International Trade Center (2016).

Offermans & Glasbergen, 2017) and sustainability ambitions (Anderson, Kusters, McCarthy & Obidzinski, 2016; Bartley, 2014).

Currently, new challenges for the ISPO with respect to legitimacy, other than direct disputes with the RSPO, have emerged (Pacheco, Schoneveld, Dermawan, Komarudin & Djama, 2017b). The ISPO faces a new, two-fold legitimacy challenge in respectively the domestic and the international arena. Within the domestic arena, the implementation and certification of the ISPO certification scheme is lagging behind. The official deadline upon which all companies should have been certified has already been postponed several times (Pirard, Rivoalen, Lawry, Pacheco & Zrust, 2017; Wijaya & Glasbergen, 2016). Besides, the certification of (independent) smallholders has in particular been addressed poorly (Hidayat, Glasbergen & Offermans, 2015; Schoneveld et al., 2017). One of the cross-cutting issues is the challenge to solve the legal status of the land and to address illegal encroachments of palm oil plots (Pacheco et al., 2017b; FoKSBI, 2017). In addition, the governing of Indonesian palm oil by the ISPO in its current organisational structure is challenged. Different views on palm oil regulation and the position of the ISPO, between distinct ministries and government agencies at different levels, may affect the legitimacy of the ISPO at both the domestic and the international arena (Anderson et al., 2016; Wibowo & Giessen, 2015). The Indonesian government thus faces the challenge to foster the implementation of the ISPO certification scheme, and to effectively coordinate the governing of palm oil by the ISPO, in order to enhance its legitimacy, in the domestic arena. Within the international arena, the European Union (EU), which is the largest market for sustainable palm oil, has questioned the sustainability of Indonesian palm oil (Konecna, 2016) and urged Indonesia to apply stricter sustainability standards towards Indonesian palm oil (European Parliament, 2017; Palm Oil, 2017). Moreover, the European Parliament has (at 04/04/2017) adopted a resolution and voted (on 17/01/2018) to ban palm oil as an ingredient for biofuels within the EU Renewable Energy Directive (RED), from 2021 onwards (EU, 2018a). The Indonesian government, thus faces the challenge to convince ((state) actors within) the EU of the sustainability of Indonesian palm oil, and in particular of the legitimacy of the ISPO to govern sustainable Indonesian palm oil, at the international arena.

In order to address the challenges to its legitimacy over sustainable Indonesian palm oil, in both the domestic and the international arena, the Indonesian government has issued a number of programs and regulations to govern the palm oil sector over the last years (Pacheco et al., 2017a). Most noteworthy among these are the National Action Plan (NAP) (under the Sustainable Palm Oil Initiative (SPOI)) and the Strengthening ISPO. These programs aim to reform the palm oil sector and in particular the ISPO (FoKSBI, 2017; Draft Strengthening ISPO, 2017). Besides, the NAP and the Strengthening ISPO processes represent the most recent response of the Indonesian governance to challenges in the domestic and the international arena, in fact these programs are still running. Finally, also the Indonesian government refers to the NAP and Strengthening ISPO processes as important achievements with respect to the governing of sustainable Indonesian palm oil (Personal Conversation Kehati, 2017).

1.1 Research questions

In contrast to the dispute between the ISPO and the RSPO about legitimacy and authority over sustainable Indonesian palm oil, little research has looked into the new legitimacy challenges for the Indonesian palm oil sector and the ISPO, in the domestic and international arena (see Hansen et al.,

2015). In addition, little attention has been paid to the latest response of the Indonesian government to these challenges through the NAP and Strengthening ISPO processes. In particular, the instruments⁵ and mechanisms⁶ through which the Indonesian government attempts to create legitimacy for Indonesian sustainable palm oil and more specifically for the ISPO, have not yet been addressed adequately in the literature. This thesis aims to fill exactly this gap within the academic literature and therefore addresses the following research question:

“How does the Indonesian government attempt to create legitimacy for the governing of sustainable Indonesian palm oil and in particular the ISPO, in the domestic and the international arena?”

Four sub-questions have been formulated:

- (1) How does the Indonesian government attempt to create legitimacy for the ISPO, through the National Action Plan and the Strengthening ISPO processes?*
- (2) How does the Indonesian government make use of state and non-state legitimacy instruments, within the domestic and the international arena?*
- (3) How is legitimacy with respect to the governing of palm oil and the ISPO created in the domestic arena, among the Indonesian ministries and at different political legal levels?*
- (4) How does the Indonesian government attempt to create legitimacy for the ISPO in the international arena vis-à-vis the European Union?*

1.2 Research objectives

This thesis will address the above research questions in order to fulfil the following research objectives. First, this research aims to describe the governance interactions of the Indonesian government regarding the NAP and ISPO Strengthening processes in the domestic and the international arena. Second, the research attempts to tighten the existing knowledge gap within the academic literature, with respect to states' *instruments*⁵ for creating legitimacy. Therefore, state instruments to create legitimacy that go beyond the traditional state/non-state barrier are analysed. Third, it is targeted to contribute to the scholarly debate regarding, states' *mechanisms*⁶ to create legitimacy. The concept of 'legitimacy games' is proposed to study the attempts of the Indonesian government to create legitimacy for the ISPO, both in the domestic and the international arena. Fourth, this study aims to contribute to sustainable pathways for the ISPO to strengthen its legitimacy and effectiveness in governing sustainable Indonesian palm oil, through the sharing of the research results with the ISPO Secretariat and other Indonesian governmental bodies. Fifth, it is attempted to contribute to existing research on governance arrangements for sustainability under the Governing Landscapes for Sustainability (GOLS) research program and research conducted by the Centre for International Forestry Research (CIFOR) with respect to the Value Chains, Finance & Investments program. Therefore the research results of this thesis will provide input to an academic or research paper that is authored by CIFOR, about the NAP and ISPO Strengthening processes.

⁵ See section 2.2 Legitimacy

⁶ See section 2.3.3 Legitimacy Games

1.3 Structure

In order to answer the above research questions and to fulfil the above research objectives, the remaining part of this thesis is structured as follows. The next chapter introduces a theoretical framework that provides analytical tools to review the literature, and the field data that is collected. Within the first part of this chapter, theory with respect to governance interactions, legitimacy and legitimacy games is discussed. In the second part these theories are operationalised regarding, the focal issue of the research, the governing of sustainable Indonesian palm oil. The third chapter presents the methodology of this study. Chapter four provides some background knowledge about the Indonesian palm oil sector and thereby attempts to set the scene for the further discussion of the research results. The fifth chapter presents and discusses the results of the research concerning the domestic arena, while chapter six focuses on the international arena. The seventh chapter then provides the analysis, with respect to the use of states' legitimacy instruments within the NAP and Strengthening ISPO processes and the use of states' mechanisms to create legitimacy within the domestic and international arena. In the final chapter the findings and limitations of the thesis are discussed, after which some conclusions are drawn.

2. Theoretical & Conceptual Framework

In the first part of this chapter a set of theories is introduced. The theory on Transnational Business Governance Interactions (TBGI), legitimacy and 'legitimacy games' are discussed, in order to develop a thorough theoretical framework. The resulting framework will serve as a tool to analyse the research questions and will furthermore contribute to the research objectives of this thesis. In the second part of the chapter, for each of the theories introduced it is also discussed how the particular theory fits into the conceptual framework of this research and how it is operationalised in this respect.

2.1 Transnational Business Governance Interactions

Governance regimes become more and more complex. Beside state actors, we see the proliferation of non-state actors that operate at multiple scales and levels (Corbera & Schröder, 2011; Mwangi & Wardell, 2012). With the growing complexity, also the interaction between (non)state governance schemes increases (Alter & Meunier, 2009; Pacheco et al., 2017b). In the academic literature, many different approaches have been taken to analyse these governance interactions. Therewith, the academic debate has become extremely diffuse and there is a serious risk of losing sight of the bigger picture (Eberlein, Abbott, Black, Meidinger & Wood, 2014). The application of an overarching framework will therefore provide to be helpful, in order to understand the interactions between different actors and governance schemes. Eberlein et al (2014), have developed such an overarching analytical framework within their theory of transnational business governance interactions, and provide useful tools for analysis as well. In contrast to many other research which focuses solely on state (see Krasner, 2001; Peters, 2010) or on non-state governance (see Cashore, 2002; Tysiachniouk, 2012), Eberlein et al (2014) aim to cover both state and non-state governance schemes. Furthermore their focus on interaction, rather than institutions, allows for a dynamic analysis of governance schemes (Abbot & Snidal 2009a; Abbot & Snidal, 2009b).

Within TBGI, the term *transnational* emphasises the character of the actors that set and implement regulation. These include national but also international actors and involve both state and non-state governance schemes that play a role in transnational governance interactions (Hospes, Dermawan & Termeer, 2016; Wood, Black, Eberlein & Wood, 2015). The term *business* refers to the focus on commercial activity in pursuit of socially defined goals. Furthermore, Eberlein et al (2014) take a *regulatory governance* perspective, which they conceptualise as the attempt to change the behaviour of actors, through rules, norms and means of implementation and enforcement. The process of regulatory governance is further divided into: "agenda setting, rule formation, implementation and monitoring compliance". *Interaction* comprises of the way actors react, anticipate and influence each other (Hospes et al., 2016). In sum, TBGI is understood as a "dynamic, co-regulatory and co-evolutionary process, involving state, non-state and hybrid actors and organizations that pursue varied interests and seek 'regulatory share', have different regulatory capacities, and interact at multiple levels and in multiple ways, with a range of effects" (Black, 2009; Eberlein et al., 2014 p. 26).

Furthermore, Eberlein et al (2014) distinguish three levels of analysis, respectively the micro, the meso and the macro level. At the micro-level interactions concern those between individuals and

organizations. The meso-level is the level of Transnational Business Governance (TBG) schemes (which consist of a demarcated set of TBG interactions in a particular issue area). Finally, the macro-level refers to the overarching regulatory complex. *Horizontal analysis* addresses TBG interaction within a level, for instance at the meso-level analysis focuses on the interaction between (non)state-based TBG schemes. In addition, *vertical analysis* addresses interaction between two or more levels, for example interactions between a TBG scheme (meso-level) and its constituent actors (micro-level) (Eberlein et al., 2014). Regarding the content of the analysis, TBGI distinguishes six 'dimensions of interaction', that reflect the core questions that will help to understand interactions between actors (micro level), schemes (meso level) or regulatory complexes (macro level). These include: "who or what interacts, drivers and shapers, mechanisms and pathways, character of interaction, effects of interaction, and change over time" (Eberlein et al., 2014 p. 14).

2.2 Legitimacy

Legitimacy is one of the most important concepts in the political and social sciences, since it is believed to contribute to the effectiveness and stability of institutions while it also forms the basis for rule acceptance (Schouten & Glasbergen, 2011). Although many scholars deal with legitimacy, few actually define the concept. One of the most common positions is to refer to legitimacy as the justification of authority, which is: "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed systems of norms, values, beliefs and definitions" (Suchman 1995, p. 574).

In the literature often a distinction is made between the instruments that apply to state and non-state entities, in order to acquire legitimacy (Schouten & Glasbergen, 2011). Therefore, these instruments will first be discussed from a state angle and then from a non-state perspective, however it will be argued that states can actually use a mix of strategies to create legitimacy.

2.2.1 State legitimacy

The 16th and 17th century philosophers Jean Bodin and Thomas Hobbes, were already concerned with establishing the *legitimacy* of a single hierarchy of domestic authority and thereby referred to the notion of sovereignty (Krasner, 2001). Sovereignty refers to the absolute political authority, within an externally demarcated set of borders (Carlson et al., 2013). Within the classical notion of sovereignty, the state is conceived as the supreme and legitimate locus of sovereignty. According to Krasner (1999) and Krasner (2004), sovereignty consists of four main elements; Westphalian sovereignty, international sovereignty, interdependence sovereignty and domestic sovereignty. The first is about, the non-interference of international actors in domestic issues, the second refers to the mutual recognition among sovereign states. The third concerns the control over cross-border flows and the fourth is the effective exercise of control within the state territory. Sovereignty and legitimacy reinforce each other, since states' legitimacy is a source for their sovereignty, while at the other hand, states refer to sovereignty as the basis for their legitimacy (Hurd, 1999). Therefore, it may be argued that states are (perceived to be) legitimate, if they comply with the four elements of sovereignty as distinguished by Krasner (1999) and Krasner (2004).

However, the question *who* is sovereign has become subject to debate, since many scholars have questioned the position of the state as being the sovereign, in the contemporary era of globalisation. Hospes et al., (2014) distinguish at least two other types of conceptualisations of sovereignty, namely

complex sovereignty and *plural sovereignty*. According to Grande and Pauly (2005), in situations of *complex sovereignty*, it is questionable, which part of the state is to be sovereign. In addition, Brauer and Haywood (2010) argue that with *plural sovereignty*, both state and non-state actors might (perceive to) be the sovereign over certain issues. Also Randeria (2003) and Walker (2003) agree with this last position, respectively by referring to *scattered sovereignty* and *late sovereignty*, as situations in which state powers have been dispersed and both states and other actors relate to and interpret sovereignty to reassert control, power and legitimacy. Sovereignty has thus become contested and states will have to use additional instruments, in order to create legitimacy, towards other (non)state actors.

2.2.2 Non-state legitimacy

Non-state actors create legitimacy according to other principles and instruments than states (Schouten & Glasbergen, 2011), since they cannot rely on 'being the sovereign', or have constituencies through which they democratically have been elected (Bernstein & Cashore, 2007). Besides, non-state private governance is characterised by its voluntary nature and is therefore more dependent on the justification of its authority, because it cannot force compliance (Schouten & Glasbergen, 2011). Creating legitimacy is therefore crucial for non-state actors, in order to pursue their goals and to ensure their very existence.

With respect to the legitimacy of non-state actors, several approaches towards legitimacy are found in the literature. In the remainder of this section we will discuss two of these approaches. Most research takes a normative approach in which the legitimacy of a specific governance scheme is evaluated. Here often a distinction is made between input legitimacy (e. g. the inclusiveness of decision-making) and output legitimacy (e. g. the problem-solving quality of decision-making) (Bäckstrand, 2006; Risse, 2004). Furthermore, some authors distinguish throughput legitimacy as an intermediate dimension, which focusses on the quality of decision-making procedures (Bekkers & Edwards, 2007). Throughput legitimacy is based on democratic procedural criteria (e. g. regulatory accountability) and performance oriented procedural criteria (e.g. performance accountability) (Lieberherr, 2013; Schmidt, 2013). Taken together, input, output and throughput legitimacy aim to provide tools, to analyse to which extent the authority of an actor is justified. However, Schouten and Glasbergen (2012) argue that this approach is limited, since legitimacy is not an overall characteristic of a governance scheme, but rather something that is being created within an interactive process.

Drawing on Beetham (1991), Schouten and Glasbergen (2011) in their analytical framework, argue that three elements are crucial for creating non-state legitimacy; ensuring legality, ensuring moral justification and ensuring consent. With respect to legality, non-state actors do need to comply with the existing rule system (Gilley, 2006; Beisheim and Dingwerth, 2008). Besides, they should develop rules of power such as; representation, participation, equality and procedural regularity (Koppel, 2008). Regarding moral justifications, the questions *why* one is the right actor to govern and *what* is governed in terms of the content of activities need to be addressed (Schouten & Glasbergen, 2011). With reference to the consent of a rule-system, Suchman (1995) differentiates between: pragmatic legitimacy, based on audience self-interest; moral legitimacy, based on normative approval; and cognitive legitimacy, based on comprehensibility and taken-for-grantedness. Furthermore, a distinction is made between tier one and tier two audiences. Tier one audiences have a "direct interest in the

policies and procedures of the organizations they legitimate”, while tier two audiences “have a less direct but equally important role in granting legitimacy” (Cashore 2002, p. 511; Schouten & Glasbergen, 2011).

2.2.3 A mix of instruments

With respect to states’ legitimacy according to sovereignty, we have concluded that this is being challenged, by other (non)state actors. However, Gilley (2006 p. 499) argues that “states which lack sufficient legitimacy devote more resources to maintaining their rule and less to effective governance, which reduces support and makes them vulnerable to overthrow or collapse”. Therefore, states will have to create legitimacy by using additional instruments. Gilley, (2006) conceptualises state legitimacy with respect to the instruments of ensuring legality, ensuring moral justification and ensuring consent, in his analytical model. However, these instruments to acquire legitimacy have traditionally been the domain of non-state actors (Schouten & Glasbergen, 2011). Alongside their continuous appeal to sovereignty (Krasner, 2001; Adler-Nissen & Gammeltoft-Hansen, 2008), states are thus also applying non-state instruments in order to create legitimacy, resulting in a mix of instruments to create legitimacy.

2.2.4 Legitimacy games

In the above, states’ instruments to create legitimacy have been discussed, however the question *how* states use legitimacy for justifying their authority at different *arena’s* remains unanswered. Therefore, we draw on the theory of Adler-Nissen and Gammeltoft-Hansen, (2008), with respect to ‘sovereignty games’. However, in the above we have concluded that sovereignty, as a proof or carrier of legitimacy, is only one of the instruments states may use to create legitimacy (next to non-state instruments, to ensure legality, moral justification and consent). Therefore, we argue that we may speak of what we call ‘legitimacy games’. Legitimacy games are then defined as: “strategic manoeuvres through which authority is claimed and reinterpreted in order to create legitimacy” (see Adler-Nissen & Gammeltoft-Hansen, 2008). Legitimacy games are played out by certain *actors* within in a particular *arena* or playing field. Furthermore their *manoeuvres* are guided by formal and informal *rules* of the game, while at the same time transforming the existing rules and creating new rules. Furthermore, within legitimacy games the strategic manoeuvring of actors enables the optimal use of *legitimacy instruments*. Two types of manoeuvres are identified, namely horizontal and vertical manoeuvres, that are played out in two types of legitimacy games, respectively horizontal and vertical legitimacy games.

Horizontal legitimacy games concern the conceptual stretching of legitimacy to cover activities outside the arena ‘traditionally’ reserved for exercises of state authority (see Adler-Nissen & Gammeltoft-Hansen, 2008). State authority traditionally was confined to the territory of the nation state (Agnew, 2005), however effective sovereignty and legitimacy are often not bound by territoriality, they may go beyond state territory or also be more limited (Agnew, 2010). This is for instance also captured by Krasner’s (2001) notion of interdependence sovereignty which deals with sovereignty over cross-border flows and by Comaroff and Comaroff, (2009) which also distinguish sovereignty over transnational spheres and commodity flows and sovereignty over people conjoined in faith or culture (Hospes et al., 2014). The arena’s in which legitimacy games are played out, may thus also be non-spatial and can be referred to as partly institutionalised *issue areas* or *issue fields* that operate in multiple arena’s (Agnew, 1994; Risse-Kappen, 1996; Schaffer, Fall & Debarbieux,

2010). The stretching of legitimacy then, refers to the horizontal manoeuvres to create legitimacy, that thereby enhance authority over these issue areas. *Vertical legitimacy games* refer to the strategic allocation of state authority at different political and legal levels in order to create legitimacy (see Adler-Nissen & Gammeltoft-Hansen, 2008). Finally, there may be situations in which states both, horizontally stretch their legitimacy to cover activities outside the traditional arena, and strategically allocate authority at different political levels, in order to create legitimacy.

2.3 Conceptual Framework & Operationalisation

In the following part theory on Transnational Business Governance Interactions (TBGI), legitimacy and 'legitimacy games' is discussed. With respect to TBGI, it is argued that when applied to the context of this research, it is best described as a theory of Governance Interactions. The theoretical lessons learned from the theory of Governance Interactions provide a framework for the analysis of the interaction between different state and non-state governance schemes. Regarding the concept of legitimacy, this is discussed from a state and a non-state angle, however it is argued that states rely on a mix of instruments to create legitimacy. Therefore in the conceptual framework, an analytical tool to study state instruments to create legitimacy is introduced. Finally, the concept of 'legitimacy games' is proposed, in order to describe the mechanisms that are used to create legitimacy within a certain arena.

2.3.1 Governance Interactions

In order to be applicable to the context of this research regarding the governing of sustainable Indonesian palm oil by the Indonesian government, it needs to be set clear how TBGI will be dealt with. The term *transnational* is by Eberlein et al (2014) broadly defined as including multiple types of actors (i.e. national and international, state and non-state), that engage in transnational governance interactions. In this research however, it is focussed for an important part on domestic (local and national) actors that engage in the governing of Indonesian sustainable palm oil. This is justified because, also local actors are often directly or indirectly linked to the (palm oil) global value chain (Lee, Gereffi & Beauvais, 2011; Pacheco et al., 2017a) and thus play a role in transnational business governance interactions. TBGI is somewhat modified though in this respect, since the angle of the research that addresses domestic governance interactions is not purely transnational in its nature. Besides, with respect to the term *business* it should be noted that this research does not focus on commercial activity per se, its looks into (non)state governance interactions with respect to commercial activity (i.e. production and trade of palm oil). The focus of the research is however not on business (private actors), but on the governance interactions of the Indonesian government (public actor). In order to avoid any inconvenience in the way TBGI is defined, for the purpose of this research the terminology of transnational business governance interactions is therefore shortened to *governance interactions* (see table 1). Governance interactions are understood as the ways actors react, anticipate and influence each other, through rules, norms and means of implementation and enforcement (Eberlein et al., 2014).

According to Eberlein et al (2014) their framework is designed to allow for the bracketing out of certain elements to focus on other elements, also this research will only look into particular elements of their framework. The research focuses on the *agenda setting* and *rule formation* phase of regulatory governance (see Eberlein et al., 2014) within the NAP and Strengthening ISPO processes,

because at the time of research these processes were still ongoing. By focusing on the agenda setting and rule formation phase it is aimed to learn how the NAP and Strengthening ISPO processes have been formed and by whom. In addition the research looks into the implementation phase of with respect to the implementation of the current ISPO scheme. This has been particularly relevant since as of April 2018, only 617 companies have become ISPO certified, (ISPO, 2018) and except for the Amanah project no smallholders yet (Bahuet, 2017). This research does not pay attention to the monitoring and compliance phases of regulatory governance as described by Eberlein et al (2014), because this is beyond the scope of the research. Regarding the dimensions of interactions (see Eberlein et al., 2014), all dimensions are addressed except for *change over time*, since this could not be captured within the research design of the study.

With respect to governance interactions, it is furthermore looked into vertical interaction between the micro level and the meso level. The micro level, comprises of the level of individual actors, whereas the meso level is the level of governance schemes, which are understood as a demarcated and institutionalised set of governance interactions in a particular issue area (Eberlein et al., 2014). Vertical interaction is then defined as the interaction between two different levels. It is operationalised as the interaction between individual (micro level) actors within a governance scheme (meso level). In addition, also the horizontal interactions between different governance schemes at the meso level are addressed (Eberlein et al., 2014). In the context of the research, the vertical analysis of governance interactions is geared towards individual actors such as smallholders and industry, governmental and civil society representatives, with the ISPO. The horizontal analysis concerns the governance interactions of the Indonesian government or ISPO with other governance schemes such as the RSPO and the EU.

The above already addressed the first dimension of interaction (who or what interacts), in the following the other dimensions of interaction are discussed (see table 1). Drivers and shapers are understood as those underlying elements that help explain but also actively steer the nature of governance interactions on a certain topic (Eberlein et al., 2014). With respect to the research, we will therefore look into the structure of the governance challenge (meso-level), i.e. the governing of Indonesian sustainable palm oil and particularly the ISPO, as well as to the values, interests, perceptions, knowledge and resources of the actors (micro-level) involved. The next dimension of interaction, mechanisms and pathways, concerns the accommodating factors that enable governance interaction (Eberlein et al., 2014). Within the research, attention is paid at networks, and sites of interactions, as well as (governmental) regulations, with respect to the governing of Indonesian palm oil and the ISPO. The character of interaction is defined as the way interaction takes place, i.e. competition, coordination etc. (Eberlein et al., 2014). In addition, the effects of interaction refer to effects of governance interaction with respect to the implementation of the ISPO standard, regarding to output, outcome, impact (Eberlein et al., 2014). Together, these operationalisations cover the concept of governance interaction, in order to provide a thorough understanding of the governing of sustainable Indonesian palm oil and especially the ISPO.

In conclusion, the insights provided by the theory on governance interactions will be used to interpret the governance interactions with respect to the governing of sustainable Indonesian palm oil by the ISPO. Also Eberlein et al (2014) note that their framework should be accommodated with other scientific theories, in order to deepen its analytical insights. Therefore, the second part of this

conceptual framework, introduces theory on legitimacy and proposes the concept of ‘legitimacy games’.

Table 1: Governance Interactions

Dimension of interaction:	Components of regulatory governance:	
	<i>Agenda setting, Rule formation, Implementation</i>	
	Micro level	Meso level
<i>Who or what interacts</i>		
<i>Drivers and shapers</i>		
<i>Mechanism and pathways</i>		
<i>Character of interaction</i>		
<i>Effects of interaction</i>		

Source: partly adapted from Eberlein et al., (2014).

2.3.2 Legitimacy instruments

Legitimacy has previously been defined as the assumption that the actions of an entity are appropriate within a socially constructed context of norms, values, beliefs and definitions (Suchman, 1995). This research deals with the legitimacy of the government of Indonesia and in particular the ISPO, regarding the governing of sustainable Indonesian palm oil. It is mainly looked into how legitimacy is created, rather than that it's being evaluated (Schouten & Glasbergen, 2012). In order to analyse the entire spectrum of *instruments* through which state actors use and create legitimacy, an analytical framework that is based upon the literature as discussed in the theoretical framework was developed (see table 2). The analytical framework of Schouten and Glasbergen (2011) has been adapted, in order to be applicable to the creation of legitimacy by states the notion of sovereignty was incorporated. In addition part of the analytical framework is rearranged, and in particular some additional indicators are put forward, in order to deepen the understanding and scope of legitimacy.

The sources of states' legitimacy stem from state-based legitimacy, i.e. sovereignty and non-state-based legitimacy instruments. Legitimacy instruments are the instrumentary states' possess to ensure their legitimacy in some respect. Legitimacy instruments refer to and mobilise states' sources of legitimacy. Referring to these sources of legitimacy, i.e. using the legitimacy instruments, is an attempt to create legitimacy. Three types of realms on which legitimacy is depending on are; ensuring legality, ensuring moral justification and ensuring consent (Gilley, 2006). Within these three realms an analytical framework of instruments that can be use or referred to, in order to create legitimacy are defined. Thereby it is differentiated between instruments to refer to state and non-state sources of legitimacy. The legitimacy instruments thus represent a potential source of legitimacy that must be enacted. Its use ushers the creation of legitimacy. First the concept of sovereignty is

operationalised, before it is elaborated on the different instruments states possess to create legitimacy, i.e. ensuring legality, ensuring moral justification and ensuring consent.

Sovereignty

Sovereignty refers to the ultimate form of (state) authority within a certain issue area. Four types of sovereignty were distinguished (also see table 2); Westphalian, international, interdependence and domestic sovereignty (Krasner, 2001 & Krasner, 2004). In the context of the research, sovereignty is operationalised as the authority of the Indonesian government over the governing of sustainable Indonesian palm oil, through the ISPO. In this respect, Westphalian sovereignty is about the non-interference of international (non) state actors, such as the EU, in domestic issues, i.e. the production of palm oil and the governing of the ISPO. For the Indonesian government, referring to Westphalian sovereignty emphasizes their position as a sovereign state that is legitimate to deal with domestic issues, i.e. palm oil (production). International sovereignty refers to the mutual recognition among sovereign states (Krasner, 2001). This mutual recognition forms the basic condition for states to interact and respect each other's sovereignty in other respects also. The Indonesian government may refer to international sovereignty to create legitimacy, if they feel that their sovereignty in other respects is violated (Krasner, 1999). In addition, interdependence sovereignty concerns the control over cross-border flows, i.e. palm oil. This is in particular relevant, since disputes over cross-border flows may usher legitimacy games regarding states' authority over traditional arena's (i.e. palm oil (production)) (Blatter, 2004). Finally, domestic sovereignty refers to the effective exercise of control within the state territory (Krasner, 2001). Within the research, this refers to attempts of the Indonesian government to claim that they effectively govern sustainable Indonesian palm oil and the ISPO in particular.

Ensuring legality

The first instrument, states possess to create legitimacy is ensuring legality (also see table 2). Traditionally states' rules of power are ensured by referring to themselves as being the sovereign within a certain arena or regarding a certain issue (as discussed in the previous section). Besides, states can also rely on non-state instruments to ensure legality. The rules of power identified by Koppel, (2008) and Schouten and Glasbergen,(2011), are simplified into inclusiveness of participation and equity of representation according to Liebherr, (2013) and Scholten, (2015). Inclusive participation refers to the type and the amount of actors that are involved (Liebherr, 2013) in the governing of sustainable Indonesian palm oil by the Indonesian government. Equal representation then concerns the division of power between the actors that are included, and whether this is equal or not (Scholten, 2015). The Indonesian government could refer to the levels of participation and representation within the governing of palm oil, since those are believed to contribute to its legitimacy. In addition, the political (legal) context is included within the analytical framework, since even states themselves have to comply with this context in order to be legitimate and for instance, not corrupt (Gilley, 2006; Beisheim & Dingwerth, 2008). Legality is according to the Oxford dictionary, (2017a) defined as the quality or state of being in accordance with the law. The political legal context of our research consists of the national regulations (with respect to palm oil) issued by the Indonesian government and the internationally accepted perception on what is legal (Koppel, 2008).

Ensuring moral justification

For ensuring moral justification (also see table 2), it is looked into the argumentation why the Indonesian government is the legitimate actor to govern sustainable Indonesian palm oil and the ISPO. Besides it is focused on what tasks and activities are carried out by the Indonesian government and how (Schouten & Glasbergen, 2011). In this respect, states may refer to one or multiple elements of sovereignty. In addition, states can emphasize their regulatory and performance accountability. Regulatory accountability is operationalised through transparency (Liebherr, 2013), while performance accountability is operationalised by cost-efficiency (Benner, Reinicke & Witte, 2004), and sustainability. These indicators are used to analyse how the content of the activities is being justified by the Indonesian government. Transparency is understood as the openness of procedures and the active reporting about these (Gupta, 2008). In the context of this research cost-efficiency refers to the effective performance of procedures related to their input (Oxford, 2017b). Finally, sustainability is defined as taking into account the economic, environmental and social needs of present and future generations (Brundtland, 1987). The Indonesian government may refer to transparency, cost-efficiency or sustainability, since this is believed to contribute to its legitimacy, with respect to governing sustainable Indonesian palm oil and the ISPO (Benner et al., 2004; Deegan, 2007; Liebherr, 2013).

Ensuring consent

With respect to ensuring consent (also see table 2), it is analysed how states attempt to create legitimacy towards their audience. An activity or policy is regarded to contribute towards creating consent among the audience, if it is believed to contribute to the legitimacy of the Indonesian government regarding the governing of Indonesian palm oil and the ISPO in particular. In addition to tier one and tier two audiences, as distinguished by Schouten and Glasbergen (2011), this study also distinguishes a tier zero audience. The tier zero audience concerns actors *within* the organisation. In the context of the research, the tier zero audience refers to the ministries within the Indonesian government that cope with palm oil. The tier one audience consists of organisations that have a direct interest in the legitimation of the ISPO, i.e. actors that conform themselves to the ISPO standard. These include for instance several domestic Indonesian actors, such as GAPKI and also several Ngo's and potentially smallholders. Tier two audiences then, refer to actors that have a less direct, but equally important role in granting legitimacy (Cashore, 2002), such as the EU and other international (non)state actors. Besides, it is looked at the ways states try to realise their problem-solving capacity, in order to create legitimacy. According to Liese and Beisheim, (2011), the study differentiates between output, outcome and impact. Here output, refers to the immediate activities that take place to ensure consent, outcome concerns the implications of the output for the audience, while impact is about the broader implications for problem-solving (Liese and Beisheim, 2011). Finally, also with respect to ensuring consent, states may want to claim to be the sovereign by referring to one or more of the elements of sovereignty.

Table 2: States' instruments to create legitimacy

States' instruments to create legitimacy	Analytical framework		
	Non-state-based legitimacy instruments		State-based legitimacy instruments
Ensuring legality:	Rules of power related to: -Inclusiveness of participation -Equity of representation Political (legal) context		Sovereignty: -Westphalian -International -Interdependence -Domestic
Ensuring moral justification:	<u>Why one is the right actor to govern?</u> Regulatory accountability (Transparency) Performance accountability: - Cost-efficiency - Sustainability	<u>What one does in terms of content of the activities?</u>	
Ensuring consent:	Consent of tier 0 audiences: -Output -Outcome -Impact	Consent of tier 1 audiences:	
		Consent of tier 2 audiences:	

Source: partly adapted from Schouten & Glasbergen, 2011.

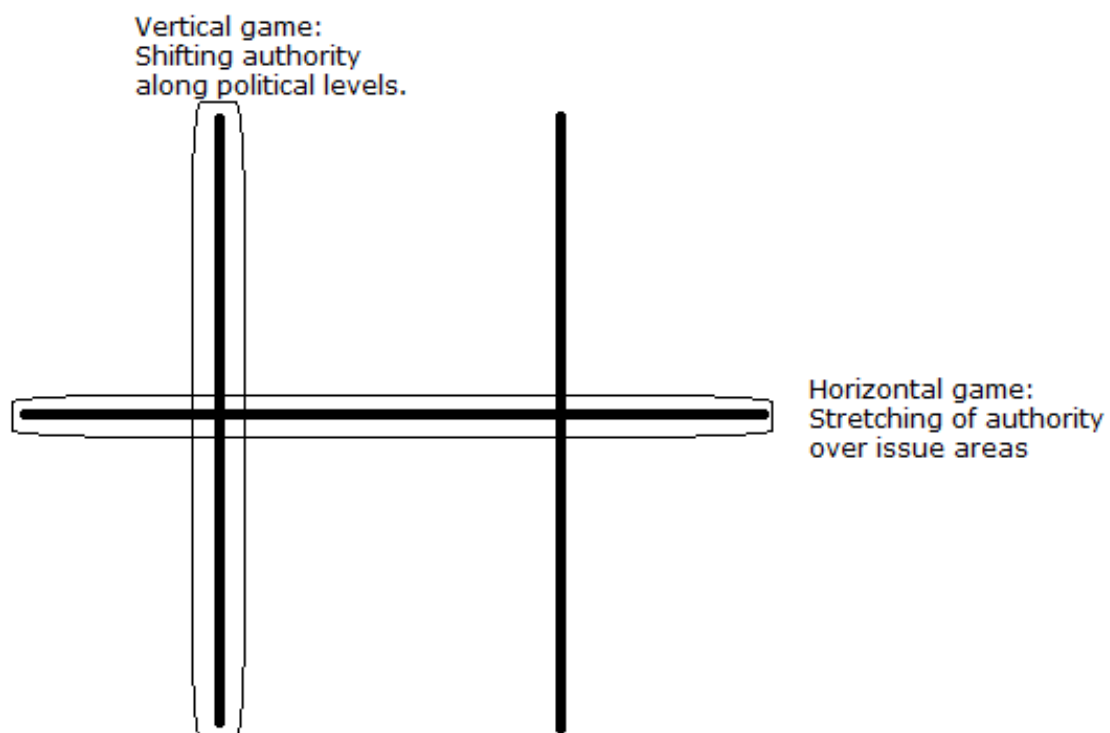
2.3.3 Legitimacy games

The concept of legitimacy games was coined for the purpose of this research and is defined as: "the strategic manoeuvres through which legitimacy is claimed and reinterpreted in order to enhance authority". Legitimacy games can thus be seen as strategic manoeuvres which refer to, the stretching of legitimacy to enhance authority in an issue area (horizontal legitimacy games) and to the allocation of authority at different legal levels in order to create legitimacy (vertical legitimacy games), or to a combination of both (see figure 1). Moreover, these manoeuvres aim to mobilise the instruments to create legitimacy (see 2.3.2) most efficiently within a certain arena, by moving authority to different positions within the arena or by stretching a particular arena in order to create legitimacy.

Within the research, it is looked at the legitimacy games played by the Indonesian government in order to create legitimacy for Indonesian palm oil and in particular the ISPO. Two arenas are distinguished; the international arena in which a legitimacy game is played vis-à-vis the EU; and the domestic arena, in which a legitimacy game is played between the different Indonesian ministries and other government agencies at different levels, that are involved with the governing of palm oil.

At the international arena, the main issue is to create legitimacy for Indonesian palm oil and especially the ISPO, in order for it to be accepted as (an international standard for) sustainable palm oil. At the domestic arena, different ministries attempt to create legitimacy for themselves to govern the ISPO. In addition, also government agencies at different political levels, including the district and the provincial level aim to create legitimacy for themselves to govern sustainable Indonesian palm oil. Both at the international and within the domestic arena, it is looked at a combination of horizontal and vertical games that are played out. The actors that are involved in these legitimacy games at a certain arena and engage in horizontal and vertical manoeuvres are also acting by and at the same time transforming the rules of the game. Within the domestic arena, the rules of the game may be read as governmental regulations, laws, but also the ministerial mandate and existing social codes. With respect to the international arena, the rules are less institutionalised, however certain accepted diplomatic codes as well as for instance the World Trade Organisation (WTO) rules play a crucial role.

Figure 1: Legitimacy games



3. Methodology

This chapter presents the methodology of the research, first the character of the research and the data collection methods will be discussed in detail. Then, attention is paid to the scope of the research. Furthermore, the research population is discussed and in conclusion the limitations of the research are addressed.

3.1 Character of the research

This thesis builds upon existing research of the Center for International Forestry Research (CIFOR), looking into governance arrangements for sustainability (under the GOLS project). Besides, it will contribute to research conducted by CIFOR under the Value Chains, Finance & Investments program. Under these programmes, multiple studies from different scientific disciplines and with distinct analytical scopes have been carried out (CIFOR, 2017). This research does however concern a master thesis at the Public Administration and Policy (PAP) group of Wageningen University and research.

The research must be regarded as empirical research, since it aims to contribute to the understanding of a prompting contemporary issue (Ritchie, Lewis, Nicholls & Ormston, 2013), i.e. the governing of palm oil by the Indonesian government. Besides, the research aims to contribute to the theoretical understanding of states' legitimacy and the instruments and mechanisms they use to create legitimacy. The core of this research concerns a case study into the governing of Indonesian palm oil and the ISPO, by the Indonesian government. Hence some of the results of this study cannot be widely generalised. However, with respect to the theoretical insights provided by this research it is aimed for a wider application within the academic literature on legitimacy, sovereignty and the positioning of states vis-à-vis (non) state actors.

In addition, this study makes use of a qualitative research design and techniques, in order to answer the proposed research question and to fulfil its research objectives. One advantage of qualitative research is that it sheds light on the *why* question (Rofe and Winchester, 2010) and therefore provides 'knowledge for understanding', with respect to social policy concerns (Ritchie et al., 2013). In addition, qualitative research is able to expose complex social and political structures. Within this research it was however chosen to formulate *how* questions rather than *why* questions, since *why* questions on their own are difficult to answer adequately. Still, using a qualitative research design in combination with the *how* questions as formulated for this research, enabled the researchers to unravel some of the complex political structures with respect to the governing of Indonesian palm oil and to create knowledge for understanding. Furthermore, the function of qualitative research is explanatory, by using in-depth research techniques, the research examined the motivations for the use of instruments to create legitimacy for the ISPO. Part of this study also has a contextual function; describing the context in which the Indonesian government attempts to create legitimacy for the ISPO. Qualitative research thereby offers the opportunity to unpack issues and to display what is described from the perspective of the study population (Ritchie et al., 2013).

3.2 Data collection methods

According to Ritchie et al (2013), the choice of data collection methods flows from the research questions, but these are also influenced by the context, structure and timing of the research. In-

depth interviews have been chosen for data collection, because of the depth of focus on the individual or organization they provide (Ritchie et al., 2013). Besides, the research applied a literature study in order to better understand the scholarly debate regarding palm oil. For the literature study, a range of scholarly sources was accessed through scientific search engines such as Scopus and Google Scholar. Also document analysis was used, since this was crucial in order to study and understand the Indonesian governmental regulations with respect to palm oil (see Patton, 2005).

3.2.1 In-depth interviews

In-depth interviews best address complex systems, because of the depth of focus and the opportunity for clarification and detailed understanding (Ritchie et al., 2013). Furthermore, in-depth interviews typically consist of open-ended questions and use a semi-structured format (Guion, Diehl & McDonald, 2001). Within this research it was chosen to use in-depth semi-structured interviews, in order to learn from key informants how the Indonesian government attempts to create legitimacy for the ISPO. Furthermore, an interview guide (see Annex 2) has been used. This type of approach has the advantage that it is more structured than using a topic list, but still provides flexibility in its composition (Turner, 2010). An interview guide consists of a list of questions that will guide the interview, however they are not exhaustive and additional questions can be asked when necessary or questions may be paraphrased differently when appropriate. It is the important task of the researcher to navigate to the same general areas of information with each interviewee (Turner, 2010).

According to Ritchie et al (2013), in addition researchers need to use some techniques, such as probes, in order to achieve depth of answers. Besides, both direct and indirect interview techniques have been used (Ritchie et al., 2013). Also the staging of the interview is important in order to ensure that key research areas are discussed. The types of stages that are distinguished by Ritchie et al (2013) are respectively; arrival, introducing the research, beginning the interview, during the interview, ending the interview and after the interview (see also Brinkman, 2014). Within this research, these stages were used as a tool to structure the interview appropriately (see Annex 3). Besides, also the roles of the researcher and the participant need to be made clear, during the interviews. However, most important is the actual design of the research questions, in order to create valid data. Ritchie et al (2013) distinguish content mapping questions and content mining questions. The first category aims to open-up the interview about an issue while the second category tries to deepen the understanding about why and how issues have developed. For this research it has been important to use a pyramid type of structure, so that first the content could be opened up while in the second part the understanding was deepened about particular issues. In particular this has been relevant when it came to sensitive issues, such as in the context of our research 'sustainable Indonesian palm oil'.

3.2.2 Document analysis

Document analysis is a systematic procedure for reviewing or evaluating documents. According to Bowen, (2009 p. 29): "the analytical procedure entails finding, selecting, appraising and synthesising data contained in the documents". Within this research it has been chosen to include document analysis as a research method, because in particular governmental regulations were deemed relevant to shed light on the way legitimacy is created for the ISPO. With respect to the ISPO, the Indonesian government provided some documents that were publicly available in English and therefore easily

accessible. Some other documents, most noteworthy the draft versions of the ISPO Strengthening process were not publicly available and only accessible in Indonesian. In order to access these documents, the use of key contacts for attaining access as well as the use of a translator and of Google Translate was key to study these documents. The documents that have been analysed mainly concern reports and regulation from the Ministries of Agriculture, Environment and Forestry, and the ISPO itself. Document analysis was partly done in collaboration with CIFOR, since they had experience in collaborating with the government and were therefore able to select some relevant documents.

3.2.3 Triangulation

Triangulation aims to confirm and improve the clarity of research findings, by using different sources of information and/or different data collection methods, multiple analysis methods and theories (Ritchie et al., 2013). In this research triangulation with respect to sources has been applied by selecting data generated by means of in-depth interviews, literature review and document analysis. The results from these different sources have been compared. Besides, the research findings have been available for respondent validation. However, these mechanisms aim to increase the external validation of the research, none can contribute to full confirmation (Ritchie et al., 2013; also see Silverman, 2013 and Hammersley, 1992 for a more elaborate discussion on this topic).

3.3 Scope

The fieldwork of this research was conducted from November 2017 until January 2018. It was conducted mainly at Jakarta and Bogor in Indonesia. The base for doing research were the CIFOR headquarters in Bogor, because there were good facilities and much information and contacts accessible there. Besides, most of the headquarters of relevant (governmental) organisations and key informants were based in either Jakarta or Bogor. Therefore this location provided the best conditions for extracting information regarding the (national level) SPOI and Strengthening ISPO processes as well as the motivations of the (governmental) actors involved. In addition, one week of the research was spent in Pekanbaru, the capital of the Riau province and in the Pelalawan district, another week was spent in Palangkaraya the capital of the Central Kalimantan province. The research here was specifically targeted at gathering information about the implementation and interaction of the Indonesian national government and the ISPO with the regional level government and in particular smallholders. Finally, also some Skype calls were made for conducting interviews with EU related informants, in order to gather information with respect to the international arena.

The research has looked into, how the Indonesian government attempts to create legitimacy for Indonesian sustainable palm oil and in particularly the ISPO, at the domestic arena and in the international arena. Within the regime complex of palm oil governance (see Pacheco et al., 2017a), the focus has been on the new challenges (see 1. Introduction) for the ISPO in these arena's and on the government's response through the NAP (as part of the SPOI process) and Strengthening ISPO processes. Thereby, the governance interactions at the micro level (between actors with the ISPO) and at the meso level (with other governance schemes), have been addressed. Content wise the scope is demarcated by the theoretical and conceptual framework as presented in chapter 2. In this respect attention is paid to the state and non-state instruments that are used by the Indonesian

government to create legitimacy for sustainable Indonesian palm oil and the ISPO, and to the legitimacy games that are played at the domestic and the international arena.

3.4 Research population

For conducting interviews, a list of interviewees of relevant public and private organisations was drafted, partly based on former research and in collaboration with CIFOR. The interviewees itself were thus not randomly selected, but purposely chosen because of their expertise as being key actors within the research area, i.e. the governing of Indonesian palm oil. This is more appropriate while using in-depth interviews (Creswell & Poth, 2017). For selecting interviewees two approaches have been used; working through an organisation and snowballing. By approaching organisations it was aimed to find the most relevant key informants, most noteworthy was the role of CIFOR that provided the researcher with a broad network and contact details of relevant public and private organisations. Besides, snowballing has been used to exploit the network of informants (Ritchie et al., 2013), in particular it was aimed to get entrance to the different Indonesian ministries. CIFOR, provided contact details of key informants, since they work together with several Indonesian ministries at therefore formed a good starting point. However, due to official procedures or because of a long response time or a lack of interest it was not possible to contact all the (ministerial) actors that were targeted.

During the research it was attempted to continue selecting interviewees until no new or relevant information about the research topic could be extracted, within the timeframe of the research (see Cutlife, 2000). Although it was planned to conduct only between 20 and 25 interviews with representatives of around the same number of organizations, 44 interviews were conducted with 41 distinct organisations (see Annex 1). This is deemed to be an appropriate number for ensuring the validity of our research, with respect to the sample coverage and the capturing of the research topic (Ritchie et al., 2013). The interviews have been conducted from November 2017 until January 2018, of which 27 in Jakarta and Bogor. Besides interviews were conducted in Pekanbaru, the capital of the Riau province, in the Pelalawan district, and in Palangkaraya the capital of the Central Kalimantan province. In total six interviews have been conducted in Pekanbaru and the Pelalawan district, whereas eight interviews were conducted in Palangkaraya. In addition, three interviews were conducted by Skype with respondents (temporarily) based in Australia and the EU. All interviews have been conducted with adequate representatives of their organization, however their statements have not been treated as being those of the organization itself (Ritchie et al., 2013).

The respondents that have been selected for an interview were for an important part government officials, since the Indonesian government formed the object of study for this research (see table 3). Thereby, we differentiate between the representatives from the different Indonesian Ministries and local government officials. They play an important role with respect to the research into the domestic arena, but were also interviewed with respect to developments in the international arena. Next to government officials, it has been specifically focused on organisations and industries that have been involved with the NAP and the ISPO Strengthening processes, such as the Indonesian Palm Oil Association (GAPKI (IPOA)), Non-Governmental Organizations (Ngo's) and academicians. Besides also representatives from smallholder organisations and individuals representing non-Indonesian and non-EU governmental organisations, were interviewed. With respect to the international arena, EU officials responsible for palm oil (negotiations with Indonesia) were in particularly interviewed.

The total number of respondents from various types of organizations is assumed to provide a thorough and comprehensive understanding of the creation of legitimacy for the ISPO by the Indonesian government.

Table 3: Type and number of respondents

Type of respondents	Number of respondents (44)
National government officials	10
Local government officials	3
Ngo's	13
Academicians	7
Industry	2
Smallholder organisations	3
Other governmental organisations	3
EU officials	3

3.5 Data interpretation methods

The interpretation of the collected data has been structured according to some of the following techniques. The data derived from in-depth interviews was first transcribed according to the recorded or written material, depending upon its availability. Afterwards the transcribed interviews were coded, according to the content wise contribution that each part of the interview provided. Thereby, the content was divided into relevance for the domestic and the international arena. Furthermore, theoretical and issue related tags were put, in order to establish a well-structured data set. In addition, with respect to the data derived from the academic literature and from document analysis, this data was extracted by careful scanning and reading of the respective texts in order to identify the parts most relevant for the research.

In the next step the data (from all different sources) was structured into chapters and sections. Thereby it was chosen to provide a three step theoretical analysis of the data. In chapters five and six the first step of analysis regarding the theory of *governance interactions* (see 2.3.1) is provided. Chapter seven then provides the second and third step of the analysis with respect to the theory on *legitimacy* (see 7.1) and *legitimacy games* (see 7.2).

3.6 Limitations

Several limitations to the research have been identified, for instance regarding the research design; the limited amount of time, the choice of research methods and the theoretical scope. With respect to the researcher, also several limitations needed to be taken into account such as; the skills of the researcher and barriers with respect to language and culture (Ritchie et al., 2013). In the following, it is aimed to account for these limitations.

3.6.1 Research design

Since the research concerned a master thesis, the time available for conducting this research has been limited to around six months, including a three month stay in Indonesia. In order to avoid time planning issues a detailed time plan was drafted for both the fieldwork and the analysis phase of the

research. Besides, it was taken care of to design the research question(s) appropriately (according to certain criteria outlined by Ritchie et al., 2013), in order to find adequate answers to the problem statement.

The choice for qualitative research has several limitations, such as the difficulty of showing causal relationships (Hughes & Sharrock, 1997) and the critical position of the researcher within qualitative research (Dowling, 2000). Nevertheless in the context of the research, qualitative research seemed to be most appropriate, in order to answer the proposed research questions and to fulfil the research objectives (see 3.1). Also with respect to the research methods that have been chosen, it is important to be aware of their limitations. Regarding the conducting of in-depth interviews, it has been complicated to confirm that respondents spoke the truth, or not tried to hide information (Ritchie et al., 2013). This was in particular true for the sensitive topic of 'sustainable Indonesian palm oil', that was studied in this research. Within the research it was attempted to account for this through the triangulation of sources and the use of smart interview techniques such as probing and the use of a pyramid type of interview structure consisting of content mapping and content mining questions (see 3.2.1). These methods have proven to effectively filter some 'false' information, in the context of the research.

The theoretical scope of this research concerned the creating of legitimacy by states, with respect to their instruments and the manoeuvres they use in a certain arena. In this research traditional state mechanisms to create legitimacy were combined with traditional non-state mechanisms to create legitimacy. However this is a novel idea that has not been tested yet, therefore it is well possible that other scholars will disagree with some of the findings of this study and it may therefore be limited in some respects. The same applies to the concept of 'legitimacy games', which was coined for the purpose of this research, further research will have to verify whether this concept is of use in other contexts as well.

3.6.2 Researcher

Because the research concerned qualitative research methods, another limitation for the research has been the position of the researcher and more specifically, my skills and experience in doing research (Ritchie et al., 2013). Although I had not been involved in such a long and complex research myself previously, a powerful research design, in combination with close guidance from my supervisors at CIFOR and Wageningen University has enabled me conducting the research. Besides, the training that I have had in smaller research and consultancy projects, including with respect to interviewing techniques and report writing, have helped me to perform successfully.

In addition, other barriers such as language and culture have been influential. For instance some of the respondents could only be interviewed in Bahasa Indonesia, while also some of the documents were only available in the Indonesian language. However, CIFOR has been an important help to overcome these challenges, for instance by providing me with useful contacts for my research. Besides, I was able to arrange a translator while I was conducting interviews at the district and provincial level, therefore I was able to bridge part of the language gap. Furthermore, I had learned some Bahasa Indonesia, in order to be better equipped for finding my way in Indonesia.

4. Setting the Scene

This chapter aims to set the scene with respect to the palm oil sector in Indonesia, which will prove to be essential, in order to understand the current attempts of the Indonesian government to create legitimacy for sustainable Indonesian palm oil and the ISPO.

Therefore this chapter draws attention to the regime complex of the palm oil industry, aiming to understand the ways the ISPO governance scheme is embedded. Particular attention will be paid to the composition of the Indonesian palm oil value chain and its historical background. Besides, the Indonesian context with respect to the processes of decentralisation and recentralisation and issues around the Indonesian land status and legality are discussed. Furthermore, attention is paid to the rise of global private governance. In addition, the developments with respect to the governing of Indonesian palm oil and especially the ISPO up till the start of the SPOI and Strengthening ISPO processes and the governmental responsibilities are described.

4.1 The palm oil value chain

Within this part attention is paid to; palm oil as a commodity, the historical development of palm oil production in Indonesia, and to the palm oil (global) value chain.

4.1.1 *Palm oil as a commodity*

The oil palm, *Elaeis guineensis* Jacq., is a member of the *Araceae* family, originating from West Africa (Corley & Tinker, 2008; Pacheco et al., 2017a). The optimal circumstances for the oil palm to grow are warm and wet conditions, with preferred temperatures in the range of 24–28 °C, and the average temperature during the coldest month of the year not falling below 15 °C (Corley and Tinker 2015; Pacheco et al., 2017a). Furthermore, oil palms require 2000–2500 mm of rainfall per year for optimal growth, with a minimum of 100 mm per month. Constraints to the oil palms growth include chemical (e.g. nutrient) and physical (e.g. water) soil deficiencies, however these can be (partly) overcome by irrigation and fertilizer application. Therefore, climatic conditions constitute the main factors determining land suitability for the oil palm. Hence, all suitable locations to grow oil palm are located in the tropics, of which the best include the amazons, parts of south east Asia (including Indonesia) and equatorial (west) Africa (Corley & Tinker, 2008). Therefore palm oil is referred to by the Indonesian government as a commodity at which Indonesia has a national advantage (FoKSBI, 2017).

Oil palms produce the palm fruits, referred to as fresh fruit bunches (FFB) the whole year round and have an economic life span of 25-30 years. Two types of vegetable oil are extracted from the palm fruit, crude palm oil (CPO) and kernel palm oil (KPO), which have different fatty acid profiles (Barcelos et al., 2015). Kernel palm oil consists of 82% saturated fat and is used for roughly the same purposes as coconut oil, such as cooking oil, margarine, soap and cosmetics. Its production accounts for only 10% of the total production of palm oil (Rival and Levang, 2014). Crude palm oil consists of half saturated and half unsaturated fat and is also used as a food additive (because of the lower saturated

fat percentage) and as a biofuel. Currently palm oil is an ingredient to over half of all supermarket products (Pacheco et al., 2017).

4.1.2 Historical development of palm oil production in Indonesia

The oil palm was introduced to Indonesia by the Dutch in 1848, then four oil palms were planted in the Kebun Raya (botanical garden) in Bogor. It is believed that the seeds originate from Africa but were produced in the botanical garden of Amsterdam (Corley & Tinker, 2008). After its introduction to Indonesia, the prodigy of these oil palms was spread throughout the country, mainly for decorative use, although as early as 1860 there had been some experimental commercial plots. The oil palms were named Deli-palm after one of these plots in Deli, Sumatra, furthermore these oil palms were characterised by a higher percentage of oil coming from their palm fruits compared to the African palms (Pamin, 1998).

However, it took until 1911 before the first oil palm plantation for commercial exploitation was established in Sumatra. In the next years the Asian oil palm industry, consisting of Indonesia and Malaysia continued to grow and it surpassed the African palm oil industry before the 2nd World War. In 1938 the plantation area of Indonesia had increased to 92 000 ha (Corley & Tinker, 2008). For Indonesia, the 2nd World War and the following struggle for independence slowed down the development of oil palm heavily and therefore Malaysia soon became the largest producer.

In Indonesia palm oil production did not yet increase rapidly in the 1960s. Palm oil areas were organised into large estate groups that were mainly publicly owned, called Perusahaan Negara Perkebunan (PNP). However, at the start of the 1970s, large investments from the World Bank and the Asian Development Bank were issued into these PNPs, resulting in an increase of the oil palm production area to 500 000 ha in 1985 (Corley & Tinker, 2008). The PNPs were reformed into state-owned-enterprises, Perseroan Terbatas Perkebunan (PTP) (Baudoin, Bosc, Bessou & Levang, 2017). Besides, private sector involvement increased through the establishment of Perkebunan Besar Swasta (PBS) (plantations cultivated by private sector companies). In addition, smallholders were incorporated through government supported schemes such as Nucleus Estate and Smallholder (NES) (McCarthy, 2010) and the linked transmigration program, called Perkebunan Inti Rakyat-Trans (PIR-TRANS) (Baudoin et al., 2017; Rival and Levang, 2014). Only between 1991 and 1996, the shares of the private sector and that of smallholders regarding the palm oil production had doubled (Corley & Tinker, 2008).

However, the Asian crisis of 1998 hit Indonesia and its palm oil sector heavily, in particular smallholders were effected since the government retreated from some of its smallholder funding schemes (Baudoin et al., 2017). The crisis and the political unrest, resulting in the fall of Suharto, also triggered a process of decentralisation (see 4.2.1), in which authority was transferred to the lower levels. Together with a resulting reform of export taxes for palm oil, this caused the production of palm oil to rise dramatically, especially at private companies. Since smallholders still had a hard time, the Indonesian government issued the Plantation Revitalization Program (PRP) (Direktorat Jeneral

Perkebunan, 2007). Resulting in a current rate of smallholder involvement of as much as 38% of the planted area for palm oil (Baudoin et al., 2017).

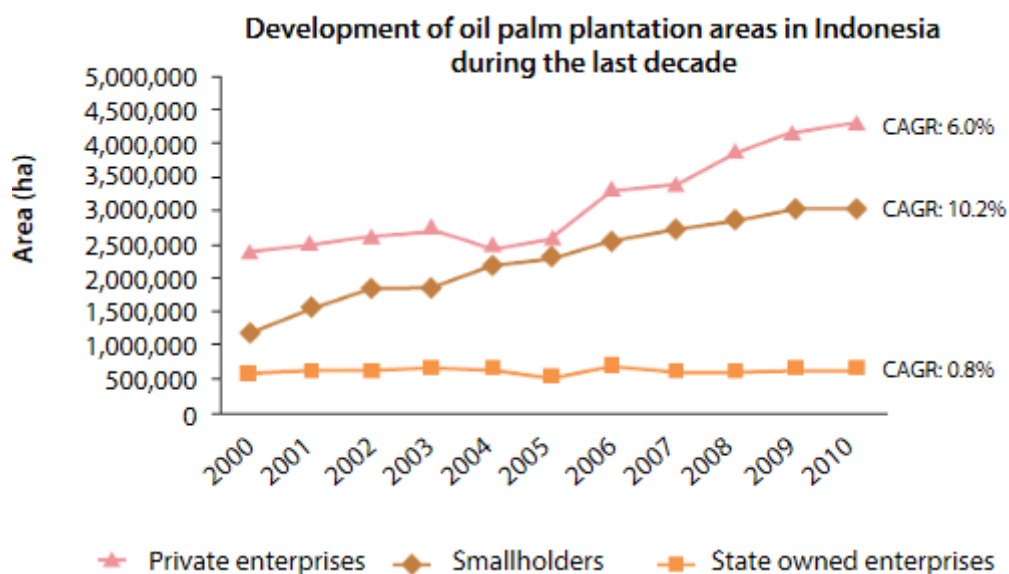


Figure 2. Oil palm plantation area in Indonesia during 2000-10 according to type of ownership. Retrieved from Baudoin et al (2017). Source: Tree Crop Estate Statistics 2010-2011 for Palm Oil Plantations by the Directorate General of Estates in PWC (2012). Note: CAGR (Compound Annual Growth Rate)

In 2007 Indonesia surpassed Malaysia as the world's largest producer of CPO (Baudoin et al., 2017). Indonesia is now both the largest producer (53% ¹) and exporter (53% ²) of palm oil in the world. Together with Malaysia, Indonesia produces 85% ³ of the world's palm oil (Pacheco et al., 2017a). For Indonesia, palm oil provides important economic benefits, since it is good for 17.4 billion United States Dollar (USD) annually ⁴ and 2.5 percentage of GDP (Palm Oil, 2017).

4.1.3 The palm oil (global) value chain

Within the following section, attention will be paid to the types of producers, the production process and the palm oil (global) value chain.

Types of producers

Palm oil production is exercised by three groups, namely private enterprises, smallholders and state owned enterprises (also see figure 2). In particular the private enterprises manage palm oil plantations of hundreds or even hundreds of thousands of hectares. Whereas smallholders are defined by owning plots of less than 25 hectares (ISPO definition) (Pacheco et al., 2017). In addition, smallholders can be divided in at least two groups, namely independent smallholders and plasma smallholders (or NES). Plasma smallholders engage in a partnership with a company that provides them with land and a fixed price at which they are able to sell their FFB to the company. Independent smallholders however, do not engage in any form of partnership or contract and are free to produce and sell their FFB. In order to strengthen their position (independent) smallholders often engage in a form of smallholder *koperasi* (cooperative) (also see Annex 4) (Personal Conversation Palangkaraya

University, 2017; Personal Conversation Riau University, 2017; Personal Conversation APKASINDO, 2017; Personal Conversation Amanah, 2017).

The production process

As mentioned before, oil palm trees have a (productive) life span of 25-30 years. However, the oil palms only start producing the FFB after three years and the maximal production is reached after seven years (Pacheco et al., 2017a). In addition, the productivity of the oil palm depends heavily on the type of seeds that are used and the type of pesticides and agricultural practices that are used during its life cycle. Private enterprises often use the best quality seeds, while (independent) smallholders have only access to low quality seeds and pesticides or lack the knowledge to apply good agricultural practices (GAP) (Personal Conversation Riau University, 2017; Personal Conversation CPO Fund, 2017).

When the palm fruits are harvested, the FFB need to be transported to a plantation company or independent mill quickly because of the rapid deterioration of the fruits, therefore the distance of transportation is limited to around 50-100 kilometres from the site of production (Pacheco et al., 2017a). For smallholders however, it is often not viable to sell directly to a mill because of the small quantities they produce and the costs of transportation. Often *middle man* are used that function as brokers between the smallholders and the mills (Pacheco et al., 2017a; Personal Conversation Riau University, 2017). After the FFB is milled, the resulting CPO is transported to oil palm refineries, that are located at the main export ports. More and more the refining of palm oil is done within Indonesia itself, and therefore more of the added value of the product is captured by the Indonesian economy. After the refining process however, two thirds of the CPO leaves Indonesia as an export product to the main export markets India, China and the EU (Baudoin et al., 2017). At this places the CPO is manufactured into consumer products such as shampoos, food, and biofuels which end up in the supermarkets.

The palm oil (global) value chain

Although palm oil production is executed by millions of smallholders and hundreds of palm oil companies, fewer firms engage in the milling and refining of CPO. The five major conglomerates in Indonesia control about 60% of the national production, but their market share in processing and trade reaches about 90% of total supply (AgroIndonesia, 2015). Unlike in most industries, the retailers and manufacturers that are responsible for the international trade and processing of CPO are multiple. One of the biggest consumer of palm oil is Unilever, however it only consumes about 4% of the total world supply of palm oil (Pacheco et al., 2017a).

Currently, palm oil accounts for more than one third of the production of vegetable oils worldwide (Rival and Levang, 2014). Besides, the productivity of palm oil is much larger than that of any other vegetable oil crop, such as soybean, sunflower and rapeseed (Pacheco et al., 2017a). Palm oil namely produces 39% of the world's vegetable oils on 7% of the land used for producing these crops. Besides, the production costs of palm oil are the lowest, which makes it one of the most profitable cash crops (Rival and Levang, 2014).

4. 2 The Indonesian context

In the following part the Indonesian context with respect to land rights is discussed. Particular attention is given to the processes of decentralisation and recentralisation, and the current legal status. In addition, the rise of global private governance and the Indonesian governmental regulations and programs are discussed.

4.2.1 Land rights

In pre-colonial times, land rights in Indonesia were based on the traditional *adat* (customary) rights (Kariomedjo., n. d.). These include both individual rights and collective or communal rights within the local society, which are often not inherited. From 1870 on the Dutch colonial government took the first step from an exploitation colony towards a settler colony with the adoption of the 1870 'Agrarische wet' (Agrarian Law) and the 'Agrarisch Besluit' (Agrarian Decision). This enabled private entrepreneurs to acquire agricultural 'erfpacht' (ground lease) for plantation development. One of the questions that arose was which ground may be released (Personal Conversation Independent, 2017a) A solutions was found in a sort of rights dualism in which only European ground had official rights and the local people continued to use the *adat* rights (see van Vollenhoven et al., 2013). After the independence, the rights dualism was seen as discrimination and in 1960 Sukarno's Undang-Undang Pokok Agraria (Agrarian Basic Law (UUPA)) was enforced. This law partly referred to *adat* rights, but is also based on individual rights that are inherited. It attempted rights unification (the uptake of all ground in the cadastre), and because of communism gave the state a central role in administering land rights (Personal Conversation Independent, 2017b). However, this law has never been fully implemented, since the parliamentary decision was rather vague and ministerial decisions to safeguard the implementation lacked. In addition in 1968 Soeharto came into power and reinterpreted the UUPA, this caused chaos since the ADAT right was not uniformly acknowledged and people could lose their land easily. Besides, the importance of the UUPA was diminished through the issuing of the Forest Law in 1967, this law diverted the responsibility of 70% of Indonesia's lands with the forest status to the Directorate General of Forestry, under the Ministry of Agriculture. In 1983 the Ministry of Forestry became an independent ministry governing the Indonesian lands with the forest status (Personal Conversation Independent, 2017a; Personal Conversation Dinas Kehutanan Kalteng, 2017; Personal Conversation USAID Lestari, 2017; Personal Conversation Kementraan, 2017).

Decentralisation

After 1998 as Suharto had fallen, Indonesia was in desperate need to safeguard the unity of the national state and to prevent secession of provinces like Aceh and Papua. Therefore in 1999 decentralisation laws were passed on at the parliament and executed in 2001 (see Ardiansyah, Marthen & Amalia, 2015). With this, many responsibilities were transferred to the districts (Kabupaten). Also with respect to land rights a large portion of responsibilities moved to the district (Personal Conversation Independent, 2017a). However, especially due to the speed of this decentralisation procedure and the lack of safeguards, new earned responsibilities including the

issuing of land permits were often used for political purposes (Bakker & Moniaga, 2010). In addition, the decentralisation laws lacked sufficient implementation guidance, causing ambiguity. Also the line of reporting of the district land issuing offices changed towards reporting to the Bupati instead of to the national government, opening up further opportunities for the establishment of parallel maps, next to the existing cadastre. This is one of the reasons that multiple land rights are being used locally and nationally, which form a cause for conflict. In particular between 2001 and 2007, the hierarchy was taken away, and districts decided everything on their own (Personal Conversation Independent, 2017a). This situation ended with the Law on Regional Administration, number 23 of 2014, which brings most of the authority of districts to the provincial level.

Recentralisation

Although it was impossible for the national government in Jakarta to stop the decentralisation entirely, via implementation regulation and changes in the decentralisation laws much of the decentralisation has been reversed. This was executed through a recentralisation process, for which in particular the Spatial Planning of 2007 was important (Ardiansyah et al., 2015; Personal Conversation Independent, 2017a). With respect to legality in Indonesia, it is still disputed what to do with the land rights acquired in between 2001 and 2007 according to the local authorities as compared to the national cadastre.

Another part of the recentralisation process is the transferring of some responsibilities, especially with respect to monitoring and coordination, from the districts to the provincial level. However, in many of these cases it concerns deconcentration, responsibilities are handed over while the final decision making power is captured at the national level. Also the registration of land rights is a matter of deconcentration (Ardiansyah et al., 2015). Local offices of the Ministry of Agrarian Affairs and Spatial Planning and the National Land Agency (ATR/BPN), and provincial offices of the Ministry of Forestry have a pure administrative task to keep up with the cadastre. The issuing of land rights is currently a national responsibility. The provincial plan and district level plan must now coincide with the national level plans (Personal Conversation Independent, 2017a; Personal Conversation Dinas Kehutanan Kalteng, 2017).

The current legal status

The current division of land status in Indonesia is the following, with 70% of the lands having a forest status and being managed by the Ministry of Forestry (now Ministry of Environment and Forestry) under the Forestry Law and the other 30% of the land having the APL (other land use) status and managed by BPN under the Agrarian Basic Law (Personal Conversation Independent, 2017a; Personal Conversation Dinas Kehutanan Kalteng 2017; Personal Conversation USAID Lestari, 2017; Personal Conversation Kementraan, 2017).

The rights unification, already attempted by the Agrarian Basic Law of 1960, has not really been able to cut edge, overall registration has been slow and complicated and all the land with the forest status could not be registered within the cadastre. Therefore, much of the administration with respect to land rights is messy. Often its land status is not accurate with recent changes, besides different

claims backed up by different maps exist or land simply has no legal basis because of illegal encroachments (Personal Conversation Dinas Kehutanan Kalteng 2017; Personal Conversation USAID Lestari, 2017). Then there are also conflicts regarding the *adat* rights. Although the Indonesian Constitutional Court in 2012 ruled to take out the *adat* forest from the state forests, most of the cases at the Indonesian courts deal with land issues. Besides civil claims are being criminalised so the police can settle these, as it happens this is often in favour of the highest bidder (Personal Conversation Independent, 2017a; Bakker & Moniaga, 2010).

Inter-ministerial and inter-level legality conflicts

Between some of the ministries and also between government agencies at different levels, land legality is a fuel for conflict. At the ministerial level this in particular concerns the Ministry of Environment and Forestry and the National Land Agency (Personal Conversation Dinas Kehutanan Kalteng, 2017; Personal Conversation USAID Lestari, 2017; Personal Conversation Dinas Perkebunan Kalteng, 2017). These ministries namely disagree on which map to use for the demarcation of the forest area (managed by the Ministry of Environment and Forestry) and the APL area (managed by the National Land Agency). The situation is further complicated because in reality the forest area has been intruded by communities, oil palm smallholders and companies since there has been a lack of law enforcement (Personal Conversation WWF Sumatra, 2017).

A further complication arises at the provincial and district level, such as for instance in Central Kalimantan, where several Bupati's and the Gubernur attempt to change the land status of a vast amount of land from the forest towards the APL status (as part of the provincial spatial planning). At the national level this attempt is supported by the National Land Agency and by the Indonesian president, but the Ministry of Environment and Forestry is reluctant to deviate from its official procedures (see 7.2.1.1 and 7.2.1.2). (Personal Conversation Dinas Kehutanan Kalteng, 2017; Personal Conversation Dinas Perkebunan Kalteng, 2017; Personal Conversation GGGI, 2017; Personal Conversation USAID Lestari, 2017). With respect to palm oil a change of the land status of part of the forest area into the APL area would legalise the now illegal palm oil production in these areas and enable the certification of these lands by the ISPO (Personal Conversation USAID Lestari, 2017).

4.2.2 The rise of global private governance

Over the last decade there is a worldwide trend representing a shift from government to governance and from public authority towards private authority (Arts, 2006; Gabrosky, 2013). With respect to the governing of Indonesian palm oil, the most noteworthy event is the establishment of the RSPO in 2004. Global private governance or value chain governance with respect to palm oil, has been triggered by sustainability concerns regarding the production of palm oil and the deforestation and environmental degradation associated with it, according to (inter)national Ngo's. Consequently, international retailers were urged to ensure that the palm oil they imported was 'sustainable'. Therefore the RSPO was established as a certification scheme for sustainable palm oil (Hospes, 2014; Ivancic & Koh, 2016).

Private governance schemes are voluntary however, on their own they have not yet been able to change the palm oil sector into a completely sustainable system. Besides, the government of Indonesia has over the last years renewed its effort in governing the Indonesian palm oil sector through a set of regulations and programs, in particular through the ISPO. In the next section these governmental regulations and programs are discussed.

4.2.3 Governmental regulations and responsibilities

Within this section attention is first paid to the establishment of the ISPO and its current status. Afterwards the organisational structure and responsibilities of the Indonesian government are discussed, in particular the most relevant governmental programs with respect to the governing of Indonesian palm oil are described briefly.

4.2.3.1 The establishment of the ISPO

According to the three former chairs of the ISPO, governmental thinking about establishing an Indonesian certification scheme for sustainable Indonesian palm oil started at least as early as 2008 (Personal Conversation FS2FB, 2017; Personal Conversation RSPOI, 2017). Then in 2010 at the annual meeting of the RSPO the Minister of Agriculture announced the launch of the ISPO (Hospes, 2014; Schouten et al., 2011). This eventually took place in 2011 according to regulation number 19 of the Ministry of Agriculture. In 2015 a first process of revision has been finalised, in which minor changes were made and the latest regulations were included into the ISPO, according to Ministry of Agriculture Regulation number 11/2015 (Principles and Criteria ISPO, 2015).

Certification

The ISPO combines about 200 laws and regulations, from all ministries involved with palm oil, in its seven principles and 46 criteria (Personal Conversation RSPOI, 2017; Principles and Criteria ISPO, 2015). It is governed by the ISPO Commission, while the daily workload is executed by the ISPO Secretariat (for an elaborate discussion of the ISPO's organisational structure see 5.2.4.1). Since the ISPO scheme consists of governmental laws and regulations, becoming ISPO certified is mandatory for plantation companies. Under the current scheme, certification is still voluntary for smallholders until 2020, afterwards they must become certified as well. Plantation companies do need to comply with all of the seven principles of the ISPO before they can become certified. Plasma smallholders do have to adhere to six of the seven ISPO Principles, excluding principle three regarding the protection of conservation areas within their estate. If a company receives ISPO certification it has the duty to ensure the certification of its plasma smallholders within two years and also provide for the training and costs that are involved. Independent smallholders need to meet four of the ISPO Principles, additionally excluding the principles five and six on responsibility to workers and social responsibility and community economic empowerment (Personal Conversation Riau University, 2017; Personal Conversation Palangkaraya University, 2017). Currently (as of April 2018) 617 Indonesian companies have been ISPO certified, whereas only two smallholder groups have been certified yet (ISPO, 2018). Besides, both the governing of the palm oil sector (through the NAP) and of the ISPO (through the ISPO Strengthening process) are being revised (see chapter 5).

4.2.3.2 Indonesia's governmental structure

Indonesian regulations can take different forms that determine their strength and legitimacy. The hierarchy is as follows; the Constitution, an Act of parliament, the law and finally a governmental regulation. Governmental regulations can be broken down further into regulations ordered by the government, the president or by a particular ministry. Regulations ordered by the president can take the form of a presidential regulation, this requires all ministries that are involved with a certain issue to implement the presidential regulation accordingly. Then there are also presidential instructions, this is a slightly weaker instrument which calls (a) specific ministr(y)(ies) to implement (part of) the instruction. Therefore the presidential instruction does not (like the presidential regulation) form an overarching layer of authority for all ministries, but purposefully points to certain ministries to implement a presidential order. Provincial and district regulations are the highest regulations at the provincial and district level. Followed at the provincial level by a regulation ordered by the Gubernur and at the district level by a regulation ordered by the Bupati.

With respect to the regulations relevant to palm oil, the Peatland Moratorium concerns a governmental regulation. The Tanah Objek Reforma Agraria (TORA) (Agrarian Reform program) is a presidential regulation, while also the ISPO Strengthening process aims to become enforced with a presidential regulation. The Forest Moratorium is according to a presidential instruction and also the National Action Plan (NAP) attempts to be enforced with a presidential instruction (FoKSBI, 2017).

Peatland Moratorium

The Peatland Moratorium, regulated under Governmental Regulation 57 of 2016 prohibits the conversion and degradation of the hydrological functions of any peatland (thus not only peatland below three meters depth) in Indonesia (Government of Norway, 2016). With respect to palm oil, the adoption of the moratorium into the revised ISPO, could mean that all palm oil companies that are on the peatland are excluded for ISPO certification. Therefore, it is still debated whether the moratorium also accounts for historical acts or only for future concessions (Personal Conversation GAPKI Kalteng, 2017; Personal Conversation Riau University, 2017).

TORA

The TORA, regulated by the Presidential Regulation 88 of 2017 aims to allow 12.7 million hectare of land to be used by indigenous people and 9 million hectare as object for agrarian reform (The Jakarta Post, 2017a). Out of this land a considerable amount is to be given to (independent) palm oil smallholders in order to acquire a legal land status, in order to be able to become ISPO certified (Personal Conversation CPO Fund, 2017; Personal Conversation Kementraan, 2017).

Forest Moratorium

On 20 May 2011, the government of Indonesia released Presidential Instruction No. 10/2011 on The postponement of issuance of new licences and improving governance of primary natural forest and peatland (CIFOR, 2011). With respect to palm oil, the extended forest moratorium prohibits the

issuing of new licences to plant palm oil to plantation companies, however existing permits can still continue their procedure. Since the land status of the forest area is sometimes unclear, the exact details of the Forest Moratorium are still under debate (CIFOR, 2011; Personal Conversation CIFOR, 2017b; Personal Conversation EFI, 2017).

Ministerial regulations

There are several forms of ministerial regulations. Each of the Indonesian ministries has their own mandate to govern a certain issue area and order ministerial regulations. With respect to palm oil and the palm oil industry a number of different ministries is involved. The Indonesian ministries have been organised on a sectoral basis, resulting in overlapping responsibilities, poor communication and collaboration and outright competition between some of the ministries (McCarty et al., 2010; Personal Conversation Daemeter, 2017; Personal Conversation Independent, 2017a). Regarding the palm oil sector, the Ministry of Economic Affairs functions as the coordinating ministry that coordinates several other ministries, most noteworthy the Ministry of Agriculture, the Ministry of Environment and Forestry, the Ministry of Industry and the Ministry of Agrarian Affairs and the National Land Agency. Therefore the Ministry of Economic affairs is also responsible for the Strengthening ISPO process however, also other ministries have their responsibilities in the implementation.

The Ministry of Agriculture

The Ministry of Agriculture, through the Directorate General (DG) of Estate Crops has the responsibility over the 'on farm' palm oil production. As mentioned before, the Ministry of Agriculture is also the owner the ISPO scheme. Besides, the smallholders palm oil association APKASINDO was established under the Ministry of Agriculture and is still supported by it.

The Ministry of Environment and Forestry

The Ministry of Environment and Forestry is a combination of the formerly independent Ministry of Environment and the Ministry of Forestry. The main responsibility of the Ministry of (Environment) and Forestry is the management of almost 70% of the Indonesian land having the forest status. This land is again divided into four subcategories; the conservation area, the protection area, the production area and the conversion area (Personal Conversation Dinas Kehutanan Kalteng, 2017). None of these categories is set apart for palm oil growing of any kind, neither by plantation companies nor smallholders. However since there are many illegal encroachment into the forest area (particularly by smallholders) it (partly) is the responsibility of the Ministry of (Environment) and Forestry to solve this. Therefore the Ministry of Environment and Forestry, has a specific DG focussing on law enforcement. This DG needs to take care of Act (Undang Undang) 18 of 2013 about Law enforcement Prevention and Eradication of Forest Destruction (Personal Conversation Kementraan, 2017).

Besides, the Ministry of (Environment) and Forestry is since 2010 in the process to coordinate its land disputes with other ministries and provincial and district level actors aiming to come to a unified

map, the so called One Map Policy, displaying both the land status and land use that is accompanied by formal rights (Personal Conversation Dinas Kehutanan Kalteng, 2017; Personal Conversation USAID Lestari, 2017). Furthermore the Ministry of (Environment) and Forestry oversees the *Social Forestry Program* (Ministerial Regulation 83 of 2016). This program aims to give communities access to the forests, and provides an alternative to the illegal planting of oil palm in the forest area since it allows for the production of forest commodities such as, coffee and (non)timber products (depending on the type of forest area) (Personal Conversation Kementraan, 2017). Then also the Ministry of Environment and Forestry will be responsible for part of the implementation of the (Strengthening) ISPO (and NAP) (see 5.1.4 and 5.2.4).

The other ministries

The Ministry of Industry is responsible for the 'off farm' part (downstream industry) of the palm oil value chain. That includes for instance the refining of the CPO as well as the industrial structure and the issuing of export levies and taxes (Personal Conversation MoI, 2017).

Then, the National Land Agency is the agency that manages the Indonesian land having the APL (other land use) status (which accounts for 30% of the total land area) under the Agrarian Basic Law. Besides, it hands out the Hak Guna Usaha (Land Cultivation Rights Title) permit for companies and the *Sertifikat Hak Milik* (SHM) (freehold title) for smallholders (Personal Conversation Riau University, 2017).

Another important agency for governing Indonesian palm oil is the CPO Fund (Badan Pengelola Dana Perkebunan Kelapa Sawit), which is led by a public service agency under the Ministry of Finance. The CPO Fund has as its task to collect and manage the funds acquired through palm oil production, particularly resulting from the export levy on palm oil. More than 85% of its budget until 2017 was spent on subsidising Indonesian biofuel. Whereas part of the remaining budget is spent on smallholder support programs such as the *replanting program* (Personal Conversation CPO Fund, 2017). This program provides (independent) smallholders with a grant in order to enable them to replant their plots with oil palms after their production cycle has finished. It is specifically focused on farmers with a sound legal status in order for them to become ISPO certified within two years of the program's start (Personal Conversation CPO Fund, 2017).

Regarding the international affairs related to palm oil, the Ministry of Trade is responsible for an important part of the advocacy about the ISPO. Besides the Ministry of Trade is in the lead with respect to the negotiation of the CEPA agreement with the EU (Personal Conversation Indonesian Embassy, 2017; Personal Conversation EU, 2017; Personal Conversation RSPOI, 2017). Together with the Ministry of Foreign Affairs it is responsible for maintaining good relations abroad concerning palm oil. In addition, the Ministry of Trade is also responsible for domestic trade (in palm oil).

Sub-national level(s)

Finally, some authority regarding the governing of palm oil remains with the sub-national level, respectively the province (governed by a Gubernur) and the district (governed by a Bupati). However,

as mentioned in section 4.2.1, most of the decision-making power stays at the national level, while only the administrative tasks remain at the provincial and district levels. With respect to achieving legality for palm oil production, some of the required permits are still issued at the district level, such as the plantation permit for companies and the land legality permit for smallholders (see Annex 4).

5. The Domestic Arena

In this chapter the governance interactions and motivations of the Indonesian government at the domestic arena are described, thereby it is focused on the National Action Plan (NAP) (as part of the Sustainable Palm Oil Initiative (SPOI) and ISPO strengthening processes. The chapter aims to provide insights into the attempts of the Indonesian government to create legitimacy for Indonesian palm oil and in particular for the ISPO. First the SPOI and then the ISPO Strengthening process is addressed. In conclusion it is reflected upon the relation between the two processes.

5.1 Sustainable Palm Oil Initiative

Starting in late 2012, the Ministry of Agriculture, the United Nations Development Program (UNDP) and several multinational companies partnered to develop the Sustainable Palm Oil Initiative (SPOI) (ISPO, 2013). The SPOI aims to foster sustainable palm oil production while reducing deforestation and bringing about a structural change in the palm oil sector (UNDP, 2012). Under the SPOI several programs were set up in order to achieve its goals. Including the creation of a national palm oil platform in which a national action plan could be drafted. Besides, the SPOI supported (a study into) the collaboration between the ISPO and RSPO (see Annex 5). Furthermore, it facilitated the certification of the Amanah smallholders to be the first ISPO certified smallholders (see Annex 4) (Personal Conversation MoA, 2017; Personal Conversation UNDP, 2017; Personal Conversation IFC, 2017).

In the following part it is focused on the national action plan under the SPOI process, first the process including the interactions between the different actors involved is sketched. Afterwards; the motivations of the Indonesian government, a reflection on the process, and the effects of interaction are discussed.

5.1.1 The National Action Plan

On the 9th of September 2014, UNDP together with the Ministry of Agriculture, established the FoKSBI National Action Plan (NAP) process, as a part of the SPOI (Personal Conversation MoA, 2017; FoKSBI, 2017). FoKSBI stands for Forum Kelapa Sawit Berkelanjutan Indonesia, which was formerly referred to by its English translation; Indonesian Palm Oil Platform (InPOP). Within this forum different palm oil stakeholders met each other to agree on a NAP (Personal Conversation CIFOR, 2017a; Personal Conversation WWFI, 2017a). UNDP initiated and facilitated the NAP both with a working team and through their funding, in collaboration with the Ministry of Agriculture that was in the lead. A root cause analysis of the most pressing challenges for the palm oil sector was conducted. Afterwards, the Ministry of Agriculture decided on the forming of four working groups that would cover the root causes identified (Personal Conversation CIFOR, 2017a; Personal Conversation MoA, 2017). These four working groups include: (1) Developing smallholder capacity; (2) Environmental Monitoring and Management; (3) Improved Governance and Conflict Resolution; and (4) ISPO certification and Market Access of ISPO certified products (FoKSBI, 2017). It was decided to let every

working group being chaired by a representative of the Ministry of Agriculture with a vice-chair of another relevant ministry (Personal Conversation MoA, 2017). In addition, other stakeholders including development organizations, Ngo's, private sector companies and academicians were invited into a working group, according to their expertise (Personal Conversation CIFOR, 2017a). Furthermore, in early 2015 a steering committee was established, which consisted of the representatives of the Directorate Generals (DG's) from different ministries with a key role regarding the palm oil sector. These DG's are also responsible for the implementation of the NAP by their respective departments (Personal Conversation Daemeter, 2017).

A launching event was organised at which the start of the FoKSBI NAP process was celebrated, within this forum the different stakeholders were able to meet each other (Personal Conversation CIFOR, 2017a). In the course of 2015 the different working groups met several times in order to discuss the goals and actions that needed to be achieved. Later in 2016, also a few joint meetings between different working groups took place. In late 2016, a drafting team consisting of the core members of the working groups started to combine the output (Personal Conversation CIFOR, 2017a). The members of the drafting team included representatives from different ministries, however also other actors such as a representative from APKASINDO and Daemeter were involved (Personal Conversation Daemeter, 2017).

Based on the sixth draft version of the NAP, in between July and September 2017 four provincial consultations were organised in respectively Riau, South Sumatra, North Sumatra and West Kalimantan. In addition a national Ngo consultation was held in Jakarta as well as webinar consultations with European and US Ngo's and the Consumer Goods Forum (CGF) (FoKSBI, 2018a). For the online (international) consultation the deadline was postponed by two months until November 2017 (FoKSBI, 2018b). After these consultations, the recommendations and inputs were processed by the drafting team in December 2017 (Personal Conversation Jikalauhari, 2017; Personal Conversation Daemeter, 2017). In January 2018 a National Action Plan Public Consultation Report was published by FoKSBI that discusses some of the feedback received (FoKSBI, 2018b). *"In total over 500 people representing more than 100 organisations in Indonesia and overseas have provided input"* for the NAP (FoKSBI, 2017 p. 10).

As it is noted in the sixth draft of the NAP still, the original planning for the NAP was for it to be enforced with a presidential instruction, by the end of December 2017 (however, since the consultation period was extended also the work of the drafting team was delayed, therefore the NAP is not yet enforced). Its implementation was scheduled to start from January 2018 and would be valid for a period of five years until 2023 (FoKSBI, 2017; Personal Conversation MoA, 2017; Personal Conversation Daemeter, 2017). After the NAP is being enforced (by a presidential instruction) the steering committee will resign and a monitoring team will be formed. FoKSBI will continue to function as a platform for actors to discuss issues related to the NAP over this period. However, UNDP will withdraw from FoKSBI in 2021 and new donors would be essential for its implementation (Personal Conversation MoA, 2017).

In addition, it is aimed to build similar platforms in each of eighteen of the palm oil producing provinces and at the district level, in order to develop provincial and district action plans. In the Riau province, a provincial platform has already been established (Personal Conversation MoA, 2017; Personal Conversation Plantation Agency Riau, 2017). Also in the Riau, Pelalawan district a platform is established and has met several times, discussing about replanting and seed procurement and the costs related to this (Personal Conversation Amanah, 2017). In order to accomplish the establishment of such provincial and district level platforms however, responsibilities still need to be defined and moreover funding and capacity will prove to be severe challenges (Personal Conversation MoA, 2017).

5.1.2 Motivations and drivers

In the forewords to the sixth draft of the NAP, written by the Director General of Plantations of the Indonesian Ministry of Agriculture, the Deputy Minister Food and Agriculture of the Coordinating Ministry for Economic Affairs and a FoKSBI platform advisor, it is stressed multiple times that palm oil is of huge economic importance (FoKSBI, 2017; Personal Conversation CIFOR, 2017a). Because of its ability to generate export revenues that contribute to the prosperity of the nation and in particularly benefit regional and community level employment in the palm oil sector (FoKSBI, 2017; Personal Conversation CPO Fund, 2017; Personal Conversation GAPKI, 2017).

According to the Deputy Minister Food and Agriculture of the Coordinating Ministry for Economic Affairs, the NAP *“is intended to be one of the initiatives that will play a role in transforming the (palm oil) sector,”* also the NAP will coordinate much of the programs focusing on developing a more sustainable palm oil sector (FoKSBI, 2017 p. 3). The NAP is thus intended to contribute to a better coordination of the governing of Indonesian palm oil among all the stakeholders and particularly the Indonesian ministries, in order to navigate the density of governance schemes (Personal Conversation Daemeter, 2017). It therefore also defines which actors are responsible for a certain action (Personal Conversation CIFOR, 2017a; FoKSBI, 2017). The NAP will furthermore *“serve as an action and recommendation document for implementation by the national and regional governments”, “it is hoped that the NAP will become part of the governmental law in the form of a Presidential Instruction”* (FoKSBI, 2017 p. 10).

Besides what is mentioned is the need to sustain palm oil as a national sector for Indonesia (and for generations to come). It is therefore in Indonesia’s national interest and in line with Indonesia’s national policies to start the ISPO Strengthening and NAP processes (Personal Conversation MoA, 2017; Personal Conversation UNDP, 2017). At the other hand, (inter)national criticism regarding the palm oil industry is argued to be a treat to the ability of the sector to sustain itself, therefore a national action plan for the palm oil sector was needed (Personal Conversation Daemeter, 2017). Also by setting up FoKSBI as a multi-stakeholder forum to discuss about a NAP, the governments’ (and other stakeholders’) commitment to create a more sustainable palm oil sector is being demonstrated (FoKSBI, 2017; Personal Conversation Indonesian embassy, 2017).

The question remains however, why the process to draft a NAP was exactly formed like it is currently and which factors contributed directly to its establishment. One explanation is that the Ministry of Agriculture was at the time very willing to take the lead in the NAP process, since it provided them with the opportunity to coordinate more of the palm oil sector (Personal Conversation Mol, 2017; Personal Conversation Kehati, 2017) and to engage with other (governmental) actors that did have responsibilities towards palm oil. According to the Ministry of Agriculture and all of the current and former ISPO directors, there was a lack of interest from other governmental actors to engage in collaboration over particularly the ISPO (Personal Conversation MoA, 2017; Personal Conversation RSPOI; Personal Conversation CPO Fund, 2017; Personal Conversation FP2SB, 2017). In addition, the implementation of solutions to all of the challenges for the ISPO was lagging behind at the time (Personal Conversation RSPOI, 2017; Personal Conversation CPO Fund, 2017). Therefore, exactly these challenges were formulated as the goals the NAP had to find solutions for respectively, addressing legality, developing smallholder capacity, strengthening sustainability standards, improving conflict resolution and the market acceptance of the ISPO (FoKSBI, 2017). In conclusion, the motivations to establish the NAP show a mixture of systemic drivers and actors interests. During the NAP, these multiple motivations continued to play a role in shaping its outcome.

5.1.3 Reflection on the process

In the previous section the motivations to establish the NAP were discussed, whereas in the current part the focus is on mechanisms and pathways and the character of interaction (see Eberlein et al., 2014) that shaped the NAP during the process.

One of the things that determined the NAP process is the institutional setting that was established by the Ministry of Agriculture. Just as Eberlein et al (2014) argue, the institutional settings guide possible interactions and outcomes. This was also prevalent in the NAP process, since the participating actors were (at first) only allowed to contribute to the working group they were invited into (Personal Conversation SPKS, 2017). In addition, these regulatory settings were determined upfront by the Ministry of Agriculture. While the same ministry chaired all working groups and led the steering committee. Because of these institutional settings, the influence of the Ministry of Agriculture, as compared to other actors was remarkable. At the other hand, the NAP process was fully enclosed during the (inter)national consultations. The institutional settings were thus very different in the distinct parts of the NAP process.

Character of interaction

For the bigger NAP process its main goal is to coordinate the existing regulations among different ministries with respect to palm oil (FoKSBI, 2017). Therefore the NAP aims to become enforced with a presidential instruction to be able to use this authority for a hierarchical form of coordination. At the actor level however, actors inhibit different interests to be included within the NAP. Therefore, at this level interaction was often characterised by competition as well. Section 7.2 elaborates on the analysis of the NAP process regarding the use of legitimacy instruments.

5.1.4 Effects of Interaction

The content as according to the sixth draft of the NAP, includes some notes on the pre-conditions and cross cutting issues that would need to be addressed before going into the content of the different working groups. The *pre-conditions* that are distinguished are respectively; access to funding, coordination between the government ministries and legal compliance (Personal Conversation CIFOR, 2017a; FoKSBI, 2017). With respect to access to funding, the State Budget (APBN) as well as the Provincial and District Budget (APBD) and the BPD PKS are pointed towards from the governmental side. Besides, private sector Corporate Social Responsibility (CSR) budgets and possibly donor organizations (if unconditional and appropriate) are considered. Regarding the coordination between government ministries it is stated that policies and regulations must become harmonised and data synchronisation and information sharing across ministries and departments should be improved. In addition, the government must be diligent in acting against any legal non-compliance (FoKSBI, 2017).

Three *cross cutting issues* are identified in the NAP. The first is the *development of a smallholder database*, this would among others include data on smallholders' location, legality and productivity (FoKSBI, 2017). An accurate and comprehensive data base does not yet exist while such data is deemed important for the distribution of subsidies (of fertiliser and other inputs, replanting costs), the provision of information and awareness raising and training programs (Personal Conversation Riau University, 2017; Personal Conversation CIFOR, 2017a).

The second issue is to *increase the awareness raising among oil palm smallholders* (and other key stakeholders), because of a lack of knowledge about existing governmental regulations regarding Sustainable Palm Oil (SPO). Therefore an awareness raising program for smallholders must be set up and coordinated in the palm oil producing districts (FoKSBI, 2017; Personal Conversation Plantation Agency Riau, 2017; Personal Conversation IFC, 2017).

The third cross cutting element is *improved law enforcement within the palm oil sector*. This is believed to enhance the credibility of the Indonesian palm oil sector internationally, resulting in an increase in market acceptance of Indonesian palm oil (Personal Conversation Kehati, 2017). The particular regulations that have been identified are respectively"; (1) the processing of business licences and land use licences that are not yet according to regulations; (2) land occupation; (3) Fresh Fruit Bunch, CPO and other product theft; (4) price discrimination; (5) fake oil palm seeds, fertiliser and pesticides, and (6) land clearing using fire (FoKSBI, 2017)."

5.1.4.1 Developing smallholder capacity

Under the first component of the NAP, which is in particular targeting smallholders, several goals were formulated of which the first is *about increasing smallholders use of certified seeds* (FoKSBI, 2017). The idea is that better seeds contribute to a higher productivity leading to intensification of production which could also benefit social and environmental sustainability aspects, such as a higher income for the smallholders and less incentive to develop new plantations (Personal Conversation, Riau University, 2017; Personal Conversation Daemeter, 2017). In order to realise this goal, training

must be provided to smallholders and the selling and buying of certified seeds needs to be supported, however the last being conditional on a clear legal land status of the smallholders (FoKSBI, 2017; Personal Conversation CPO Fund, 2017).

A second goal is the *increase of training on Good Agricultural Practices (GAP) to smallholders*, this is also aimed at increasing productivity (by 10%) while at the other hand avoiding illegal plantation expansion (FoKSBI, 2017; Personal Conversation Riau University, 2017; Personal Conversation Plantation Agency Riau, 2017). For achieving this goal, the private sector will be asked to take on responsibility for the independent smallholders as well (Personal Conversation, Palangkaraya University, 2017). Through a to be established “*public-private partnership smallholder training extension program*” within five years 500 000 smallholders must be reached (FoKSBI, 2017). Besides, all mills and ISPO plantations with a mill should provide training on GAP, legality and environmental management to smallholders (Personal Conversation MoA; Personal Conversation Kehati, 2017). In addition it is aimed to set up training centres in 25 palm oil producing districts.

As a third goal the *increase of funding for replanting by smallholders* is noted, it is estimated that approximately 2.4 million ha of smallholders land needs to be replanted (FoKSBI, 2017). Of the three pathways to accomplish this goal, the first is to provide smallholders with training regarding technical planning and monetary management (Personal Conversation CPO Fund, 2017). Then also it is aimed to prepare governmental policy in collaboration with a credit program from the banking sector in the eighteen palm oil provinces. Among other sources of funding it is aimed for to increase the CPO FUND budget for replanting up to 30% (currently this is less than 15%) (Personal Conversation CPO Fund, 2017).

Another goal is to *strengthen existing and form (500 over the next 5 years) new smallholder groups*, since these will contribute to smallholders bargaining position, access to finance and marketing of their products (through certification) (FoKSBI, 2017; Personal Conversation Riau University, 2017; Personal Conversation University of Palangkaraya, 2017). Some of the means to achieve this goal are awareness raising and increasing the capacity of (district) government departments to form and train smallholder cooperatives. Also the participation of private sector and government plantation companies needs to be improved and their partnership agreements with the smallholders to be monitored (Personal Conversation, University of Palangkaraya, 2017).

Under the first component the final goal is to *revitalize training extension officers*, since overall there is a limited number of trainers and capacity, while transferring knowledge and expertise about sustainable palm oil is key for improvements (FoKSBI, 2017; Personal Conversation Plantation Agency Riau, 2017). Therefore, a new national government system for competent training officers (based on performance) will be developed. Also plantation and mill companies working with smallholders who provide FFB to their mill, will be required to have a minimum of ten full time trainers (for every mill).

Except for the third goal, all of the goals under the ‘developing smallholder capacity’ working group are the main responsibility of the Ministry of Agriculture. Among the supporting actors are many local governments, but also private actors (FoKSBI, 2017).

5.1.4.2 Environmental Monitoring and Management

For the second component of the NAP, *environmental management and monitoring*, its first goal is to *improve biodiversity conservation at the plantation landscape level*, since palm oil development is sometimes not adequately balancing the landscape's carrying capacity (FoKSBI, 2017). It aims for palm oil development to proceed (according to the Indonesian regulations), while protecting high biodiversity and other important environmental areas. In particular, the application of "*Essential Ecosystem Areas (KEE), High Conservation Value(HCV)/Nilai Konservasi Tinggi(NKT), and protected area approaches in district level land sitting planning for plantation development*" are targeted (FoKSBI 2017 p. 17; Personal Conversation FP2SB, 2017) . The means by which this will be achieved include the creation of an organisation that can manage KEE and HCV in the palm oil producing provinces and the creation of a provincial regulation concerning KEE. Also "*a new regulation outlining the legal framework for the protection of KEE and HCV areas, including technical instructions for the management of these areas*" needs to be developed, while any conflictual or counterproductive regulations need to be improved (FoKSBI, 2017 p. 18; Personal Conversation MoA, 2017). Then also a new technical instruction that would accommodate KEE and HCV in the principles and criteria of AMDAL (Environmental Impact Assessment) must be realised and therefore all plantation companies must have HCV protected areas within their concessions. Finally, a high biodiversity profile and a Biodiversity Management Plan (*Rencana Induk Pengelolaan Keanekaragaman Hayati*) need to be presented. All of which falls under the primary responsibility of the Ministry of Environment and Forestry.

The second goal is to *reduce Green House Gas (GHG) emissions from fire associated with estate crop development*. This goal is directly related to the forest fires of 2015, and aims to reduce the detrimental effects with respect to health, the environment and the climate (FoKSBI, 2017; Personal Conversation CIFOR, 2017b)). In order to achieve this goal, all company mills must have a fire brigade for managing local forest fires, besides every village (within the eighteen main palm oil production areas) will need to have a least one Farmers Fire Group (FFG). Also a Fire Free Village (FFV) program needs to be developed, as well as an incentive mechanism for communities to avoid using fire for land clearing and facilities for controlled burning (for instance early detection systems etc.) (FoKSBI, 2017; Personal Conversation CPO Fund, 2017).

Furthermore, it is aimed for to *improve regulations related to GHG emissions reduction for the plantation and estate crop sector*, since the government wants the agricultural sector to play a larger role in reducing emissions. Therefore a standard and database for the recording of carbon storage of GHG emissions in the palm oil sector must be developed that is nationally agreed upon and internationally accepted (Personal Conversation Kehati, 2017). Also technical guidelines of how to reduce emissions need to be established, as well as technical training and annual education sessions to increase understanding among key stakeholders (FoKSBI, 2017).

The fourth goal is *using the most appropriate land for plantation and estate crop development to reduce GHG emissions* (FoKSBI, 2017). One of the means to achieve this is to identify low biodiversity land inside and outside the forest estate as well as the land ownership status. Besides social and

ecological research should be undertaken concerning plantation development on such areas. Also the Ministry of Environment and Forestry should develop a Strategic Investment Action Plan (SIAP) and land maps for the district government land use planning (Personal Conversation USAID Lestari, 2017; Personal Conversation Plantation Agency Palangkaraya, 2017; Personal Conversation Forestry Office, 2017).

In addition it is aimed for to *develop alternative energy sources from palm oil by products*, thereby in particular Palm Oil Mill Effluent (POME) is targeted. It is estimated that 90 million m³ of POME could be produced, which is good for three million megawatts of electricity (FoKSBI, 2017). However, since both the price and infrastructure development still form an obstacle this must be tackled in order to reach the target of 90% of the mills using POME.

The final goal is to *improve the protection of environmental services*, in particularly related to water ecosystems (FoKSBI, 2017). Therefore annual coordination meetings between key government departments and the synchronizing of related regulations should be executed. Besides, official guidelines on rehabilitation and (peatland) restoration practices need to be set up and areas which have an important environmental function should be officially protected (Personal Conversation Forestry Office, 2017). In addition, agroforestry practices and the use of technical constructions (dams) must be supported. Finally, the Ministry of Environment and Forestry should demonstrate a case in which forested land has been designated for estate crops and one in which estate crop land will be returned to the forest estate under the Inventory of the Control, Ownership Use and Utilisation of Land (IP4T) (*Inventarisasi Penguasaan, Peilikan, Penggunaan dan Pemanfaatan Tanah*) (FoKSBI, 2017).

Except for the third goal (Ministry of Agriculture) and the fifth goal (Ministry of Energy and Resources), all of the goals under the 'environmental monitoring and management' working group are the main responsibility of the Ministry of Environment and Forestry (FoKSBI, 2017).

5.1.4.3 Improved Governance and Conflict Resolution

Under the third component, the first goal is to *implement the One Map policy to help address land related conflict*, since the use of different maps between departments and other institutions does trigger these conflicts and the One Map policy will create legal certainty for sustainable palm oil plantations (FoKSBI, 2017; Personal Conversation USAID Lestari, 2017; Personal Conversation Daemeter, 2017; Personal Conversation Plantation Agency Palangkaraya, 2017; Personal Conversation Forestry Office, 2017). One of the means to achieve this is to support the implementation of regulation on Procedures for Settling Land Tenure in the Forest Zone (according to Joint Regulation No. 79 of 2014, PB.3/Menhut-11/2014, 17/PRT/M/2014 and 8/SKB/X/2014 on Acquisition Procedures for Land Located in Forestry Areas of the Ministers of Home Affairs, Forestry, Public Works and Head of the National Land Agency) and undertaking participatory mapping (Riggs et al., 2016). In the eighteen palm oil producing provinces an official One Map need to be completed and updated at least every five years, aimed to reduce land conflicts by ten percent (FoKSBI, 2017).

In addition, it is aimed to *ensure adherence to community oil palm plantation development*, as is pinpointed in Indonesian regulations that this need to account for at least 20 percent of a business plantation concession (FoKSBI, 2017). Therefore, the concerning regulations need to be unified and socialisation of the existing regulations need to be executed. In addition, there is need for the development of a national system of monitoring and evaluation with respect to the development of community palm oil plantations. Overall, it is aimed for an increase of 50 percent in community plantations and a reduction of conflicts of 20 percent (FoKSBI, 2017; Personal Conversation Jikalahari, 2017).

The third goal is to *address and complete land conflict issues quicker*, according to Regulation No.3/2011 of the Ministry of Agrarian Affairs/National Land Board (FoKSBI, 2017). One of the ways to do this is to identify the existence of social conflict resolution teams at the district level (as ordered by the regulation). Besides, the team's ability must be evaluated annually and teams should join conflict resolution and mediation training, thereby it is hoped to achieve a ten percent increase in land conflict cases solved by non-litigation (FoKSBI, 2017).

The main responsibility for carrying out these tasks is designated per goal to respectively the Geospatial Information Agency (BIG), the Ministry of Agriculture and the Ministry of Agrarian Affairs (ATR)/National Land Agency (BPN).

5.1.4.4 ISPO Certification and Market Access of ISPO Certified Palm Oil products

For the fourth component, its first goal is to *accelerate ISPO certification for Indonesian smallholders and plantations*. One of the activities to reach this goal is to facilitate smallholders (and companies) to obtain the required land, plantation and environmental permits, in addition plantation companies must increase their support for smallholders (supplying them) to get ISPO certification (FoKSBI, 2017; Personal Conversation Riau University, 2017; Personal Conversation Palangkaraya University, 2017; Personal Conversation Abkasindo, 2017). Besides, the speed of completion of the district and provincial spatial plan should be increased (Personal Conversation USAID Lestari, 2017; Personal Conversation Plantation Agency Palangkaraya, 2017). Also, sustainable palm oil platforms and ISPO Clinics need to be established in the eighteen palm oil producing provinces (Personal Conversation Kehati, 2017). Furthermore, the aim is to certify 100 smallholder groups and 600 plantation companies over the next five years.

Besides, it is aimed for to realise *increased acceptance by key stakeholders of the ISPO Certification System in national and international markets* (FoKSBI, 2017). Therefore, a long term communications and marketing strategy (promotion Road map), concerning ISPO acceptance at the national and international level needs to be developed (Personal Conversation Kehati, 2017). Also the socialisation of ISPO at the provincial and district level, using ISPO communication campaigns, must be executed (Personal Conversation ISPO, 2017; Personal Conversation Plantation Agency Riau, 2017). Besides, all positive improvements should be noted and advocacy must be provided for companies and smallholders that already obtained ISPO certification. Finally also, a cooperation strategy with

responsible buyer countries will be developed and 50 formal Indonesian government agreements with buyer countries, concerning ISPO certification acceptance, need to be signed (FoKSBI, 2017).

Also the goal is to *strengthen the institution and governance of the ISPO, since its credibility depends on its acceptance by its stakeholders* (FoKSBI, 2017). In order to accomplish this goal, the ISPO P&C should be enriched and improved, furthermore a transparent system of checks and balances with respect to the organisation and monitoring of the ISPO need to be established overseen by an independent institution. Finally, the access to information regarding ISPO certification must be improved (Personal Conversation, Kehati, 2017).

5.2 ISPO Strengthening

In describing the ISPO Strengthening process, first the timeline of the process will be sketched including the interactions between the different actors involved. Afterwards the motivations of the Indonesian government, a reflection on the process, and the effects of interaction are discussed.

5.2.1 The ISPO Strengthening process

The ISPO Strengthening process was initiated directly by the presidential office. The mandate to lead the process was assigned to the coordinating Ministry of Economic Affairs (*Kemenko*) (Personal Conversation MoEA, 2017; Personal Conversation Kehati, 2017). First a steering team was established in January 2016, this team consists of the DG (echelon 1 rank from different ministries), most relevant to palm oil. Besides also the directors of the CPO Fund (BPDPKS), Kehati, the Indonesian Palm Oil Board (DSMI) and the Estates Strategic Sustainable Development Forum (FS2FB) were involved. The deputy of *Kemenko*, was appointed to lead the steering team. The steering team drafted the mandate for the ISPO Strengthening process and delivered it to the newly set up working team in February 2016 (Interview MoEA, 2017). In the working team the relevant deputy of each DG (echelon 2 rank from different ministries) was represented, furthermore the directors of the CPO Fund, the ISPO Secretariat, the Komite Akreditasi Nasional (KAN) and the Association for Certification bodies (Lembaga Sertifikasi) were involved. The working team was presided by the deputy of Food Crops of *Kemenko*, and as a vice chair a representative of Kehati was appointed (Personal Conversation MoEA, 2017; Personal Conversation Kehati, 2017).

The mandate for ISPO Strengthening is threefold; namely (1) revising the ISPO's organisational structure as well as its P&C, (2) addressing (il)legality (in particular of smallholders) and (3) developing a crosscutting diplomacy strategy with respect to palm oil for the Indonesian government (Personal Conversation Kehati, 2017). Within the working team, there are therefore three distinct processes that correlate with the three mandates of the ISPO Strengthening, of which the first, revising the ISPO's P&C and organisational structure is the most important one (Personal Conversation CIFOR, 2017b).

5.2.1.1 Revising the ISPO's organisational structure and P&C

With respect to the mandate to revise the ISPO's organisational structure and P&C, at first only the working team worked on this issue during a set of regular meetings starting at February 2016. The ISPO Strengthening team was then officially established in June 2016 by the Secretary of the Coordinating Minister of Economic Affairs *Decree No. 54 Year 2016 on Indonesian Sustainable Palm Oil Certification System Strengthening Team* (Forest Watch Indonesia, 2017). In July 2016 however the process opened up to more stakeholders as two representatives from Lembaga Ekolabel Indonesia (LEI) were invited to join the working team meeting in August 2016 to discuss about the organisational structure of the ISPO (Personal Conversation Kaoem Telepak, 2017; Personal Conversation Kehati, 2017; Personal conversation LEI, 2017). From September on, five to ten Ngo's were regularly invited to the meetings of the working team. The cooperation between the working team and the civil society resulted in the adoption of a new organisational structure for the ISPO, as proposed by civil society actors (Personal Conversation MoEA, 2017; Personal Conversation LEI, 2017; Personal Conversation Kaoem Telepak, 2017; Personal Conversation Kehati, 2017). This new organisational structure as it is adopted in the latest draft of the ISPO differs considerably from the ISPO's current organisational structure (see 5.2.4.1).

After agreement had been reached on the new organisational structure of the ISPO, the attention within the working team turned to revising the ISPO P&C. In December 2016 a meeting was organised by the working team, in order to discuss and present both the organisational structure and the P&C of the ISPO. For this meeting also some representatives from the civil society and from the private sector (such as the Indonesian Palm Oil Association (GAPKI)) were invited, as well as the members of the steering team (Personal Conversation JPIK, 2017; Personal Conversation MoEA, 2017; Personal Conversation LEI, 2017). With respect to the P&C of the ISPO, the civil society had proposed to include two additional principles, one regarding human rights and one with respect to traceability on top of the seven existing principles of the ISPO (Personal Conversation Kehati, 2017; Personal Conversation LEI, 2017; Personal Conversation CPO Fund, 2017). However, opposing views were held by particularly the DG of Estate Crops of the Ministry of Agriculture and the issue was heavily debated. During the next meeting in January 2017, the proposed changes in the P&C were not adopted or further discussed (Personal Conversation Kehati, 2017; Personal Conversation LEI, 2017). However, at the regional consultation (in Riau, March 2017) a draft version of the ISPO P&C was presented, including an additional principle on traceability. An additional principle with respect to human rights was not included, since this was deemed to be included in the existing Indonesian regulations already (Personal Conversation JPIK, 2017; Personal Conversation LEI, 2017; Personal Conversation Kaoem Telepak, 2017; Personal Conversation Kehati, 2017).

Position paper Ngo's

Parallel to the meetings of the working team and the joint meetings between the working team and some Ngo's and academicians that were invited, the civil society also came together regularly to discuss their strategy for the ISPO Strengthening (Personal Conversation JPIK, 2017; Personal Conversation Kaoem Telepak, 2017; Personal Conversation LEI, 2017; Personal Conversation WWFI,

2017a). They, for instance published their own position paper in which they set out their criteria for the ISPO Strengthening (process). Their main point was the complaint about the lack of a credible participative process and the need to adopt a truly multi-stakeholder and cross-sectoral approach. Content wise they emphasized that more robust sustainability standards are needed for the ISPO Strengthening to be accepted by all stakeholders and to generate (international) market acceptance (Forest Watch Indonesia, 2017).

Besides, the civil society actors also organised their own regional consultation in March 2017 in Riau, one week prior to the official consultation organised by the government. During their consultation, civil society actors attempted to gather many smallholders and local Ngo's to provide input, and also presented this input together with their position paper at the official public consultation, one week later (Personal Conversation LEI, 2017; Personal Conversation Kaoem Telepak, 2017; Personal Conversation Jikalahari, 2017).

Public Consultation

The first regional consultation was held in March 2017 in Pekanbaru in the Riau province and was meant to receive input from all local actors on Sumatra. For this consultation procedure governmental actors from the provincial and district level were invited as well as farmers, industry, Ngo's and academicians (Personal Conversation Kehati, 2017). The regional consultation in Riau lasted for four days, during the first three days many working groups and discussions took place with respect to the draft of the ISPO's P&C and organisational structure, while the fourth day was reserved for press releases (Personal Conversation Jikalahari, 2017). Apart from the regional consultation in Riau, regional consultations were held in Palangkaraya, Central Kalimantan for the Kalimantan region, in Palu, Central Sulawesi for the Sulawesi region and finally also in the Papua region (Personal Conversation CIFOR, 2017b; Personal Conversation LEI, 2017; Personal Conversation Kehati, 2017; Personal Conversation MoEA, 2017).

After the regional consultations there have been around five meetings to write up and discuss the recommendations received from local actors, in order to write a revised final draft of the Strengthening ISPO (Personal Conversation JPIK, 2017; Personal Conversation Kehati, 2017). In September 2017 this draft was already submitted to the ministerial level, awaiting approval by the president and its ministers. However, since then no progress has been reported on the Strengthening ISPO (Personal Conversation MoEA, 2017; Personal Conversation Kehati, 2017). In addition, a national consultation process was then planned in October 2017. However, this was cancelled and had not been rescheduled up until January 2018. The initial target for the revision of the ISPO's organisational structure and P&C was for it to become enacted with a presidential regulation in December 2017. However, since this deadline has passed already it is up to speculation when this will happen. According to the chair of the ISPO Strengthening working team it might last until the end of 2018 before this will happen eventually (Personal Conversation MoEA, 2017). Besides a transition time of three months will apply before the Strengthened ISPO will be enforced after its enactment (Personal Conversation Kehati, 2017).

5.2.1.2 Addressing (il)legality

ISPO Strengthening also has the mandate to address (il)legality with respect to palm oil production and to develop a governmental plan for how to address this complex issue (Personal Conversation Kehati, 2017). The legality of land in Indonesia is namely very ambiguous, therefore fuelling conflicts and the illegal occupation of land (see 4.2.1). Illegality with respect to palm oil production relates both to encroachments from independent smallholders and plantation companies, into land with a forest status (Personal Conversation Dinas Kehutan, 2017; Personal Conversation USAID Lestari, 2017). Other issues, such as plantations operating without the correct permits or not paying taxes are meant to be addressed by law enforcement.

Within ISPO Strengthening a small team of experts is working to see how the regulation from all different ministries concerned with legality problems works, and how this could be coordinated (Personal Conversation Kehati, 2017). In January 2018 therefore a workshop was organised in which all stakeholders were invited and some preliminary results were presented. Besides, Ngo's that are involved in data gathering and smallholder mapping were invited to share their results. With the palm oil industry it was discussed how to develop a mechanism to provide farmers with training and capacity building, in order for them to meet the criteria (for legality and for the ISPO certification) (Personal Conversation Kehati, 2017). Within the ISPO Strengthening working team it was agreed to solve the smallholder legality as soon as possible, since without a sound legal status the smallholders cannot get certified, at the other hand it was agreed that no more expansion in the forest area must take place and that programs (for smallholders) should focus on intensification instead of extensification (Personal Conversation Kehati, 2017). Also see Annex 3 for an elaborate discussion on smallholder legality.

5.2.1.3 Developing a cross-cutting diplomacy strategy

The third mandate of ISPO Strengthening is developing a cross-cutting diplomacy strategy with respect to the international market (acceptance) for palm oil. It is aimed for a cross-cutting strategy since currently a range of different organisations are involved in advocacy about palm oil. Most important however is the role of this strategy to provide input for the CEPA trade agreement between Indonesia and the EU (Personal Conversation Kehati, 2017). It is elaborated on the Indonesian diplomacy strategy with respect to the international market (acceptance) of palm oil in chapter six about the international arena.

5.2.2 Motivations and drivers

In the following section, the motivations of the Indonesian government to establish the ISPO Strengthening process are discussed. Attention is first paid to the systemic drivers (meso-level) while later it is elaborated on what was shaping actors motivations (micro-level) (see Eberlein et al., 2014).

From a regime complexity point of view, the establishment of Strengthening ISPO and in particular its aim to strive for a presidential regulation, can be explained by the currently overlapping and sometimes destructive policies regarding the governing of palm oil in general and the ISPO

specifically. The Indonesian government currently does not act with one voice, since there are overlapping policies of different ministries (Personal Conversation Daemeter, 2017). Therefore it is important that in Strengthening ISPO the Coordinating Ministry of Economic Affairs is taking the lead, because it has a better overview and the authority to coordinate the other Ministries regarding Indonesian Sustainable Palm Oil policies (Personal Conversation MoEA, 2017; Personal Conversation Kehati, 2017; Personal Conversation WWF, 2017a).

In addition to the institutional challenge for the ISPO, there are other factors that do motivate the establishment of the Strengthening ISPO. According to the draft of ISPO Strengthening Team (n.d. (a)), a Strengthened ISPO is crucial because of the economic importance and strategic value of palm oil as a commodity for Indonesia. An objective that is directly related is to increase the acceptance, competitiveness and credibility of oil palm products in local, regional and global markets (ISPO Strengthening Team, n.d. (a); ISPO Strengthening Team, n.d. (b); Personal Conversation Kehati, 2017).

Furthermore, the Strengthened ISPO is believed to improve principles of good governance and will therefore contribute to higher “compliance of oil palm plantation business actors against the applicable legislation” (ISPO Strengthening Team, n.d. (a) p. 3). This is crucial since many regulations are yet not being fulfilled by companies and many more companies and smallholders have to be certified (Personal Conversation Independent, 2017a; Personal Conversation CIFOR, 2017b; Personal Conversation Riau University, 2017). In the current ISPO Strengthening process, the involvement of multiple stakeholders is aimed to create a sense of ownership and responsibility for the stakeholders involved (Personal Conversation MoEA, 2017).

Another objective for Strengthening ISPO is to emphasize that the effort of the Indonesian government to strengthen the sustainability of the palm oil sector is an Indonesian initiative, benefitting Indonesian national interests instead of being summoned by international actors (Personal Conversation Daemeter, 2017; Personal Conversation Kaoem Telepak, 2017; Personal Conversation MoA, 2017; Personal Conversation UNDP, 2017). It is therefore mentioned that this policy would be in line with the Indonesian Constitution of 1945, Article 33 paragraph 4 that states that economic development must be “organized on the basis of sustainable and environmentally sound principles” (ISPO Strengthening Team, n.d (b) p. 1). Also the Strengthened ISPO is aimed to contribute to the Indonesian government’s commitment to reduce greenhouse gas emissions. In addition, the ISPO as a mandatory Indonesian national certification scheme is seen as best able, as compared to the RSPO, to manage the palm oil sector sustainably (Personal Conversation WUR, 2017;)

However, the question remains why ISPO Strengthening was established only in 2016, while some of its motivations were apparent in the years before. One answer is that also previously the ISPO scheme has been revised, by the Ministry of Agricultural decree 11 of the year 2015 (Personal Conversation RSPOI, 2017; Personal Conversation FS2FB, 2017). The other is that a couple of events may have influenced the urgency and willingness to further strengthen the ISPO on top of the 2015 strengthening process.

At the end of 2015, there was a crisis within the ISPO Secretariat, the head and founder of the ISPO did clash with other figures within the government over the course the ISPO should take (Personal Conversation Daemeter, 2017; Personal Conversation RSPOI, 2017; Personal Conversation CPO Fund, 2017). One of the reasons was also that the uptake of the ISPO went very slow, due to the complexity of the regulations, the lack of capacity at the ISPO Secretariat and a lack of means to ensure law enforcement (Hidayat et al., 2017; Personal Conversation RSPOI, 2017; Personal Conversation CPO Fund, 2017). In addition, in 2014 a new president was elected in Indonesia and by the time began to involve himself increasingly with palm oil (Personal Conversation Greenpeace, 2017; Personal Conversation GGGI, 2017). Furthermore, in 2015 palm oil had been declared a strategy commodity for Indonesia. Therewith it received increasing attention from the Coordinating Ministry of Economic Affairs, as compared to the *sole* attention of the Ministry of Agriculture (Personal Conversation MoEA, 2017; Personal Conversation MoI, 2017; Personal Conversation CPO Fund, 2017; Personal Conversation Independent, 2017a). Finally, the damaging forest fires of 2015, which for 25% occurred in the palm oil estate, contributed nationally to the willingness to strengthen the ISPO and the management of palm oil plantations (Personal Conversation CIFOR, 2017b; Wijedasa et al., 2017). Internationally, these fires dragged attention to the palm oil sector as environmentally devastating, and ultimately motivated the proposed exclusion of palm oil from the EU RED (Personal Conversation EU Parliament, 2017). Thereby putting pressure on the Indonesian government and threatening the acceptance of Indonesian palm oil and in particular the ISPO internationally (Personal Conversation CIFOR, 2017b).

In conclusion, the motivations to establish ISPO Strengthening show a mixture of systemic drivers, spontaneous events and actors interests. The question remains how these motivations were exactly balanced and whether it should be approached as a governmental learning process or as pressure from global environmental governance arrangements (Personal Conversation WUR, 2017). The fact is however that this balance ultimately led to the establishment of the ISPO Strengthening process, in which multiple motivations continued to play a role in shaping its outcome. In the following, it will be further reflected on the ISPO Strengthening process and its content.

5.2.3 Reflection on the process

In the previous section the motivations to establish the Strengthening ISPO process were discussed. In the current part the focus is on mechanisms and pathways and the character of interaction (see Eberlein et al., 2014) that shaped the ISPO Strengthening during the process.

Within the Strengthening ISPO process, the *institutional settings* allowed for a very limited amount of actors to interact, except for the regional public consultations. Moreover, the locations for these regional public consultations formed important *sites of interaction* at which local actors could provide recommendations and shape the ISPO Strengthening process (Personal Conversation Kehati, 2017; Personal Conversation Jikalahari, 2017). However, since the decision-making power remained at the national level with the ISPO Strengthening team, the importance of the regional public consultations as sites of interaction lies more in its ability to legitimate the further process and interactions than in shaping its content.

Character of interaction

The ISPO Strengthening process is a prime example of hierarchical coordination. The Coordinating Ministry of Economic Affairs had been bestowed with the task and authority to coordinate the revision of the ISPO's P&C as well as addressing (il)legality and coming up with a cross-cutting diplomacy strategy (Personal Conversation Kehati, 2017). Their coordinating role was however somewhat contested or at least disliked by (senior people within) the Ministry of Agriculture.

Besides, at the actor level, at times competition rather than coordination was the leading strategy of actors to put their ideas and interests on the table. An example of this competition is the December 2016 meeting at which conflicting positions were held about the adoption of two additional principles regarding transparency and human rights. Here the opposite positions and fierce discussion between the Ngo's and some of the Ministry of Agriculture officials made the legislators and the DG of Estate Crops of the Ministry of Agriculture to leave the meeting. Still, their prevailed option (to not include the two additional schemes) was met at first (later the principle about transparency was still adopted) (Personal Conversation LEI, 2017; Personal Conversation Kehati, 2017). As far as competition was opted for, strategies using authority as well as those attempting to create legitimacy through other means such as networking prevailed. In section 7.2 an additional reflection regarding the use of legitimacy instruments within the NAP process is provided.

5.2.4 Effects of interaction

With respect to the mandate to revise the ISPO's organisational structure and P&C, first the proposed differences with respect to the ISPO's organisational structure are compared. In the second part the outcomes regarding the proposed ISPO's P&C are analysed.

5.2.4.1 Revision of ISPO's organisational structure

As of April 2018, the ISPO scheme is governed by the ISPO Commission. This commission consists of the DG's of different ministries and departments and is presided by the DG of Estate Crops of the Ministry of Agriculture (Personal Conversation ISPO, 2017). The ISPO secretariat is the body that carries out the daily workload of responsibilities with respect to the ISPO. They have the authority to accredit certification companies (auditors), that will monitor plantation companies and smallholder organisations that have received ISPO certification (Personal Conversation Kehati, 2017). The ISPO Secretariat by January 2018 acknowledged twelve certification companies, among which are seven international and five domestic auditors (Personal Conversation ISPO, 2017). Another responsibility of the ISPO Secretariat is that they check and approve the reports produced by the certification companies (and the assessment team), regarding the performances of the ISPO certified companies, before these may be published. Then the ISPO Secretariat also hands out the ISPO certificates to the plantation companies or smallholder organisations that have been approved. Finally, the Ministry of Agriculture, through the DG of Estate Crops, is according to the Ministry of Agriculture Ministerial Regulation number 19/2011 appointed as the owner of the ISPO certification scheme (Personal Conversation ISPO, 2017; Personal Conversation RSPOI, 2017; Personal Conversation CPO Fund, 2017; Personal Conversation FP2SB, 2017).

The ISPO Secretariat is thus the agency that owns the ISPO scheme, hands out ISPO certificates, appoints the auditors that monitor ISPO certified companies and even checks the auditing reports (Personal Conversation Kehati, 2017). Within the ISPO Strengthening process however, it is believed that the ISPO Secretariat holds too much authority regarding the ISPO certification scheme. Therefore within the ISPO Strengthening process a new organisational structure is proposed, by the ISPO Strengthening working team, that attempts to decouple responsibilities from the ISPO secretariat and to shift the lead over the ISPO certification system towards the Ministry of Economic Affairs (Personal Conversation Kehati, 2017).

The new organisational structure of the ISPO

Under the new organisational structure of the ISPO, as proposed by the ISPO Strengthening process, (depicted in figure 3), a Steering Committee will be established that will be led by the Minister of Economic Affairs. This will replace the current ISPO Commission led by the Ministry of Agriculture as the authority governing the ISPO. The membership of the Steering Committee includes the Ministers from all ministries that have any responsibilities with respect to palm oil. It is the task of the Steering Committee to develop general policies and vision for the ISPO certification scheme (ISPO Strengthening Team, n.d. (a)).

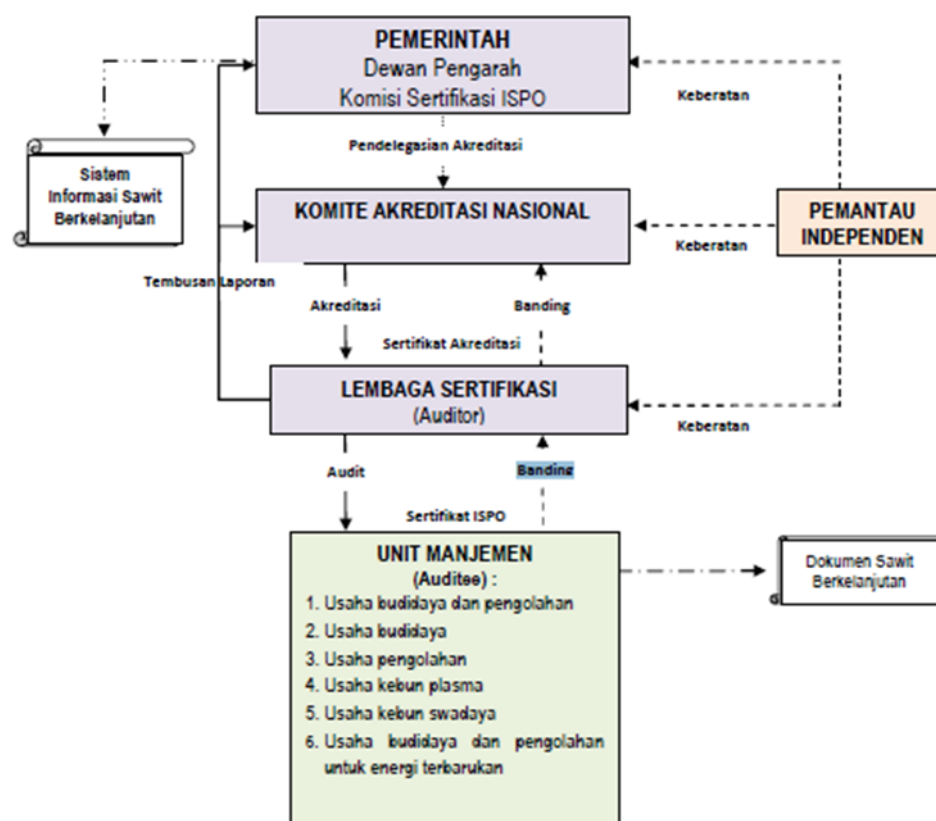


Figure 3: Proposed organisational structure ISPO adapted from ISPO Strengthening Team (n.d. (a)).

The current ISPO Secretariat is within the new organisational structure for the ISPO, referred to as the ISPO Commission. They remain under the Ministry of Agriculture's responsibility, while their main task will be the operationalisation of the policies developed by the Steering Committee

(Strengthening ISPO Team, n.d. (b)). However, in contrast to the current practise of employing retired people (from the Ministry of Agriculture) at the current ISPO Secretariat, the new ISPO Commission would need to be professionalised. This includes the need to have a job interview for all current and future employees of the ISPO Commission. Besides, some people within the ISPO Strengthening team still strive for the new ISPO Commission to become an organisation that is independent from the Ministry of Agriculture. Also the capacity of the ISPO Secretariat will be strengthened, by increasing its budget (Personal Conversation Kehati, 2017).

Furthermore, certification companies are empowered to publish their audit reports by themselves, thus without the need to gain approval from the new ISPO Commission or any assessment team (Personal Conversation ISPO, 2017; Personal Conversation MoEA, 2017; Personal Conversation Kehati, 2017). Besides the certification companies gain the authority to freeze or revoke the ISPO certificate of a plantation company or smallholder organisation (ISPO Strengthening Team, n.d. (a)). In addition, the authority to accredit auditors is transferred from the current ISPO Secretariat to the KAN. KAN is an “independent governmental body” that has been entrusted to govern the accreditation process for the certification of other products such as cacao and timber (through Sistem Verifikasi Legalitas Kayu (SVLK) (Timber Legality Verification System)), as well (Personal Conversation Riau University, 2017; Personal Conversation FP2SB, 2017, Personal Conversation RSPOI, 2017). Moreover, the new organisational structure of the ISPO will provide the opportunity for Independent monitoring of the ISPO P&C by communities and Indonesian Ngo’s (Personal Conversation JPIK, 2017; Personal Conversation LEI, 2017; Personal Conversation Kehati, 2017). To smoothen this process the new ISPO Commission must also develop an Oil Palm Information System and publish all but confidential data online and free accessible for all actors (ISPO Strengthening Team, n.d. (b)).

5.2.4.2 Revision of ISPO Principles and Criteria

As noted previously, the ISPO P&C were launched by the Ministry of Agriculture regulation number 19/2011 and revised by the Ministry of Agriculture regulation number 11/2015. The current ISPO Certification Scheme has seven principles and 46 criteria. Besides it differentiates between six schemes for respectively plantation companies with(out) a mill, palm oil mills, plasma scheme holders, independent smallholders, and palm oil plantations producing renewable energy (ISPO Strengthening Team, n.d.(a)) (also see 4.2.3.1).

The draft of the ISPO Strengthening process as of July 2017 (see ISPO Strengthening Team, n.d. (a); ISPO Strengthening Team, n.d. (b)), with respect to the ISPO P&C shows some content wise changes compared to the current ISPO. It is particularly focused on the concepts that were touched upon on within the interviews and on concepts that are internationally seen as a proof of legitimacy, for instance HCV, High Carbon Stock (HCS) and Free Prior Informed Consent (FPIC).

Principle 8

The ISPO P&C, proposed by the Strengthening ISPO working team, will have an additional eight principle regarding *traceability and transparency* that will be enforced on oil palm plantation

companies. An important part of this principle is secure documentation on the supply of FFB from brokers or smallholders in order to decrease the illegal supply FFB under the ISPO Certification Scheme. Furthermore, criteria 8.2 deals with fair and transparent price setting and communication, while criteria 8.3 concerns openness about non-confidential information. Finally criteria 8.4 emphasizes commitment to a corruption-free Code of Business Ethics (ISPO Strengthening Team, n.d. (b)).

HCV

Furthermore, the proposed ISPO P&C includes criteria 4.7 on High Conservation Value (HCV), which stipulates that a company shall *“identify, socialize and maintain protected areas and High Conservation Values in accordance with legislation”* (ISPO Strengthening Team, n.d. (b) p. 27). In addition, HCV criteria with respect to; 4.7.1 Biodiversity Conservation, 4.7.2 Conservation of Water Resources and Quality and 4.7.3 Area Conservation with High Erosion Potential are incorporated according to their translation into Indonesian regulation (Personal Conversation FB2SB, 2017).

Other issues

Although according to LEI and FB2SB (Personal Conversation, 2017), the ISPO Strengthening team was working on a grievance mechanism, this was not yet finished in the draft of July 2017. Besides, there were no principles or indicators found that discussed the concepts of High Carbon Stock (HCS) or Free Prior Informed Consent (FPIC), although several interviewees (among others Personal Conversation Kehati, 2017) had claimed that these were incorporated within the draft of ISPO Strengthening. According to the Ministry of Economic Affairs (Personal Conversation, 2017), the Strengthening ISPO draft was already handed over to the presidential office by September 2017. There has thus not been much time to include any prescriptions on these topics in the revised P&C of ISPO Strengthening (after the draft of July 2017 analysed by this study).

5.3 The relation between the NAP and Strengthening ISPO processes

In this section it is elaborated on the relation between the NAP and Strengthening ISPO processes, as both of these process are initiated by the Indonesian government and both of them aim to govern (part of) the Indonesian palm oil industry.

The first that is remarkable about the relation between the NAP and the Strengthening ISPO process is the fact that very few of the people involved in these processes have any clue how they are actually related. For 35 of the interviewees to this study, either their organisation or they themselves personally, had participated in one of the two or in both of these processes, however they did not know how these processes are related. This is a sign of the messy coordination that is sometimes prevalent at the Indonesian government. Moreover, while the NAP is coordinated by the Ministry of Agriculture, the ISPO Strengthening process is coordinated by the Ministry of Economic Affairs. It follows that the coordination with respect to the NAP and ISPO Strengthening processes is not only messy, the density of governance schemes could also lead to inefficiencies or provide source for

conflicts (Eberlein et al., 2014). Especially since both processes aim to coordinate (part) of the palm oil sector (FoKSBI, 2017; Personal Conversation Kehati, 2017).

The NAP that is led by the Ministry of Agriculture seems to have stretched the responsibilities of this ministry way beyond their original 'on farm' authority. The Ministry of Agriculture was able to do so, because before 2015 (when palm oil was declared a strategy commodity) other ministries (including the Ministry of Economic Affairs) were less interested in the governing of palm oil. The lack of interest mainly stems from the sectoral organisational structure of the ministries and the assigning of priority to other issues. The funding from UNDP also helped the Ministry of Agriculture to build the NAP process (Personal Conversation MoA, 2017).

Since palm oil has become a strategy commodity and because of a lack of progress with respect to the ISPO (see 5.2.2), the president has authorised the Coordinating Ministry of Economic Affairs to take the lead regarding the governing of the ISPO and some other pressing issues, through the ISPO Strengthening process (Personal Conversation MoEA, 2017; Personal Conversation Kehati, 2017). ISPO Strengthening now also has a very broad mandate, not only regarding the revision of the ISPO's P&C, but also with respect to addressing (il)legality and developing a cross-cutting diplomacy strategy (see 5.2.1.2 and 5.2.1.3). The Strengthening ISPO process is not merely substituting the NAP, it is more implementing its provisions with respect to the ISPO already (Personal Conversation Kehati, 2017). The NAP still forms a foundation for a wide array of measures that are needed to govern the palm oil sector, and that are not covered by the ISPO Strengthening team.

How the NAP and Strengthening ISPO processes are going to shape the governing of Indonesian palm oil exactly will depend on the ability and willingness of the actors involved and in particular the coordination between the Indonesian ministries. As with respect to the revision of the ISPO's P&C, this authority lies now with the Strengthening ISPO team (Personal Conversation Kehati, 2017). Regarding many other issues, the NAP and Strengthening ISPO could complement each other. For instance concerning, measures for smallholder support (5.1.4.1) and tackling smallholder (il)legality (5.2.1.2). The programs may also clash however, this will depend on the interest and power displayed in the inter-ministerial legitimacy games (see 7.2.1).

In both the NAP and the ISPO Strengthening the Ministry of Agriculture as well as the Ministry of Economic Affairs are involved, while they both coordinate one process. Following the trend within the Indonesian government, in the near future the coordination of both processes might be executed by the Ministry of Economic Affairs.

6. The International Arena

In this chapter the governance interactions and motivations of the Indonesian government at the international arena are described, in particular the interactions between the government of Indonesia and the EU are discussed chronologically. First it is looked into the governance interactions with respect to the EU RED. Attention is paid in this respect to the joint letter of the palm oil producing countries and to the European response letter, the further process, the European Commission response and the response of the Indonesian government. Then the further EU-Indonesia interactions are described and it is elaborated on the motivations of the Indonesian government. Afterwards, it is looked into the Comprehensive Economic Partnership Agreement (CEPA) and the Forest Law Enforcement, Governance and Trade (FLEGT).

6.1 EU RED

In 2016, the European Commission made a proposal for a revised version of the European Union Renewable Energy Directive (EU RED) (see EU RED, 2016). The EU RED and its revision deal with the future strategy of the European Union with respect to renewable energy for among others transportation. Regarding transportation, biofuels based on soy, rapeseed, sunflower, corn and palm oil form an important element of the EU RED. Among these, palm oil received worldwide attention in 2015 due to devastating forest fires in Indonesia and Malaysia, of which 25% occurred in the palm oil estate (Personal Conversation CIFOR, 2017b). These forest fires also attracted the attention of a Member of European Parliament (MEP) and its assistant (EU parliament magazine, 2017; Personal Conversation EU parliament, 2017). They organised a debate about palm oil in the Environment, Public Health, and Food Safety (ENVI) Committee of the EU parliament, and hence it was agreed to write a report in which “unsustainable practices” regarding palm oil production would be addressed. During the writing of this report the writers consulted with various stakeholders, that approached them, including the government of Indonesia. Besides they also received critical feedback from the Malaysian Sustainable Palm Oil (MSPO) organisation (Personal Conversation EU parliament, 2017).

Nevertheless, the report concluded that particularly the palm oil produced for biofuels is unsustainable and therefore undesirable as a biofuel within the revised EU RED (Personal Conversation EU parliament, 2017; Konečná, 2017b). Following upon the report conclusion, a EU parliament resolution was drafted in which it was proposed to exclude palm oil, from 2021 onwards, from the biofuels as described under the EU RED directive (Personal Conversation EU parliament, 2017; Konečná 2017b). On the 9th of March 2017 then, the resolution was voted for within the ENVI Committee of the European parliament. The voting procedure by the EU parliament on the resolution was scheduled on the 4th of April 2017.

One week before it was planned to vote on this resolution, the Indonesian government contacted the EU MEP that initiated the resolution and expressed that they were worried about this resolution (Personal Conversation EU parliament, 2017). In addition a letter was sent (27/03/2017) to the chair of the EU parliament, from the palm oil producing countries (Colombia, Costa Rica, Ecuador,

Guatemala, Honduras, Indonesia and Malaysia), suggesting to not let the resolution to be voted upon by the parliament (Palm Oil Producing Countries, 2017).

6.1.1 Joint letter of the palm oil producing countries

Within this joint letter the palm oil producing countries, refer to the report *“The Impact of EU consumption on deforestation”* (2013) issued by the DG Environment of the European Commission. The report namely concludes that over the 1990-2008 period, crops only contributed to 29% of deforestation and that palm oil was only responsible for 8% of this share (Cuypers et al., 2013). Therefore, the palm oil producing countries claimed that the ‘proposed resolution’ neglects the other drivers of deforestation; *“namely logging, ruminant livestock production, urban expansion, natural hazards”* (Palm Oil Producing Countries 2017 p. 1). Furthermore, they conclude that the report is biased towards palm oil, without sustaining this with evidence, thereby harming the reputation of the palm oil producing countries (Joint letter palm oil, 2017). In addition, in their letter the palm oil producing countries claim that the ‘proposed resolution’ bears *“trade discriminatory language”*. *“The imposition of both tariff and other non-tariff trade barriers, or for an outright EU ban on imports of biodiesel derived from palm oil, could provide advantages to the use of other raw materials, entailing direct discrimination against palm oil”* (Palm Oil Producing Countries, 2017 p. 1; Climate change news, 2017). Besides, for the palm oil producing countries, the ‘proposed resolution’ is interpreted within a broader framework of anti-palm oil legislation by the EU, such as the “Nutella Tax” (the positive labelling on products not containing palm oil).

The joint letter also emphasizes the contribution of palm oil to the EU economy. Furthermore, according to the palm oil producing countries the ‘proposed resolution’ fails to address in a fair manner the positive efforts towards sustainability, through certification schemes like the ISPO, MSPO, RSPO. Even so it fails to reflect the economic contribution and social impact of palm oil in the palm oil producing countries. Therefore the ‘proposed resolution’ is seen as socially exclusive and it may alienate SMEs (Small & Medium Enterprise’s) (Palm Oil Producing Countries, 2017). In conclusion, the joint letter confirms that the palm oil producing countries share the concern of the EU regarding palm oil sustainability challenges. They however call for a collaborative, not a punitive approach, to achieve the desired sustainability goals of palm oil production (Palm Oil Producing Countries, 2017).

6.1.2 Response letter

From the European side, there was also a response (Konecna, 2017a) in which the reporter of the resolution tried to explain what the aim of this resolution was (Personal Conversation EU parliament, 2017). Within this response it was stressed that only Indonesia had previously consulted the report writers and that the timing of the joint letter was therefore a bit unfortunate. Besides, the response aimed to correct some of the misunderstanding regarding the ‘proposed resolution’.

It stresses that also other drivers of global deforestation are acknowledged within the report, including those related to *“other plant-based oil produced from soybeans, rapeseed and other crops”*

(Konecna, 2017a p. 1). In addition, the response letter denies that the resolution does not address *'the other side of the coin'*, regarding palm oil. It shows for instance that both the ISPO and MSPO are well mentioned and that the Indonesian Peatland Moratorium and the establishment of the accompanying Peatland Restoration Agency in Indonesia are celebrated. In conclusion, the response letter refers to the strong majority support within the ENVI vote and sees no reason to vote against the 'proposed resolution' (Konecna, 2017a).

6.1.3 The further process

Because the president of the European parliament did not take action to withhold the resolution from a vote, on the 4th of April 2017 it was voted in favour of the resolution on palm oil and deforestation of rainforests, by the EU parliament (EU, 2017a; Personal Conversation EU parliament, 2017).

On the 17th of January 2018 the European Parliament voted on the revision of the EU RED, including the adopted report on palm oil and deforestation of rainforests (2016/2222(INI)). Thereby *"the contribution from biofuels and bio liquids produced from palm oil shall be zero from 2021"* (EU, 2018a). In a clarification on this vote it was stressed that this is not the final decision of the EU (EU, 2018a), the EU RED is currently reviewed by TRIALOG. This is the European body at which three representatives, one from the Council of Ministers (i.e. member states), one from the European Commission and one from the European parliament, negotiate the proposed legislation. The outcome of their negotiation will form the actual EU policy on the revised EU RED, including the status of palm oil for biofuels (Personal Conversation EU parliament, 2017).

6.1.4 European Commission response

The report on palm oil and deforestation of rainforests and the EU RED that were adopted by the EU parliament, differ considerably from the 2016 EU RED proposal of the European Commission and the text adopted by the Council of Ministers in December 2017 (ECOHZ, 2018a; see ECOHZ, 2018b). In a reaction, the European Commission therefore stresses that although palm oil *"has been singled out by the European Parliament as having a major impact on greenhouse emissions"*, it will continue to work *"towards achieving an agreement with no discrimination among biofuels, as proposed by the European Commission and supported by the Council of Ministers"* (EU, 2018a).

Regarding the content of the EU parliament resolution, the European Commission stressed that palm oil production has to be addressed in a balanced manner, it namely involves both opportunities and challenges (European Commissio, 2017). In addition, where the resolution calls for a single scheme for Certified Sustainable Palm Oil (CSPO) for EU imported palm oil the European Commission favours working with the existing schemes (European Commission, 2017; Personal Conversation EU, 2017).

6.1.5 Indonesian response

At the Indonesian side, the EU parliament resolution was condemned fiercely. In a response the Ministry of Foreign affairs called the resolution a discriminatory act, in particularly since the EU used

to be a champion of free trade (The Jakarta Post, 2017b), while it now practices protectionism and is ignoring *“the rights of millions of Indonesian farmers whose main source of income is from small oil palm plots”* (Nikkei Asia Review, 2017a). According to the Ministry of Environment and Forestry, the EU parliament resolution is an ‘insult’, especially regarding the Indonesian efforts towards sustainable palm oil production through the ISPO system (Asia Nikkei, 2017a; Indonesia Investments, 2017). This was supported by the Indonesian Minister of Agriculture who stated that the government of Indonesia *“cannot let Europe dictate Indonesia's agriculture, since ‘we’ have ‘our own’ standard called Indonesia Sustainable Palm Oil.”* (Asia Nikkei, 2017a).

In addition, the Minister of Economic Affairs considers the resolution to be unfair and based on the wrong data (Indonesia Investments, 2017). The director of GAPKI, therefore called for *“solid measures ranging from retaliation to termination of ongoing talks”* on the Indonesian-Europe CEPA negotiations (The Jakarta Post, 2017c). Another threat was posed by the Minister of Trade that said to disrupt milk powder imports if the EU’s negative campaign on palm oil would proceed (The Jakarta Post, 2017d).

Although there was no sign of the actual implementation of these threats by the government of Indonesia, the president of Indonesia and Malaysia agreed to join forces and discussed counter measures regarding the EU (Asia Nikkei, 2017b; Bloomberg, 2017). Also, Indonesia and Malaysia agreed to send a delegation to the EU, in May 2017, aiming to prevent the implementation of the EU parliament resolution (Tempo, 2017).

6.1.6 Further Indonesia - EU interactions

Since the EU parliament resolution was adopted, the Indonesian government and the EU have continued official and informal diplomatic negotiations (Personal Conversation EU, 2017). In Brussels several meetings were held between the Indonesian embassy and, among others, the initiators of the EU parliament resolution (Personal Conversation Indonesian Embassy, 2017). During these meetings the Indonesian government expressed that they were still worried about the EU resolution, besides they emphasized the Indonesian effort to prevent forest fires and to promote sustainable palm oil, in particular through the SPOI and Strengthening ISPO processes (Personal Conversation EU parliament, 2017; Personal Conversation Kehati, 2017; Personal Conversation ISPO, 2017). Furthermore, the Indonesian president urged the chair of the European Council to reconsider the EU parliament resolution, since the palm oil actually supports Indonesia’s economic growth and poverty-eradication efforts. He emphasized that around seventeen million Indonesians rely directly or indirectly on palm oil for their livelihood (Asia Nikkei, 2017b). In addition, the Indonesian government has also continued to emphasize its sovereignty with respect to palm oil production and has articulated retaliation measures such as the cancellation of economic and military contracts if palm oil for biofuels would be banned in the European market (Express, 2018).

White campaign

During formal and informal meetings with the EU and other international actors Indonesian government officials attempt to inform international actors about the measures that are taken in Indonesia to foster sustainable palm oil production, in particular by the NAP and ISPO Strengthening

processes (Personal Conversation Kehati, 2017; Personal Conversation ISPO, 2017). By the Indonesian government this is referred to as the ‘white campaign’, as opposed to the ‘black campaign’ that is believed to be launched against palm oil, from the European side.

Over the last year several delegations from different ministries and organisations such as the Ministry of Agriculture, the Ministry of Trade, the (co)chairs of the ISPO Strengthening team and representatives of the Council of Palm Oil Producing Countries (CPOPC), have been engaged in the advocacy of sustainable palm oil and the ISPO (Personal Conversation CPO Fund, 2017; Personal Conversation MoA, 2017; Personal Conversation Mol, 2017). However, in order to avoid miscommunications and to develop a strong and uniform strategy for the advocacy regarding palm oil, the ISPO Strengthening team is now appointed to come up with a cross-cutting diplomacy strategy (see 5.2.1.3) (Personal Conversation Kehati, 2017).

6.2 Motivations

The most important objective of the Indonesian government is to increase the market acceptance and credibility of Indonesian palm oil and of the ISPO Certification Scheme in particular (Personal Conversation ISPO, 2017; Personal Conversation MoEA, 2017). Therefore they aim for the ISPO, and Indonesian palm oil in general, to be seen as sustainable internationally (Personal Conversation Kehati, 2017). Also they attempt to counter the “black campaign” about palm oil, that is believed to come from the (European) Ngo side (Personal Conversation CPO Fund, 2017). Furthermore, the Indonesian government strives for the reduction or eradication of trade tariffs (Personal Conversation EU, 2017). In addition to increasing the market acceptance of palm oil, the government of Indonesia tries to secure and strengthen its economic position, with respect to palm oil. Finally, the Indonesian government wants to strengthen its authority over palm oil (Personal Conversation MoA, 2017; Personal Conversation GAPKI, 2017). See section 7.2 for an analysis with respect to the way the Indonesian government attempts to realise these objectives.

6.3 CEPA

Trade negotiations between the European Union and Indonesia were launched on 18 July 2016 (Fediol, 2018), in order to negotiate a Indonesia-Europe Comprehensive Economic Partnership Agreement (CEPA). At the government of Indonesia, the primary responsibility in this respect is held by the Director General for International Trade Negotiations at the Ministry of Trade.

An initial meeting took place in September 2016 at which some preliminary issues were discussed on a range of topics, including trade in goods. In addition, further procedures and working arrangements were settled (EU, 2016). During the second round in January 2017, there were detailed discussions addressing all chapters of the future agreement (EU, 2017b). Regarding Energy and raw materials, the government of Indonesia signalled that this chapter should include, agricultural products, such as palm oil, as sources of renewable energy (EU, 2017b). With respect to sustainable development, the government of Indonesia expressed its support and *“highlighted its priorities to be reflected in the agreement, including on sustainable management of natural resources and vegetable oils”* (EU, 2017b p. 3). At the third round of the CEPA, in September 2017, the Indonesian government and the

EU agreed to exchange offers in the next round and to possibly reach a deal by the end of 2018 (Fediol, 2018). In addition, “the Indonesian side gave a presentation on the on-going work to enhance ISPO certification system”(EU, 2017c). The EU position proposal however, did not mention palm oil in its chapters on sustainable development or energy and raw materials (EU, 2017d). The fourth round of trade and investment negotiations took place from 19 to 23 February 2018, in Surakarta (Solo). The full range of issues, including trade and sustainable development were discussed, progress was only made however on the chapters on food and plant health, technical barriers to trade, investment and services (EU, 2018b).

The next round of negotiations is planned to happen before the summer of 2018 in Brussels (EU, 2018b). The CEPA negotiations furthermore would need to be finished before the next Indonesian elections in 2019, in order to include provisions on the Strengthened ISPO within the CEPA, a final agreement on Strengthening ISPO must be reached before June 2018 (Personal Conversation EU, 2017).

6.3.1 Motivations

Indonesia in 2014 announced to terminate all of its 60 bilateral investment protection agreements (BITs), since it *“was no longer willing to accept the infringements on its sovereign policy space entailed in the investor-state dispute settlement mechanism (ISDS) enshrined in its BITs”* (TNI, 2018 p. 4). Therefore the Indonesian government has denounced 20 of its BITs already, and it is in the process of renegotiating these trade agreements under conditions that safeguard *“protections for foreign investors and allow the government to determine its own development path”* (TNI, 2018 p. 4).

With respect to palm oil, it is important for the Indonesian government to include palm oil extensively within the CEPA agreement. According to the report texts, of in particular the second and third round of the CEPA negotiations as published by the EU (EU Report, 2017a,b), the adoption of palm oil into the agreement is a priority of the Indonesian government. Within the Strengthening ISPO mandate for diplomacy it is also believed that the Indonesian government must attempt to put palm oil in the CEPA agreement, because of the many innovations and improvements regarding Strengthening ISPO that should be recognized by the EU. The particular provisions with respect to palm oil are aimed to be included within the chapter on trade and sustainable development (Personal Conversation Kehati, 2017). According to a delegate from the Indonesian Embassy to the EU, palm oil is included in many ‘sustainable’ chapters of the CEPA, however there are no signals confirming this, and since the documents are not open access it is not possible to verify this information (Personal Conversation Indonesian Embassy, 2017). From the European side, it is still not agreed that palm oil should be part of the CEPA (Personal Conversation Kehati, 2017; Personal Conversation EU, 2017). From the EU perspective the negotiations regarding palm oil (within the Climate change and Environment working group) are still separate from the CEPA procedure. However, if this process would be incorporated in the CEPA, “it would become legally binding and have teeth”. At the moment there is no willingness yet to do so from the EU side (Personal Conversation EU, 2017).

Another element that could become part of the CEPA, is the idea of the Indonesian government that there is only one (leading) certification system for Indonesia, namely the ISPO. Since the ISPO is mandatory and therefore has to comply with all regulations it is more important compared to the RSPO, that has a voluntary nature. From the Indonesian side, they would like the EU to recognize (the importance) of the ISPO, in this respect (Personal Conversation Kehati, 2017). Concerning palm oil, it is crucial for the Indonesian government that the CEPA does recognize that the Indonesian palm oil is produced sustainably and that the Indonesian government has improved its palm oil governance through the Strengthening ISPO process. Since deforestation is not only caused by palm oil and because the Indonesian government is strongly implementing the Palm Oil Moratorium, *“palm oil needs to be taken out of the issue of deforestation”* (Personal Conversation Kehati, 2017; Personal Conversation GAPKI, 2017; Personal Conversation MoEA, 2017). With this, the Indonesian government believes, the black campaign from the EU side could be stopped as well (Personal Conversation EU, 2017). In addition, the Indonesian government would want to adopt a trade incentive for palm oil within the CEPA (Personal Conversation EU, 2017), however the Indonesian government negotiation team has not yet decided which instrument to choose and how to develop this (Personal Conversation Kehati, 2017).

6.4 FLEGT

In conclusion, there are some voices that support the adoption of a FLEGT like structure (see Van Heeswijk & Turnhout, 2013) for palm oil, consisting of a Voluntary Partnership Agreement (VPA) and associated measures with respect to legality (Personal Conversation EU, 2017). At the other hand, there have been critical remarks as well, referring to the reluctance of European buyers to buy the FLEGT timber, due to its slightly higher costs (Personal Conversation Indonesian Embassy, 2017). The Strengthening ISPO team has ordered the European Forest Institution (EFI) to do research whether a FLEGT like structure for palm oil would be a convenient tool (Personal Conversation Kehati, 2017; Personal Conversation EFI, 2017). However, up till early 2018 there were no results of this study available yet and no further signs of it being discussed between Indonesia and the EU (as part of the CEPA) either (Personal Conversation EFI, 2017; Personal Conversation EU, 2017). The NAP and ISPO Strengthening processes do show that some lessons are learned from the FLEGT process however. In particular the multi-stakeholder process that is adopted under the NAP shows much similarities.

7. Legitimacy instruments & games

In the previous chapters the governance interactions with respect to Indonesian sustainable palm oil and the ISPO Certification scheme in particular, within the domestic and international arenas, have been discussed. Within this chapter these governance interactions are analysed, using and reflecting upon the theories of legitimacy and legitimacy games as described within the theoretical framework of this thesis. The theory on legitimacy is put forward first. It aims to analyse the governance interactions within the NAP and Strengthening ISPO processes, regarding the specific instruments through which the Indonesian government attempts to create legitimacy for the ISPO. Furthermore, the theory on legitimacy games is provided as a tool for analysis. This theory provides an overview of which legitimacy games are actually played out in the domestic and international arena. Besides it aims to analyse the horizontal and vertical manoeuvres of the actors involved and the rules according to which they play.

7.1 Legitimacy instruments

In this section, the instruments through which legitimacy is created are analysed. Therefore the processes and content of the NAP and Strengthening ISPO processes, issued by the Indonesian government, were analysed with respect to the type of legitimacy instruments that were used or referred to.

The sources of states' legitimacy stem from state-based legitimacy, i.e. sovereignty, and non-state-based legitimacy instruments. Legitimacy instruments are the instrumentary states' possess to ensure their legitimacy in some respect. Legitimacy instruments refer to and mobilise states' sources of legitimacy. Referring to these sources of legitimacy, i.e. using the legitimacy instruments, is an attempt to create legitimacy. Three types of realms on which legitimacy is depending are; ensuring legality, ensuring moral justification and ensuring consent (Gilley, 2006). Within these three realms an analytical framework of instruments that can be use or referred to, in order to create legitimacy are defined (see table 2). Thereby it is differentiated between instruments to refer to state and non-state sources of legitimacy. The legitimacy instruments thus represent a potential source of legitimacy that must be enacted. Its use ushers the creation of legitimacy.

7.1.1 Ensuring legality

This section describes how the Indonesian government attempts to ensure legality (see table 4) for its governing of Indonesian palm oil and in particularly the ISPO, within the NAP and the ISPO Strengthening process. Legality was previously defined as the "quality or state of being in accordance with the law" (Oxford dictionary, 2017a). With respect to ensuring legality, legality is approached as concerning the national legal context of Indonesian laws and regulations and regarding internationally accepted norms and standards (see Gilley, 2006). Legality may be created through the use of both state and non-state-based sources of legitimacy.

Regarding the use of legitimacy instruments to ensure legality, two lines of action by the Indonesian government are identified. The first line of action is the emphasis on the importance of the Indonesian legal context with respect to het NAP and the ISPO Strengthening processes. This forms the fundamental baseline of the Indonesian sovereignty. In addition, international norms and non-state sources of legitimacy are incorporated to some extent within the NAP and ISPO Strengthening processes. It is claimed by the Indonesian government that these norms such as transparency are an

integral part of the NAP and Strengthening ISPO processes and are motivated by Indonesian interests alone. Its uptake is however limited and subjugated to the interest of Indonesian sovereignty. Furthermore, the uptake of these processes also aim to create legitimacy for Indonesian palm oil internationally.

Table 4: Ensuring legality

Ensuring legality:	Non-state legitimacy instruments	State-based legitimacy instruments
	Rules of power related to: -Inclusiveness of participation -Equity of representation	Sovereignty: -Westphalian -International
	Political (legal) context	-Interdependence -Domestic

With respect to the first line of action, the NAP and ISPO Strengthening processes are aimed to enforce the Indonesian law and regulations regarding palm oil (Personal Conversation RSPOI, 2017; Personal Conversation Kehati, 2017). The Indonesian government thus particularly emphasizes the national political legal context and the importance for policies and regulations with respect to palm oil to adhere to this context (FoKSBI, 2017; ISPO Strengthening Team, 2017a). This stresses the sovereignty of Indonesia with respect to governing Indonesian palm oil. It attempts to argue that palm oil production is a domestic affair in which cannot be interfered (Westphalian sovereignty). In addition, it stresses the importance of governmental regulations for the effective exercise of authority regarding Indonesian palm oil, i.e. Indonesia's domestic sovereignty (Personal Conversation ISPO, 2017; Asia Nikkei, 2017a). Besides, there are several occasions at which the Indonesian government has positioned itself negatively towards international standards and internationally accepted norms and values (Personal Conversation GAPKI, 2017; Personal Conversation CPO Fund, 2017). Again, this needs to be understood as an attempt of the Indonesian government to safeguard its sovereignty. Regarding the non-interference of international actors in the 'domestic issue' of palm oil production, i.e. Westphalian sovereignty, or from a wider perspective the authority over palm oil as a cross border commodity, i.e. international sovereignty.

Corresponding to the second line of action of the Indonesian government, within the NAP and ISPO Strengthening processes some 'international' norms and values such as the multi-stakeholder and consultation procedures have (partly) been incorporated (FoKSBI, 2017; Personal Conversation LEI, 2017). The Indonesian government thus also attempts to use legitimacy sources other than sovereignty in order to ensure legality for the ISPO. The adoption of multi-stakeholder and consultation procedures is also an attempt of the Indonesian government to create legitimacy for the NAP and Strengthening ISPO processes, both with respect to the domestic arena and regarding the international arena. In the domestic arena, these procedures were mainly used to create a sense of ownership by the actors that contributed to these programs and to improve collaboration and coordination among the Indonesian ministries and between governmental levels (Personal Conversation MoEA, 2017). In the international arena, the multi-stakeholder and consultation procedures were used, for the NAP and the Strengthening ISPO processes, to be seen as legitimate internationally (Personal Conversation Indonesian Embassy, 2017).

7.1.1.1 The National Action Plan

In this section the particular instruments that were used regarding ensuring legality within the NAP are described.

Inclusiveness of participation

Under the SPOI the NAP has been the most inclusive process (in terms of stakeholder participation) initiated by the Indonesian government to govern sustainable Indonesian palm oil. Over the course of the process more than 500 people representing more than 100 organisations have been involved (FoKSBI, 2017). In addition, during the consultation many local and even international actors were involved. The Indonesian government therefore in particular used the NAP to refer to the inclusiveness of the governing of palm oil, in order to legitimise the wider governance of palm oil (Personal Conversation Indonesian Embassy, 2017).

Equity of representation

Within the NAP, some non-governmental actors have been involved in the draft writing team (Personal Conversation Daemeter, 2017). However, most decisions were made by governmental actors. In particular the Ministry of Agriculture, since it decided which actors could participate in which working group and because they were in the lead of all of the NAP working groups (Personal Conversation MoA, 2017).

Thus, although the inclusiveness of participation was high within the NAP, the equity of representation was rather low. The use of these instruments by the Indonesian government was hence not straightforward, but the high inclusiveness of participation was used to create legitimacy for the ISPO, while at the other hand the government, through the Ministry of Agriculture, was able to hold some authority over the process itself.

7.1.1.2 ISPO Strengthening

In this section the particular instruments that were used regarding ensuring legality within the ISPO Strengthening process are described.

Inclusiveness of participation

Within the ISPO Strengthening process the decision-making process was (partly) opened towards other than governmental actors. For instance, within the steering team, the director of Kehati, a national Ngo, was admitted as well as the director of DSMI, representing the palm oil industry. In the working team, there was a place for another representative of Kehati and also for two representatives of LEI and one from the Association for Certification bodies (Personal Conversation MoEA, 2017). During the further process more Ngo's were involved and occasionally additional representatives from the private sector, such as GAPKI, participated. However, most noticeable with respect to the inclusiveness of participation were the regional consultations that were held in four regions, inviting a broad range of smallholders, industry, Ngo's, academicians and officials from the district and regional governments, to discuss the draft of the ISPO Strengthening (Personal Conversation LEI, 2017).

Despite the emphasis and effort of the Indonesian government to emphasize the inclusiveness of participation of the Strengthening ISPO process, it has to be stressed that inclusiveness was *limited*. The ISPO Strengthening process was except for the regional consultations, never a process that was open to *all* actors that wanted to participate in drafting a *new* ISPO. Besides, a national consultation procedure that was planned in October, has not gone through yet, as of March 2018. Hence it may be noted that the inclusiveness of participation of the ISPO Strengthening process was *limited* to certain actors and to some parts of the process (Personal Conversation LEI, 2017; Personal Conversation Kaoem Telepak, 2017).

While the Indonesian government emphasized the inclusiveness of participation of the Strengthening ISPO process to the outside world, internally the Strengthening ISPO team also stressed the sovereignty of the Indonesian government to govern Indonesian palm oil on its own. As was noted in section 5.2.3, the inclusion of non-governmental actors was limited several times. On this occasions the Strengthening ISPO team was balancing the interest of being the domestically sovereign at the one hand with the interest of being seen as legitimate internationally (Personal Conversation LEI, 2017; Personal Conversation Kehati, 2017). Inclusiveness of participation was thus used by the Indonesian government in order to create legitimacy for the ISPO, however not at all costs or at all occasions. The aim to be seen as legitimate internationally was subjugated to the Indonesian interests and sovereignty regarding palm oil and the ISPO.

Equity of representation

Within the Strengthening ISPO process, the Indonesian government assigned an important role to a representative of Kehati in the position of vice-chair of the working team. Besides, also some of the other Ngo's and private sector members of the working team were able to participate directly in the drafting of ISPO Strengthening (Personal Conversation MoEA, 2017). Their influence is for instance, illustrated in the fact that the organisational structure that was proposed by the Ngo actors was finally adopted as the new structure for the ISPO. With respect to the broader array of actors that were involved in the consultation procedure, these were just able to provide recommendations and feedback to the draft of the ISPO Strengthening (Personal Conversation LEI, 2017).

With respect to the equity of representation a similar pattern as for inclusiveness of participation can be distinguished. Despite the equity of representation was highlighted by the Indonesian government, through the appointment of a vice-chair from Kehati, it was limited to certain actors and to some parts of the process. For instance, the adoption of a principle on human rights (within the revised ISPO P&C), was not supported by the Indonesian government, although many Ngo actors were in favour (Personal Conversation LEI, 2017; Personal Conversation CPO Fund, 2017; Personal Conversation ISPO, 2017). At these occasions the Indonesian government thus stressed its authority over the governing of palm oil, while on other occasions it attempted to create legitimacy by emphasizing the equity of representation of the Strengthening ISPO process.

7.1.2 Ensuring moral justification

This section describes how the Indonesian government attempts to ensure moral justification for the governing of Indonesian palm oil and in particularly the ISPO, within the NAP and the ISPO Strengthening processes. In table 5 an overview is provided of the state and non-state legitimacy instruments the Indonesian government possesses. Regarding the ensuring of moral justification the Indonesian government must answer the questions *why one is the right actor to govern*, and *what one does in terms of content of the activities* in both the domestic and the international arena.

Table 5: Ensuring moral justification

Ensuring moral justification:	1. <u>Why one is the right actor to govern?</u>	
	2. <u>What one does in terms of content of the activities?</u>	
	Non-state legitimacy instruments	State legitimacy instruments
	Regulatory accountability (Transparency) Performance accountability: - Cost-efficiency - Sustainability	Sovereignty: -Westphalian -International -Interdependence -Domestic

The Indonesian government sees itself as the right actor to govern the revamping of the ISPO and the reforming of the domestic palm oil sector, because it is the sovereign entity in this respect (Personal Conversation CPO Fund, 2017). In the international arena the Indonesian government therefore refers to the Indonesian legal context (see 7.1.1) as the basis for the NAP and ISPO Strengthening processes and to the notion of Westphalian sovereignty, that recognizes Indonesia's independence in governing domestic issues. Domestically it is however contested which ministry must coordinate the governing of the palm oil sector (see 7.2.1.1). Regarding the content of the activities, the Indonesian government stressed that it is pursuing Indonesian interests with respect to palm oil production and its contribution to the Indonesian economy. In particular the government emphasized their role in protecting the position of palm oil smallholders (Personal Conversation Kehati, 2017). Within the NAP and ISPO Strengthening processes the Indonesian government at times acted as a sovereign entity when it restrained the participation of non-governmental actors or when it excluded the input of these actors from the further process (Personal Conversation LEI, 2017).

The Indonesian government thus referred to itself and acted as the sovereign entity that was ought to govern the NAP and ISPO Strengthening processes. However, this perspective cannot explain the full range of statements and activities of the Indonesian government. Through the NAP and ISPO Strengthening processes, the Indonesian government for instance also claimed to act sustainably and to be transparent. In the NAP and ISPO Strengthening processes, several non-state actors participated and some responsibilities with respect to the governing of the ISPO were deregulated to them. For instance, regarding auditing and the independent monitoring of the ISPO (Personal Conversation FS2FB, 2017; ISPO Strengthening Team, n.d. (a)). Besides, also international concepts such as HCV were partly included within the proposed ISPO scheme (ISPO Strengthening Team n.d. (b)). The Indonesian government thus also used non-state legitimacy instruments to ensure moral justification for its role and activities in governing the ISPO.

In conclusion, the Indonesian government sees itself as the sovereign entity to govern the revamping of the ISPO and the palm oil sector. However it also attempts to ensure moral justification beyond their legal basis and to strengthen its legitimacy by referring to non-state legitimacy instruments. In this process, the Indonesian government surrendered some of its authority regarding the governing of the ISPO, in order to create legitimacy in the international arena. The sovereignty of the Indonesian government to govern the palm oil sector and the ISPO remained the fundamental line of action however.

7.1.2.1 The National Action Plan

In this section the particular legitimacy instruments that were used regarding ensuring moral justification within the NAP (as part of the SPOI) process are described.

Within the NAP, transparency about the process was an important value, concluded from the open access availability of much of the reports, notes and the (online inter)national consultation. Besides, the language of communication was English, so also for non-Indonesians the NAP reports are easily accessible (FoKSBI, 2017). The transparency of the NAP process was also advocated by the Indonesian government, for instance during diplomatic missions to the EU (Personal Conversation Indonesian Embassy, 2017). Despite all of this, the draft writing sessions of the NAP were closed and the participation was limited to the draft writing team. Therefore there is no transparency with respect to which actors made the final decisions to include or exclude certain issues (Personal Conversation Daemeter, 2017). In conclusion, the Indonesian government actively used transparency as a non-state instrument to ensure moral justification. However its use was limited to a perceived baseline of sovereignty regarding the governing of palm oil and the ISPO by the Indonesian government.

The instrument of *transparency* deals with the moral justification of the *process*, while the use of the instruments *cost-efficiency* and *sustainability* also refer to the *content* of what was agreed. Within the NAP the pre-conditions that were identified; *access to funding*, *better coordination among the Indonesian ministries* and *improving legal compliance*, are the means to ensure that the NAP will be implemented correctly (FoKSBI, 2017). If these pre-conditions are realised, then the rest of the NAP can be implemented in a cost-efficient and meaningful way. With respect to access to funding, the Indonesian government notes that if this funding would come from international donors, it needs to be unconditional and appropriate (FoKSBI, 2017). Therewith the Indonesian government emphasizes that it wants to remain sovereign regarding any decisions made about the governing of Indonesian palm oil. At the same time, with respect to improving legal compliance, it is specifically noted that this must be strengthened in order to create legitimacy internationally (FoKSBI, 2017). In the above the different approaches of the Indonesian government towards ensuring moral justification, provide a striking example of the strategies of the Indonesian government to create legitimacy. In the first place the Indonesian government aims to position itself as the sovereign, referring to state-based legitimacy instruments, while in second order it also attempts to create legitimacy through non-state legitimacy instruments.

The NAP reveals the mixed use of the instrument of *sustainability*, at the one hand it is referred to the Indonesian legal context as the basis for any (sustainable) policy ordered by the Indonesian government, while at the other hand international concepts are partly included. For instance with respect to *improving biodiversity at the landscape level*, the importance of the Indonesian concept of Essential Ecosystem Areas is stressed, while also the (international) HCV concept will be included partly (see 5.1.4.2) (FoKSBI, 2017). In addition, the NAP aligns itself with (inter)national goals regarding reducing GHG emissions and preventing forest fires within the palm oil sector (Personal

Conversation CPO Fund, 2017). However, it does neglect the concept of HCS and does not embrace an international definition on forests (but define forests according to the Indonesian legal status, see 4.2.1) (Personal Conversation FP2SB, 2017; FoKSBI, 2017; Personal Conversation EU, 2018). The Indonesian government emphasized that the NAP process is a sustainable process, because it is building on sound Indonesian sustainability legislation and it also incorporated some international sustainability concepts (Personal Conversation ISPO, 2017). This position enables the Indonesian government to remain the sovereign regarding their domestic sustainability regulations, while creating international legitimacy. The Indonesian government is thus balancing the domestic and international interests with respect to palm oil.

7.1.2.2 ISPO Strengthening

In this section the particular instruments that were used regarding ensuring moral justification within the ISPO Strengthening process are described.

In contrast to the NAP process, the ISPO Strengthening process was rather diffuse instead of *transparent*. During most of the ISPO Strengthening only a very limited number of actors participated in the process while all documents were enclosed for the outside world (Personal Conversation LEI, 2017). Besides, all documentation including the final draft, were only available in Bahasa Indonesia (Strengthening ISPO Team n.d. (a); Strengthening ISPO Team n.d. (b)). The exception being formed by the regional consultations at which many actors were able to comment to a draft text of the revision of the ISPO's P&C and its organisational structure. With respect to transparency within the ISPO Strengthening process, the Indonesian government thus acted largely as the sovereign entity that does not need to use transparency to strengthen its legitimacy. However, when the Indonesian government referred to the ISPO Strengthening process, it pointed towards the regional consultations and claimed transparency of the process in order to increase its legitimacy. In addition, within the ISPO P&C, a new principle on transparency was adopted (Strengthening ISPO Team n. d. (a)). Therewith the Indonesian palm oil sector and the process of certification must become more transparent in the future. At the one hand this newly adopted principle meets the international request to increase the ISPO's transparency, although at the other hand it does not yet enforce a global value chain certification (Personal Conversation FP2SB, 2017). With respect to transparency within the ISPO Strengthening process, the Indonesian government attempts to safeguard its sovereignty, while it also aims to show increased openness in order to be seen as more legitimate (internationally).

With respect to the *cost-efficiency* within the ISPO Strengthening process, the revision of the ISPO's organisational structure is the most important contribution. The ISPO will namely be professionalised and together with the changes in its organisational structure, its capacity and budget are to be increased (Personal Conversation Kehati, 2017). Taken together, these measures must create legitimacy for the new ISPO as the organisation that is able to complete the certification of oil palm smallholders and companies adequately.

The use of the *sustainability* instrument within the ISPO Strengthening process is demonstrated within the revision of the ISPO's P&C. Apart from existing and new to make Indonesian regulations on sustainability, also several provisions of the concept of HCV are included within the new ISPO's P&C, (ISPO Strengthening Team n.d. (a); Personal Conversation FP2SB, 2017). As for the NAP process, the Indonesian government emphasized the achievements within the Strengthening ISPO regarding sustainability, while pointing out that other concepts, such as HCS, are not yet suitable to the Indonesian context (Personal Conversation UNDP, 2017; Personal Conversation CIFOR, 2017b; Personal Conversation ISPO, 2017). The Indonesian government thus attempts to ensure moral

justification with respect to the sustainability of the ISPO Strengthening process, while it also uses its state-based legitimacy in limiting the adoption of concepts that do not correspond with the Indonesian interest.

7.1.3 Ensuring consent

In the following the attempts of the Indonesian government to ensure consent (see table 6) for its governing of Indonesian palm oil and in particularly the ISPO are analysed. It is differentiated between ensuring consent of the ministerial level (tier 0), of domestic actors (tier 1) and of international actors (tier 2). Besides, a distinction is made between non-state legitimacy instruments to ensure consent and state-based legitimacy instruments to ensure consent. First, it is looked into the NAP and then into the ISPO Strengthening process.

In the previous sections the ensuring of legality and the ensuring of moral justification by the Indonesian government were discussed. In order to ensure consent for its audiences within the NAP and ISPO Strengthening processes, the Indonesian government referred to these elements, both with respect to its sovereignty and regarding non-state instruments to create legitimacy.

Table 6: Ensuring consent

Ensuring consent:	Non-state legitimacy instruments	State-based legitimacy instruments
	-Output	Sovereignty: -Westphalian
	-Outcome	-International -Interdependence
	-Impact	-Domestic
	<u>Consent of tier 0 audiences:</u> <u>Consent of tier 1 audiences:</u> <u>Consent of tier 2 audiences:</u>	

Regarding the domestic actors (tier 1 audience) the Indonesian government used the NAP and ISPO Strengthening processes both to demonstrate its domestic sovereignty and to show their willingness to adhere to non-state legitimacy instruments. Its sovereignty is for instance shown by the regulatory set-up of the NAP and ISPO Strengthening processes, in which the decision-making power remained with the Indonesian ministries and by the emphasis of the Indonesian government on the Indonesian legal context (Personal Conversation MoA, 2017; Personal Conversation LEI, 2017). Through these actions the Indonesian government could position itself as a capable and responsible governor of the palm oil sector, in order to ensure consent. In addition the Indonesian government referred to non-state legitimacy instruments such as the outcome and impact of the NAP and ISPO Strengthening processes to ensure the consent of their tier 1 audience. In this respect, the effort of the Indonesian government to care for smallholders was emphasized, aiming to appeal to their self-interest (pragmatic legitimacy). Furthermore, the stressing of achievements regarding sustainability focused on ensuring the consent of the (inter)national Ngo's (moral legitimacy) (see Suchman, 1995).

With respect to international actors (tier 2 audience), the Indonesian government used a mix of state and non-state instruments to ensure their consent. With respect to the use of sovereignty, the Indonesian government attempted to ensure the consent of the chair of the European Parliament, by

strongly requesting not to vote on the resolution on palm oil and the deforestation of rainforests (Personal Conversation EU, 2017). The NAP and ISPO Strengthening processes itself were used to convince the EU of the high level of legitimacy of the Indonesian government in governing the palm oil sector and the ISPO (Personal Conversation Indonesian Embassy, 2017). Therefore it was in particular referred to the outcomes and potential impact of the NAP and the Strengthening ISPO processes in terms of for instance, sustainability.

Finally, the ensuring of consent towards the ministerial level (tier 0 audience), is characterised by a hierarchical relation of coordination (Personal Conversation MoEA, 2017; see Peters, 2010). The Indonesian presidency for instance authorised the Ministry of Economic Affairs to coordinate the Strengthening ISPO process. In its argumentation the presidency referred to the mandate (sole authority or sovereignty) of the Ministry of Economic Affairs as opposed to that of the Ministry of Agriculture, and to the lack of output (indicator of non-state legitimacy instrument) of the ISPO so far (Personal Conversation MoEA, 2017; Personal Conversation Kehati, 2017).

7.1.3.1 The National Action Plan

In this section the particular legitimacy instruments that were used regarding ensuring consent within the NAP are described.

In the NAP, it was attempted to create a sense of ownership among all the actors (tier 1 audience) that participated in the process. Rather than enforcing legislation upon the non-governmental participants it was chosen to collaborate in order to come to a shared agreement, as the outcome of the NAP. This was deemed to be the most appropriate way to unite all actors behind the reform of the palm oil sector as envisioned by the Indonesian government (Personal Conversation MoA, 2017; Personal Conversation MoEA, 2017).

With respect to interactional actors (tier 2 audience), their participation in an international consultation about the NAP, that was at the same time framed as a domestic affair by the Indonesian government, is claimed to be revolutionary (FoKSBI, 2017; Personal Conversation UNDP, 2017). Through this process and the adoption of some international norms the Indonesian government sought to ensure the consent of international actors to create legitimacy for sustainable Indonesian palm oil and the ISPO.

Finally, the Ministry of Agriculture since 2014 actively involved other ministries (tier 0 audience) within the NAP as it aimed to collaborate on some palm oil related issues it struggled with itself. Among these are the legality of the land (for which it needed the National Land Agency and the Ministry of Environment and Forestry to take action) and the implementation of ISPO related regulations (Personal Conversation MoA, 2017; Personal Conversation ISPO, 2017). Thus by involving the other Indonesian ministries it tried to ensure their consent for their own plans to reform the palm oil industry. Although actively involving all type of actors, the Ministry of Agriculture arguably remained in the lead itself.

7.1.3.2 ISPO Strengthening

In this section the particular instruments that were used regarding ensuring consent within the ISPO Strengthening process are described.

During the ISPO Strengthening process, the consent of national actors (tier 1 audience) was ensured through the regional consultations and by granting Ngo representatives influential positions within the ISPO Strengthening team. The interests of in particular non-governmental (inter)national actors

needed to be balanced with those of representatives from the ministerial level (tier 0 audience) however. Therefore on some occasions, such as regarding the adoption of an additional principle on human rights, it was deliberately chosen not to ensure the consent of the Ngo's but to ensure the backing of the process by the ministerial level (Personal Conversation MoEA, 2017). Therewith the role of the Indonesian government as the domestically sovereign was emphasized. At the same time the interests of non-governmental actors were accommodated with respect to the outcome of what was agreed, for instance regarding the ISPO's organisational structure and the adoption of independent monitoring (Personal Conversation LEI, 2017).

The international actors (tier 2 audience), were not directly involved within the ISPO Strengthening process. In order to ensure their consent the Indonesian government used advocacy to point them at the moral justification and legal underpinnings of the ISPO Strengthening process. Besides, it attempted to use diplomatic pressure towards international actors, such as the EU, to approve the ISPO Strengthening process and affirm the sustainability of Indonesian palm oil (Personal Conversation Kehati, 2017; Personal Conversation Indonesian Embassy, 2017).

7.1.4 Conclusions

The sources of states' legitimacy stem from state-based legitimacy, i.e. sovereignty, and non-state-based legitimacy, i.e. internationally accepted norms and values. Legitimacy instruments are the instrumentary states' possess to ensure their legitimacy in some respect. Legitimacy instruments refer to and mobilise states' sources of legitimacy. Referring to these sources of legitimacy, i.e. using the legitimacy instruments, is an attempt to create legitimacy. The legitimacy instruments thus represent a potential source of legitimacy that must be enacted.

The use of legitimacy instruments in the NAP and ISPO Strengthening processes by the Indonesian government shows a mixed use of state-based and non-state-based legitimacy, with respect to ensuring legality, ensuring moral justification and ensuring consent. The mixed use of state and non-state legitimacy instruments represents the strategic balance that the Indonesian government attempts to keep up. Bridging the interests of various national and international actors and combining Indonesian sovereignty with international legitimacy. The Indonesian government wants to remain the sovereign with respect to the governing of the palm oil sector and the ISPO, however it also wants the ISPO to be seen as legitimate internationally, in order to pursue their economic interests (Personal Conversation Kehati, 2017). Therefore, the Indonesian government used non-state legitimacy instruments to strengthen its legitimacy beyond its national sovereignty over palm oil.

Within the mixed use of state-based and non-state-based legitimacy instruments, the Indonesian sovereignty with respect to the governing of palm oil and the ISPO is the fundamental baseline of the Indonesian government. Within the NAP and Strengthening ISPO processes, the Indonesian government attempted to strengthen its international legitimacy by using non-state legitimacy instruments, as long as there was no conflict of interests with its sovereignty over palm oil. This balance resulted in the situation that the NAP and ISPO Strengthening processes were multi-stakeholder processes while the decision-making power was held by the Indonesian government. Besides, the NAP and the ISPO Strengthening processes incorporated ambitious sustainability criteria such as HCV, while other concepts such as HCS were not included. Towards more conservative domestic actors such as ministerial and private sector representatives the importance of the Indonesian legal context and sovereignty were emphasised. At the same time, with respect to the EU and (inter)national Ngo's, it was referred to the use of multi-stakeholder processes and sustainable outcomes.

7.2 Legitimacy games

Within the context of the governance interactions regarding palm oil, the Indonesian government is involved in legitimacy games in the domestic and the international arena. Whereas in the previous section attention was paid to the type of legitimacy instruments that are used to create legitimacy, here it is focused on the “strategic manoeuvres through which authority is claimed and reinterpreted in order to create legitimacy”. Therefore the arena’s, the actors, their manoeuvres and the rules of the game are described. First it is looked into the domestic arena and then at the international arena.

7.2.1 The domestic arena

At the domestic arena, a legitimacy game is played out between the different ministries that are involved with the palm oil sector. Besides, there is a legitimacy game going on between (some of) the national level government (agencies) and the governmental provincial (Gubernur) and district (Bupati) authorities.

7.2.1.1 The inter-ministerial legitimacy game

The inter-ministerial legitimacy game concerns the authority of different ministries regarding the governing of the Indonesian palm oil sector. In particular this is defined by the governmental mandate (i.e. rule) of each ministry, to issue and implement laws and regulations accordingly (Personal Conversation Mol, 2017). The objective of these ministries is to stretch their authority, in order to enlarge or safeguard their mandate to govern part of the palm oil sector. Besides it is an attempt to tunnel as much of the available budget into programs that are governed by their respective ministries (Personal Conversation USAID Lestari, 2017; Personal Conversation Kehati, 2017). There is thus a competition for authority and financial means by the Indonesian ministries, in order to strengthen their legitimacy with respect to the governing of the palm oil sector. The following sections discuss the topics around which the domestic legitimacy game is concentrated.

Governing the ISPO

As touched upon previously (see 5.2.4.1), the governing of the ISPO certification scheme is debated between the Ministry of Agriculture and the Ministry of Economic Affairs (i.e. the actors). Analysing this dispute in terms of a legitimacy game provides deeper insights into its character. The game is played out at the inter-ministerial level at which it is competed for the governmental authority to govern the ISPO.

Already since 2011, the Ministry of Agriculture is governing the ISPO. While palm oil production is clearly within the mandate of the ministry, the coordination of the ISPO certification scheme concerns many activities that are beyond its prime responsibility and interfere with those of other ministries (Personal Conversation Mol, 2017; Personal Conversation MoEA, 2017). The launch of the ISPO scheme was therefore a first attempt of the Ministry of Agriculture to stretch its authority over palm oil (horizontal move). The Ministry of Agriculture has, in the past, also complained about the lack of collaboration of other ministries with respect to the ISPO, while at the same time they wanted to hold their authority over the ISPO (Personal Conversation MoA, 2017). The launch of the SPOI and the NAP can be read as such, at the one hand it is an attempt to foster collaboration with other Indonesian ministries while at the other hand it is a further attempt of the Ministry of Agriculture to stretch their authority over the palm oil sector.

The internal struggles with respect to authority over palm oil and the ISPO, in combination with international pressure to strengthen the governing of the ISPO in terms of capacity, transparency and sustainability, led to a countermove by the Ministry of Economic Affairs (Personal Conversation

Kehati, 2017). Palm oil had already been declared a strategy commodity by 2015 and the Indonesian presidency therefore summoned the Ministry of Economic Affairs to take over the coordination of the ISPO. It was argued that palm oil could be better governed by transferring the authority (vertical move) over the ISPO to a higher level. Respectively the Coordinating Ministry of Economic Affairs, and through a presidential regulation, even to the presidential office (Personal Conversation MoEA, 2017). Therewith, the Ministry of Economic Affairs stretched its legitimacy such that it is now seen as the legitimate coordinator of the ISPO Strengthening process.

Governing the palm oil value chain

Besides, what is contested is the future vision for the production of palm oil and the ISPO certification, related to the downstream and upstream parts of the palm oil value chain. The Ministry of Industry has argued that the governing of palm oil, by the Indonesian government, must adopt the international trend regarding value chain certification. Consequently, the adoption of a palm oil value chain certification mechanisms would put the Ministry of Industry 'centre stage', since they have the mandate to govern the meeting point of the up and downstream parts of the value chain (Personal Conversation Mol, 2017). Through this move along the horizontal axis the Ministry of Industry could stretch their legitimacy over the palm oil sector (horizontal game). For the Ministry of Agriculture however, this would entail a loss of authority because their mandate is focused on the 'on farm' activities, to which the ISPO certification is now restricted (Personal Conversation MoA, 2017; Personal Conversation ISPO, 2017). The Ministry of Industry has attempted to convince the Ministry of Agriculture and other ministries of the necessity of adopting a palm oil value chain certification, in order to create legitimacy for the ISPO internationally. The Coordinating Ministry of Economic Affairs does consider the move towards a palm oil global value chain certification, because that would also give them more control, this was however not yet implemented in the revised ISPO (Personal Conversation Mol, 2017; Personal Conversation MoEA, 2017). Up till now, the Ministry of Agriculture has not been willing to release their authority over the ISPO.. Also because adopting a palm oil value chain certification would require more transparency and may reveal hidden corruption (Personal Conversation Kehati, 2017; Personal Conversation RSPOI, 2017).

Governing land legality

Another dispute, is with respect to the authority over the legal status of the land (for palm oil production), between the Ministry of (Environment and) Forestry and the National Land Agency (of the Ministry of ATR/BPN). In theory the Ministry of (Environment and) Forestry governs 70% of the Indonesian land with the forest status, in practice however much of this land is used by communities, oil palm smallholders and companies for other land use (APL). Therefore the National Land Agency attempts to change the status of these lands to the APL status, in order to solve for the illegality of many communities and palm oil smallholders and companies (Personal Conversation USAID Lestari, 2017; Personal Conversation Dinas Kehutan Kalteng, 2017). At the same time however, this is an attempt to stretch their authority over vast amounts of land at the cost of the authority of the Ministry of (Environment and) Forestry. This issue of land legality regarding palm oil becomes even more complex if looked into the role of the provincial and district level (agencies), as is done in the following section.

7.2.1.2 The inter-level legitimacy game

The inter-level legitimacy game is about the authority of different political legal levels i.e. the national, the provincial and the district level, concerning land legality (for palm oil production). This game is also defined by the governmental mandate that is assigned to governmental agencies at each level. The different agencies at different levels aim to stretch or protect their authority over

land legality at the cost of the other players. In the following we look at a case with respect to the provincial spatial planning of Kalimantan Tengah (Central Kalimantan) as described in section 4.2.1, and the importance of palm oil production here.

Spatial planning Kalimantan Tengah

In order to solve the disputes over land legality (between the Ministry of Environment and Forestry and the National Land Agency) in Indonesia, the implementation of a revised spatial planning for each province was requested. In Central Kalimantan (Kalimantan Tengah), this spatial planning is aimed to combine the provincial spatial planning of 2003, the national laws regarding land legality of 2007 and a guideline with respect to converting land from the forestry status to the APL status, according to a regulation (2012) of the Ministry of Forestry (Personal Conversation USAID Lestari, 2017). The Gubernur of Central Kalimantan and some of the Bupati's however attempt to convert land with the forestry status to the APL status without consulting the Ministry of Forestry or following their official procedures. The land that is aimed to be converted by the Gubernur is part of the forest area that is now already used illegally. Out of the 15 billion hectare area of Central Kalimantan, 4.5 billion hectare is illegally used and palm oil accounts for half of this area (Personal Conversation Forestry Agency, 2017). Besides, the Gubernur has tried to gain support from the National Land Agency and from the presidency for his case (Personal Conversation USAID Lestari, 2017). The Gubernur thus attempts to locate the authority over land legality at the provincial level (vertical move) and therewith aims to stretch his legitimacy at the cost of the Ministry of (Environment) and Forestry (horizontal move).

7.2.2 The international arena

At the international arena, a legitimacy game is played out between the Indonesian government and the EU regarding their authority over the palm oil global value chain. To realise its objectives (see 6.2 and 6.3.1) within the international arena, the Indonesian government engages in a number of programs and interactions with respect to palm oil. Within these interactions, the Indonesian government manoeuvres itself, both along the horizontal and on the vertical axis, in order to strengthen its legitimacy.

7.2.2.1 EU-RED

The revised EU RED and especially the proposed ban on palm oil for biofuels from 2021 onwards, characterises (Indonesian) palm oil (for biofuels) as unsustainable (Personal Conversation Indonesian Embassy, 2017). Thereby it severely undermines the legitimacy of the Indonesian government with respect to their policies for 'sustainable' Indonesian palm oil and in particular the ISPO. The proposed ban on palm oil, furthermore challenges the authority of the Indonesian government over the supply of Indonesian palm oil internationally and indirectly also the national production of palm oil (Personal Conversation CPO Fund, 2017). Therefore, both Indonesia's interdependence and Westphalian sovereignty are at stake. The EU RED thus stretches its authority over Indonesian palm oil at the cost of the authority of the Indonesian government, at the horizontal axis. The response of the Indonesian government aims to re-establish its authority over palm oil with respect to the acceptance of (sustainable) Indonesian palm oil at the European market as well as regarding the credibility of the Indonesian domestic sovereignty and its policies and on palm oil and the ISPO.

Concerning the first, the Indonesian government attempts to manoeuvre itself into the European decision-making process, for instance by sending a letter from the palm oil producing countries. This letter aimed to cancel (the voting on) the palm oil ban, thereby it attempted to re-balance the authority of the Indonesian government over palm oil. Through this move, the Indonesian

government was however also intruding into the European decision-making process, it therefore actually attempted to stretch its authority over palm oil all the way to the European consumer market. Besides, the wider response from different ministries within the Indonesian government in the media and at the diplomatic level echoes the sovereignty of Indonesia to govern palm oil (production) domestically. By partnering with other palm oil producing countries, the Indonesian government also moved along the vertical axis. The political legal level at which negotiations took place has thus partly been moved from the national level of the Indonesian government to the international level of the partnership of palm oil producing countries, in order to increase their legitimacy over palm oil.

In addition, because of the proposed ban on palm oil for biofuels under the EU-RED, the Indonesian government has submitted an official claim at the WTO to support its claim that the position and legitimacy of the Indonesian palm oil is unjustly threatened (Personal Conversation Indonesian Embassy, 2017). Thereby the Indonesian government attempts to refer to or mobilise the rules of the game (WTO rules) in its advantage, which could also strengthen its legitimacy.

7.2.2.2 White campaign

Apart from using state-instruments to create legitimacy and persuading the EU government to respect the Indonesian sovereignty, the Indonesian government also initiated a white campaign about palm oil in which advocacy (referring to the use of non-state instruments to create legitimacy) is the key element. As part of this white campaign, the Indonesian government informs EU actors about the way the Indonesian palm oil sector and in particular the ISPO are governed. In addition, the Indonesian government emphasizes the ongoing developments, especially regarding the NAP and Strengthening ISPO processes, since these are believed to increase the legitimacy of Indonesian palm oil (Personal Conversation Indonesian Embassy, 2017). Therefore, both of these processes have become a tool for the creation of legitimacy for sustainable Indonesian palm oil, and for the Indonesian government as the facilitator and initiator of these processes.

The NAP and Strengthening ISPO

The NAP is in particular seen as a credible process, since it is facilitated by UNDP, through the FoKSBI platform (Personal Conversation MoA, 2017; Personal Conversation SNV, 2017). The NAP is in the first place not a national regulation, but an agreement between many stakeholders within the palm oil sector. Moving on the *horizontal axis*, the Indonesian government uses the NAP to stretch its authority over palm oil beyond the traditional realm, i.e. governmental regulations. Thereby the capacity and capabilities of other actors such as the private sector, academia and Ngo's are mobilised in order to create legitimacy for Indonesian palm oil and for the government of Indonesia itself. Through the involvement of multiple stakeholders the Indonesian government aims to strengthen the legitimacy regarding the governing of palm oil. Since most decision-making power remains with the government, this does not come at a great loss to its own sovereignty. In addition, the NAP process is aimed to be translated into a presidential instruction (FoKSBI, 2017). With a presidential instruction the political legal level of authority, concerning the Indonesian palm oil sector, is moved along the *vertical axis*, from the ministerial to the presidential level. This will lead to better opportunities for coordination by the Indonesian government, it is therefore hoped that this move will stretch the legitimacy of the government of Indonesia over palm oil, both domestically and internationally.

Also within the ISPO Strengthening process, the multi-stakeholder character (of the regional consultations) aims to create legitimacy for the Indonesian government, while most decision-making authority remains with the government here as well. Furthermore, the far reaching authorities that

have been assigned to the Strengthening ISPO team, with respect to revising the ISPO P&C and organisational structure, solving legality and developing a cross cutting advocacy strategy, also serve to stretch the Indonesian government's legitimacy over a wider part of the palm oil sector. Besides, the proposed re-design of the ISPO's organisational structure, moving from the ministry of Agriculture towards the Coordinating ministry of Economic Affairs is a move along the *vertical axis*. In addition, the Strengthening ISPO process is awaiting to be empowered with a presidential regulation (Personal Conversation MoEA, 2017; Personal Conversation Kehati, 2017). Therefore, the political legal level of authority regarding the Indonesian palm oil sector is moved along the *vertical axis*, from the ministerial, via the coordinating ministry to the presidential level. This move will lead to better opportunities for coordination by the Indonesian government, and would therefore increase the legitimacy of the Indonesian government over palm oil, both domestically and internationally.

7.2.2.3 CEPA

The CEPA trade agreement provides ample opportunities for strategic manoeuvring by the Indonesian government, in order to strengthen their legitimacy over palm oil and the ISPO. Currently palm oil policies and trade are governed by the national governments, or in the case of the EU regionally. The CEPA however concerns an international agreement, between Indonesia and the EU, and moreover is a legally binding document (Personal Conversation, EU, 2017). The attempt of the government of Indonesia to include elaborate chapters on palm oil, in particularly regarding the sustainability and credibility of Indonesian palm oil, can therefore be identified as a move on the *vertical and the horizontal axis*. At the vertical axis the level of governance of palm oil is shifted from the national to the international level. While at the same time at the horizontal axis the governance of palm oil changes from being non-legally binding to legally binding. Therewith the agreements regarding palm oil, between Indonesia and the EU, are institutionalised within a document that has international legitimacy (Personal Conversation Kehati, 2017). Besides, the provisions regarding palm oil that the Indonesian government aims to include in the CEPA are more comprehensive than the current agreements on trade and policies (Personal Conversation Indonesian Embassy, 2017). Depending on what will be included in the final agreement, the government of Indonesia could therefore stretch its authority over palm oil to include more issues and develop a firmer stance, because it may refer to the CEPA for international legitimacy.

7.2.2.4 FLEGT

The Indonesian government has not made up its mind yet about the adoption of a FLEGT like structure for palm oil (Personal Conversation Kehati, 2017). If it would opt for this structure and adopt a legality assurance system for palm oil, comparable with the SVLK for timber, this could be identified as a move along both the *vertical and the horizontal axis*. FLEGT namely concerns an international treaty with the EU, shifting the level of authority from the national to the international realm. Therewith, the rules of the game are changed as well, because FLEGT is a legally binding agreement. The authority and legitimacy of the Indonesian government could therefore also be stretched along the horizontal axis.

7.2.3 Conclusions

Through the use of horizontal and vertical manoeuvres the Indonesian government attempts to stretch its authority over palm oil in order to strengthen its legitimacy. Within the domestic arena the Indonesian ministries and agencies at different levels try to gain more authority over palm oil, in particular with respect to the legal status of land (for palm oil production). The Indonesian presidency also aims to strengthen its coordination regarding the governing of the ISPO.

Within the international arena the Indonesian government uses their horizontal and vertical manoeuvring both to apply state and non-state instruments to create legitimacy. Concerning the EU-RED, we see the use of bold statements and manoeuvres emphasising the sovereignty of Indonesia, whereas the NAP and Strengthening ISPO processes are predominantly used for gathering support and international legitimacy.

8. Discussion

Within the discussion section it is first reflected upon the research findings, based on the answers to the research questions and the fulfilment of the research objectives of this study. Afterwards an empirical and theoretical reflection is provided. Then the recommendations of the research are presented, finally the methodological reflection is discussed.

8.1 Research findings

This research has asked the following research question; *“how does the Indonesian government attempt to create legitimacy for the governing of sustainable Indonesian palm oil and in particular the ISPO, in the domestic and the international arena?”* In the following the four sub-questions, that together provide the answer to the main research question, are discussed subsequently.

The *first sub-question* looked specifically into the National Action Plan and the Strengthening ISPO process. According to the first research objective of this research, it was aimed to describe these processes by using the theory on ‘governance interaction’, adapted from Eberlein et al (2014). It was found that multiple actors; including governmental, private, civil society and in the case of the NAP even international actors, engaged in these processes. At the macro level it was striking that the NAP and the ISPO Strengthening processes are not officially related or coordinated by the Indonesian government. The coordination of the NAP is the responsibility of the Ministry of Agriculture, while the ISPO Strengthening process is governed by the Coordinating Ministry of Economic Affairs.

The motivation for the setting up of the NAP and ISPO Strengthening processes reveal the influence of both domestic interests and international pressures. In the case of the NAP, there is a strong domestic interest in reforming the palm oil sector in order to enable palm oil smallholders to overcome their current problems with respect to legality and productivity. There was however also international pressure from UNDP, which provided the budget, to address sustainability issues inclusively. Regarding the ISPO Strengthening process, we also see a combination of domestic and international drivers. At the one hand there was the slow uptake of the ISPO scheme and at the other hand there was the international sustainability concern, caused by the fires and haze in Indonesia in 2015.

A reflection on the NAP and ISPO Strengthening processes also shows that although both processes aimed to function as multi-stakeholder processes, there were severe inequalities and limitations in this respect. Several of the examples provided in this thesis demonstrate that the opportunities to interact and to participate in the decision-making process were, except for the regional consultations, not always equal.

Looking at the Indonesian context, the NAP and ISPO Strengthening processes have led to ambitious planned reforms in the palm oil sector and regarding the ISPO. The NAP stipulates which measures will be taken to strengthen the position of smallholders and how sustainability issues at palm oil plantations can be further improved. The ISPO Strengthening process led to a proposal to revise both the organisational structure and the P&C of the ISPO.

The *second sub-question* deals with the use of state and non-state legitimacy instruments by the Indonesian government. In line with the second objective of the research, it is aimed to deepen the theoretical insights regarding the concepts of legitimacy and sovereignty in this respect. Regarding the concept of legitimacy instruments, this research found that the Indonesian government used both state and non-state legitimacy instruments to strengthen the legitimacy of the ISPO. Thereby state-based, i.e. sovereignty related, instruments formed the baseline, while additionally non-state-based legitimacy instruments were used, as long as this did not come at a great cost to the Indonesian sovereignty.

With respect to ensuring legality, the Indonesian government emphasised the importance of the Indonesian legal context. Additionally, within the NAP and the ISPO Strengthening process non-state instruments such as the multi-stakeholder and consultation processes were used. Regarding ensuring moral justification, the Indonesian government based itself on Westphalian sovereignty, i.e. their right to govern domestic issues without foreign intervention. Besides, the government attempted to strengthen its legitimacy by referring to the sustainability and transparency of the NAP and ISPO Strengthening processes. Concerning the ensuring of consent, the Indonesian government referred to its domestic sovereignty and to its capability to govern the palm oil sector and the ISPO, towards domestic actors. Towards international actors, the Indonesian government referred to its interdependence sovereignty over palm oil and to their achievements regarding sustainability and transparency.

The *third sub-question* addresses the attempts of the Indonesian government to create legitimacy within the domestic arena, among the Indonesian ministries and at the different political legal levels. The answer to this questions is related to the third research objective regarding states' mechanisms (legitimacy games) to create legitimacy. Within the domestic arena, some of the Indonesian ministries attempt to stretch their authority over palm oil or the ISPO. The Indonesian presidency strives for a better coordination of the ISPO by the Coordinating Ministry of Economic Affairs, while the Ministry of Agriculture attempts to hold their authority over the ISPO. In a similar vain the Ministry of Agriculture and the Ministry of Industry compete for the authority regarding the (value chain) certification of the ISPO. In addition, district and regional agencies are involved with respect to the legitimacy game regarding land legality (for palm oil production). Within this legitimacy game the actors attempt to relocate the authority over the legal land status at a different political legal level in order to stretch their own legitimacy.

The *fourth sub-question* looked into the attempts of the Indonesian government to create legitimacy for the ISPO within the international arena, vis-à-vis the EU. These answers also contribute to the third research objective, concerning states' mechanisms to create legitimacy. Within the international arena the Indonesian government uses their sovereignty with respect to the EU-RED, attempting to stretch its authority over palm oil all the way to European consumer market. At the same time, the Indonesian government diplomatically stresses the NAP and ISPO Strengthening processes and its achievements to increase its legitimacy regarding palm oil and the ISPO.

8.2 Embedding of the research

Within this section it is first reflected upon the empirical contribution of this research with respect to the academic context, secondly the same is done for the theoretical contribution of the research.

8.2.1 Empirical reflection

The empirical focus of this study is on the governance interactions of the Indonesian government in the domestic and the international arena with respect to palm oil, with a particular focus on the NAP and ISPO Strengthening processes. Since these processes are, as of April 2018, still ongoing there is no scientific research published yet that does address the same empirical focus as compared to this research. This research does however affirm some of the empirical findings concluded by previous research into the ISPO. Two of these are discussed below.

Following the launch of the ISPO in 2011, a range of scholarly articles have been published on the role of the Indonesian government and about public governance as opposed to private governance. Among others; Deike (2015), Giesen et al (2016), Hospes (2014), Sahide et al (2015), Schouten and Bitzer (2015) and Wijja and Glasbergen (2016), found that the Indonesian government was more actively involved in the governing of the palm oil sector since the launch of the ISPO. The results of this research regarding the NAP and ISPO Strengthening process affirms that this trend is still prevalent and that the Indonesian government is heavily involved in the steering of the palm oil sector.

Hidayat et al (2017) stressed that the governance capacity of the ISPO is too weak to address the certification of palm oil plantations and smallholders adequately. This research found that the ability of the ISPO to govern the certification of palm oil is heavily depending on the ability of the Indonesian government to address the underlying and cross-cutting issues with respect to palm oil. Among these are legality, inter-ministerial coordination, law enforcement and financing. Bakker and Moniaga (2010) and Van Vollenhoven et al (2013) show that land legality is a long living and fundamental problem in Indonesia. Ardiansyah et al (2015), furthermore demonstrate the impact of land legality challenges for the palm oil sector. Inter-ministerial coordination is also a long-known challenge for Indonesian governance, in particular between the Ministry of Agriculture and the Ministry of (Environment) and Forestry (McCarty, 2010; McCarty & Zen, 2010). The current research reveals that inter-ministerial conflicts and legality issues are often intertwined with respect to palm oil. Apart from the lack of governance capacity at the ISPO, also these underlying and cross-cutting issues need to be addressed to achieve the successful governing of Indonesian palm oil and the ISPO.

8.2.2 Theoretical reflection

The theoretical framework of this research consists of the theories on *governance interactions*, *legitimacy instruments* and *legitimacy games*. Together, these theories allowed for a three step analysis of the attempts of the Indonesian government to create legitimacy for the ISPO. Within this section it is aimed to reflect upon the theoretical findings of the research and to fulfil the second and third research objective of this study.

The theory on *governance interactions* was used to describe the interactions with respect to the NAP and the ISPO Strengthening process in the domestic arena. The theory was adapted from the theory

of Transnational Business Governance Interactions (TBGI) by Eberlein et al (2014). Although the theories original focus is thus on transnational private governance, it proved to be well applicable in the context of (inter) national public interactions. The theory was however not well able to capture the existence of power as part of governance interactions, therefore the theories on legitimacy instruments and legitimacy games were indispensable.

Within the academic literature this study took a unique perspective regarding *states' instruments* to create legitimacy. Some authors such as Krasner (2001; 2004) and Adler-Nissen and Gammeltoft-Hansen (2008) focus on sovereignty as a state instrument to create legitimacy, while others such as (Schouten et al (2011; 2012) focus on non-state actors using the instruments of; ensuring legality, moral justification and consent. Even Gilley (2006), although using the concepts of; ensuring legality, moral justification and consent to analyse state actors, did not combine this analysis with the concept of sovereignty or non-state sources of legitimacy. This study however found the mixed use of both state and non-state legitimacy instruments to create legitimacy, by the Indonesian government. The perceived barrier between state and non-state legitimacy instruments that was prevalent in the academic literature is thus now contested.

The growing role of private governance, as articulated in the use of non-state legitimacy instruments, is sometimes interpreted as resulting in a situation of limited state sovereignty (Walker, 2003). The Indonesian government did however purposefully attempt to balance sovereignty and non-state instruments to create legitimacy. Therefore, the Indonesian government is better described as a 'cunning state' (Deike 2015; Hospes et al., 2014; also see Randeria, 2003;2007), that uses its legitimacy instruments to strengthen its legitimacy strategically.

The theoretical approach of this research has been on the uses of the concepts of legitimacy and sovereignty rather than on a static understanding of these concepts. Sovereignty and internationally accepted norms and values are the sources of states' legitimacy, stemming respectively from state-based and non-state-based legitimacy. Legitimacy instruments are the instrumentary states' possess to ensure their legitimacy in some respect. Legitimacy instruments refer to and mobilise states' sources of legitimacy. Referring to these sources of legitimacy, i.e. using the legitimacy instruments, is an attempt to create legitimacy. The legitimacy instruments thus represent a potential source of legitimacy that must be enacted. This approach shifts the focus from evaluating the legitimacy (of a state) towards analysing the way it is used (see Schouten et al., 2012). Besides, it blurs the distinction between the use and the source of legitimacy, because in the legitimacy instrument these two become one.

The theory on *legitimacy games* was adapted from Adler-Nissen and Gammeltoft-Hansen's (2008) theory on sovereignty games. The analysis of legitimacy games describes the stretching of authority in order to strengthen legitimacy. Thereby an important component is the focus on issue areas or arenas, rather than spatial territories (see Agnew, 2010). The theory on legitimacy games provides insights into how states position themselves strategically in order to gain authority or create legitimacy.

8.2.3 Reflection upon the research objectives

The research objectives with respect to strengthening the theoretical understanding have been addressed in the above. With respect to the fourth objective of the research that

attempted to contribute to sustainable pathways for the ISPO to strengthen its legitimacy and effectiveness in governing sustainable Indonesian palm oil, this is discussed in the recommendation section. The fifth objective was to contribute to research on governance arrangements for sustainability under the Governing Landscapes for Sustainability (GOLS) research program and research conducted by the Centre for International Forestry Research (CIFOR) with respect to the Value Chains, Finance & Investments program. The contribution of this research has not yet been reviewed by either CIFOR or the GOLS research program. The research does however present an in-depth research into the NAP and ISPO Strengthening processes as was requested to. Besides, the process of writing a journal article about the ISPO Strengthening process is underway. This article will be authored by CIFOR and makes use of the insights of this research, among others.

8.3 Recommendations

In order to strengthen both the international legitimacy and the domestic sovereignty of the ISPO and the Indonesian palm oil sector, Indonesian policy makers should attempt to solve the cross-cutting and underlying issues such as; legality, inter-ministerial coordination and the lack of governance capacity, that form a challenge for the governing of the Indonesian palm oil. In addition priority must be given towards existing land reform policies and training for smallholders in order to foster the uptake of ISPO certification among smallholders.

International policy makers, in particular from the EU, must realise that the Indonesian government will protect their sovereignty with respect to palm oil and the ISPO at all costs. Therefore attempts of international policy making must not threaten the authority of the Indonesian government over cross-border flows of palm oil, i.e. interdependence sovereignty. Rather it must be focused on the attempts of the Indonesian government to strengthen the sustainability and transparency of the governing of palm oil through the NAP and ISPO Strengthening processes. International partnerships could help address the governance capacity of the ISPO and foster the implementation of the NAP and ISPO Strengthening processes.

Recommendations for further research

This research has tried to study the Indonesian government and analyse how it attempts to create legitimacy for Indonesian sustainable palm oil. In order to deepen the insights of this study there is the need to study the complexity of the Indonesian governmental structure even closer. Besides, additional research may target the implementation of the ISPO and the collaboration between the national and regional governments in this respect. Another important issue (regarding palm oil) which requires additional research is how the Indonesian government attempts to solve the land legality issue, as this may have a huge influence on the legitimacy of Indonesian palm oil. Furthermore, the role of the Indonesian palm oil business and their relation with the Indonesian government need to be revealed by a study.

From a more theoretical point of view, further research could test the theoretical insights provided by this study with respect to the use of states' legitimacy instruments and their involvement in 'legitimacy games'. In addition, future studies could attempt to sharpen the indicators used in this respect.

8.4 Methodological reflection

In this section it is reflected upon the methodology of the research. Besides the limitations of the research are discussed.

Validity

The most important instrument for collecting data for this research has been in-depth semi-structured interviews. This instrument was purposefully chosen because it is very adaptable and therefore an appropriate tool to get to know what is attempted to become known to the researcher. The use of in-depth semi-structured interviews therefore contributed to the so called *content validity* of the research. For this study a total of 44 interviews were conducted with a broad range of representatives from within the Indonesian palm oil sector (see 3.4). Taken together, these interviews are thought to cover the case study of this research adequately. Because the scope of this research was limited to the case of Indonesian palm oil however, its external validity is limited to the theoretical insights this thesis provides.

Scope

The scope of this research was quite broad while the structure of the Indonesian palm oil governance and diplomacy is very complex. Although the research instruments provided a lot of insights into the NAP and ISPO Strengthening processes, it was more difficult to assess personal interests, structural drivers and the functioning of the ministerial bureaucracies. A longer duration of the fieldwork conducted for this research in combination with key contacts within the government could have provided an even more detailed description of the attempts of the Indonesian government to create legitimacy.

Limitations

Apart from the limitations discussed in section 3.6, an unforeseen limitation appeared; the delay of the procedure in both the NAP and the ISPO Strengthening process. Since the length of this research was limited it has not been possible to continue to study the still ongoing processes. In order to safeguard the progress of the research it was chosen to study the most recent draft versions available of the NAP and ISPO Strengthening processes, instead.

Also, it was sometimes challenging to discuss sensitive issues such as, the power play at the ministerial level with actors that were reluctant to comment in detail on this. Triangulation of sources proved to be a powerful tool, in order to filter the correct information in this respect.

Conclusion

This research has looked into the attempts of the Indonesian government to create legitimacy for Indonesian palm oil and in particular for the ISPO within the domestic and the international arena. Thereby a three-layered theoretical framework was used consisting of the theories on governance interactions, legitimacy instruments and legitimacy games. In the following the main findings of the research are presented.

The use of legitimacy instruments in the NAP and ISPO Strengthening processes by the Indonesian government shows a mixed use of state-based and non-state-based legitimacy, with respect to ensuring legality, ensuring moral justification and ensuring consent. The mixed use of state and non-state legitimacy instruments represents the strategic balance that the Indonesian government attempts to keep up. Bridging the interests of various national and international actors and combining Indonesian sovereignty with international legitimacy. The Indonesian government wants to remain the sovereign with respect to the governing of the palm oil sector and the ISPO, however it also wants the ISPO to be seen as legitimate internationally, in order to pursue their economic interests (Personal Conversation Kehati, 2017). Therefore, the Indonesian government used non-state legitimacy instruments to strengthen its legitimacy beyond its national sovereignty over palm oil.

Within the mixed use of state-based and non-state-based legitimacy instruments, the Indonesian sovereignty with respect to the governing of palm oil and the ISPO is the fundamental baseline of the Indonesian government. Within the NAP and Strengthening ISPO processes, the Indonesian government attempted to strengthen its international legitimacy by using non-state legitimacy instruments, as long as there was no conflict of interests with its sovereignty over palm oil. With respect to ensuring legality, the Indonesian government emphasised the importance of the Indonesian legal context. Additionally, within the NAP and the ISPO Strengthening process non-state instruments such as the multi-stakeholder and consultation processes were used. Regarding ensuring moral justification, the Indonesian government based itself on Westphalian sovereignty, i.e. their right to govern domestic issues without foreign intervention. Besides, the government attempted to strengthen its legitimacy by referring to the sustainability and transparency of the NAP and ISPO Strengthening processes. Concerning the ensuring of consent, the Indonesian government referred to its domestic sovereignty and to its capability to govern the palm oil sector and the ISPO, towards domestic actors. Towards international actors, the Indonesian government referred to its interdependence sovereignty over palm oil and to their achievements regarding sustainability and transparency.

At the ministerial and sub-national level, government agencies aim to create legitimacy for themselves. Some attempt to enlarge their governmental mandate in order to stretch their authority over palm oil or to form alliances with governmental agencies (at other levels). The Indonesian government however, attempts to strengthen the coordination among the ministries to gain better control over the ISPO. Both at the domestic and at the international arena horizontal and vertical manoeuvres are used to create legitimacy for palm oil. At the international level, the Indonesian government attempts to strengthen its legitimacy by allocating authority at the council of palm oil producing countries and the legally binding CEPA agreement. Also, the Indonesian government stresses their domestic sovereignty over palm oil production and their international sovereignty

regarding the palm oil global value chain, in order to stretch their legitimacy and authority towards the EU.

Thus, in order to create legitimacy for the governing of sustainable Indonesian palm oil and in particular the ISPO, the Indonesian government made use of a mixture of state and non-state instruments to create legitimacy. Furthermore, the legitimacy games that were played out at the international arena aimed to foster the Indonesian sovereignty regarding palm oil, without compensating its international legitimacy. The legitimacy games at the domestic arena, provide further inside into the complexity of the Indonesian government, with respect to its attempts to coordination of the governing of palm oil.

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Personal Conversation EFI. (2017)

Personal Conversation European Parlement. (2017)

Personal Conversation EU. (2017)

Personal Conversation FP2SB. (2017)

Personal Conversation GAPKI. (2017)

Personal Conversation GAPKI Kalteng. (2017)

Personal Conversation GGGI. (2017)

Personal Conversation Greenpeace. (2017)

Personal Conversation IFC. (2017)

Personal Conversation Independent. (2017a)

Personal Conversation Independent. (2017b)

Personal Conversation Indonesian Embassy. (2017)

Personal Conversation ISPO. (2017)

Personal Conversation Jikalauhari. (2017)

Personal Conversation JPIK. (2017)

Personal Conversation Kaoem Telepak. (2017)

Personal Conversation Kehati. (2017)

Personal Conversation Kementraan. (2017)

Personal Conversation LEI. (2017)

Personal Conversation MoA. (2017)

Personal Conversation MoEA. (2017)

Personal Conversation Mol. (2017)

Personal Conversation Palangkaray University. (2017)

Personal Conversation PASPI. (2017)

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Annex 1: Respondents list

Number	Affiliation	Function	Date of interview	Type of interview
1.	WWF	Program Manager Sustainable Palm Oil	03/11/2017	Face to face interview
2.	JPIK	Employee	08/11/2017	Face to face interview
3.	LEI	Director	09/11/2017	Face to face interview
4.	WUR	PHD	10/11/2017	Face to face interview
5.	SPKS	Director	10/11/2017	Face to face interview
6.	CIFOR	Researcher	13/11/2017	Face to face interview
7.	CIFOR/IPB	Scientist	13/11/2017	Face to face interview
8.	Greenpeace Indonesia	Campaigner	14/11/2017	Face to face interview
9.	SNV	Commodity Coordinator Palm Oil	14/11/2017	Face to face interview
10.	RSPO Indonesia	Director	15/11/2017	Face to face interview
11.	PASPI	Secretaris Eksekutif	15/11/2017	Face to face interview
12.	Daemeter	Director	16/11/2017	Face to face interview
13.	Kaoem Telepak	Employee	21/11/2017	Face to face interview
14.	UNDP + IFC	Consultant	22/11/2017	Skype interview
15.	GAPKI + Asian Agri GAPKI + APINDO	Former Executive Director, Corporate Affairs Director. Executive Director, Deputy Chairman of Public Policy	22/11/2017	Face to face interview
16.	RSPOI + Former ISPO + MoT	Director, Employee	23/11/2017	Face to face interview
17.	European Parlement	Assistant to Katherina Koneca	23/11/2017	Skype interview
18.	MoA + UNDP	Employee	24/11/2017	Face to face interview
19.	EFI +	Scientist	27/11/2017	Face to face

	Former CIFOR			interview
20.	Mol	Employee	29-11-2017	Face to face interview
21.	CPO Fund (BPKDP) + Former ISPO + Former MoA	Executive Director, Director, Director of Estate Crops	29/11/2017	Face to face interview
22.	Lawyer (land tenure)		30/11/2017	Face to face interview
23.	Indonesian delegation to the EU	Agricultural Detaché	12/12/2017	Skype interview
24.	FP2SB + Lembaga Sertifikasi + Former MoA	Director, Director of Annual Crops	14/12/2017	Face to face interview
25.	Former Biotechnology Institute + Former RSPO	Former Director, Chair smallholders working group	15/12/2017	Face to face interview
26.	ISPO + Former MoA ISPO + Former MoFA	Director, Director of Estate Crops Auditor Senior	15/12/2017	Face to face interview
27.	European delegation to Indonesia	Employee	19/12/2017	Face to face interview
28.	Kehati + LEI	Vice-chair of Strengthening ISPO working group Board of directors	21/12/2017	Face to face interview
29.	MoE&F + Kementraan	Employee	22/12/2017	Face to face interview
30.	MoEA	Deputy of Food Crops, Chair of ISPO Strengthening working group	22/12/2017	Face to face interview
Riau; Pekanbaru, Pelalawan				
31.	IFC	Agricultural Analyst	03/12/2017	Face to face interview
32.	Dinas Perkebunan Dinas Perkebunan	Head of Plantation Office Food Crops Office	04/12/2017 05/12/2017	Face to face interview Face to face interview
33.	WWF Sumatra	Employee	04/12/2017	Face to face interview
34.	Riau University + WUR	Agribusiness Department PHD	04/12/2017	Face to face interview
35.	Jikalahari	Employee	05/12/2017	Face to face interview with translation
36.	Amanah + Fortasbi	Director	06/12/2017	Face to face interview with translation

Kalimantan Kalteng; Palangkaraya				
37.	WWF Kalteng	Employee	11/12/2017	Face to face interview
38.	Dinas Perkebunan	Head of Plantation Office	11/12/2017	Face to face interview with translation
39.	Abkasindo Kalteng	Director	11/12/2017	Face to face interview with translation
40.	GAPKI Kalteng	Director	11/12/2017	Face to face interview with translation
41.	Palangkaraya University	Agribusiness Department	12/12/2017	Face to face interview with translation
42.	GGGI	Senior Assistant	12/12/2017	Face to face interview with translation
43.	Dinas Kehutan	Head of KBPDPH	12/12/2017	Face to face interview with translation
44.	USAID Lestari + Former Bappeda	Employee	13/12/2017	Face to face interview with translation

Annex 2: Interview guide

Research questions and sub-questions

“How does the Indonesian government attempt to create legitimacy for the governing of sustainable Indonesian palm oil and in particular the ISPO, in the domestic and the international arena?”

Four sub-questions have been formulated:

- (1) How does the Indonesian government attempt to create legitimacy for the ISPO, through the Sustainable Palm Oil Initiative and the Strengthening ISPO processes?*
- (2) How does the Indonesian government make use of state and non-state legitimacy instruments, within the domestic and the international arena?*
- (3) How does the Indonesian government attempt to create legitimacy for the ISPO in the domestic arena among its ministries and at different political legal levels?*
- (4) How does the Indonesian government attempt to create legitimacy for the ISPO in the international arena vis-à-vis the European Union?*

Interview questions

Governance interactions

With respect to the interactions at the domestic and international arena, in particular regarding the SPOI and Strengthening ISPO processes.

- Who or what interacts?
- What are the drivers and shapers? (structure of the governance problem, actors, values, interests, perceptions, knowledge and resources, systems overlap,
- What are the mechanism and pathways? (networks/sites of interaction, (governmental) regulations etc.)
- What is the character of interaction with respect to the ISPO development? (coordination, competition)
- What are the effects of interaction? (regulatory capacity, output, outcome, impact)

Legitimacy

(1) Ensuring legality

- How does the Indonesian government attempt to ensure legality for the ISPO?
- How/when/why does the ISPO try to ensure legality by using state instruments to create legitimacy? What type of sovereignty?

- How/when/why does the ISPO try to ensure legality by referring to non-state instruments to create legitimacy i.e. inclusive participation and equal representation?
- How does the ISPO deal with legality with respect to the implementation of its standard? (issuing permits, corruption etc.)
- How does the ISPO relate to national regulation (national legal context)? How does this ensure legality for the ISPO? Why was the ISPO designed in that way?
- How does the ISPO relate to international governance?
- What will be future developments with respect to the ISPO's legality?

(2) Ensuring moral justifications

- How does the Indonesian government attempt to ensure moral justification for the ISPO?
- How/when/why does the ISPO try to morally justify their position/their tasks by using sovereignty? What type of sovereignty?
- How/when/why does the ISPO try to morally justify their position/their tasks by claiming sustainability, transparency, cost-efficiency?
- What will be future development with respect to the ISPO's moral justification?

(3) Ensuring consent

- How does the Indonesian government attempt to ensure consent for the ISPO?
- How/when/why does the ISPO try to ensure consent towards tier 0, 1, 2 audiences by using sovereignty? How is this balanced?
- How/when/why does the ISPO try to ensure consent towards tier 0,1, 1 audiences by emphasizing output, outcome, impact?
- What will be the future developments with respect to the ISPO's consent?

Legitimacy games

- Which legitimacy games are played in the domestic and international arena's?
- Which manoeuvres (horizontal/vertical), actors and rules of the game are involved?

Annex 3: Set up of an interview

Preparing for the interview (0):

Sending out an e-mail with a request to have an interview, containing a short description of where the research is about and having clear with whom (expert) I want to speak.

Having information about the role of the interviewee at the organisation that is being interviewed.

Arrival (1):

Introducing myself: (MSc at Wageningen University)

Putting the respondent at ease.

Introducing the research (2):

I will now first shortly introduce you to myself and my research. I am an MSc student into Environmental Policy at Wageningen University in the Netherlands, here I am working together with FOERDIA (part of the Ministry of Environment & Forestry) and with CIFOR, where I am part of the Governing Oil Palm Landscapes for Sustainability (GOLS) project. My own research is specifically about the ISPO, thereby I am looking into the ways the Indonesian government attempts to create legitimacy for the ISPO vs smallholders, and vs the international market. Besides, I am addressing the role of inter-ministerial interaction with respect to the legitimacy of the ISPO.

Before we start the interview, I have two small questions. First, how much time do you have available? I think the interview will last for 1 / 2 hours, is that okay with you? And Second, am I allowed to record the interview in order to use it more easily for my research? Besides, I would like to emphasize the confidentiality of what will be discussed.

Thank you, that's fine, whatever is convenient to you.

Beginning the interview (3):

Opening questions to open up the interviewee. Get to know something about the context.

- Asking brief details about the job, how they are involved with palm oil
- Describe what the role of your organisation is with respect to the implementation of the ISPO standard.
- Definitional questions.

During the interview (4):

- Using the interview guide, but asking follow-up questions and adapting to what is being said by the respondent.
- From general to specific.
- From describing to exploring how and why?
- Follow chronological order.

Ending the interview (5):

- Questions looking for the future, suggestions.
- Finalising the interview

After the interview (6):

- Thank you, your contribution will help the research so and so.
- Do you still have any remaining questions?
- Talking about the findings of the interview/research
- Asking to come back with further questions
- Asking for contact details of colleagues/other relevant organisations
- Interpreting of the data
- Using insights for coming interviews
-

Annex 4: (Amanah) smallholders' certification

The last element of the SPOI is the certification of the Amanah smallholders by the ISPO. First the process for the certification of (the Amanah) smallholders is described, then the status and challenges and finally the motivations are discussed.

The certification process

Before smallholders would even think about certification, socialisation is important. Within this process smallholders are approached by officials from governmental agencies (respectively the provincial and district level plantation agencies), in order to create awareness about the benefits (and eventually the necessity) of becoming ISPO certified (Personal Conversation Amanah, 2017; Personal Conversation Plantation Agency, 2017).

In order to become ISPO certified a smallholder must comply with the ISPO P&C. To comply with the first principle of the ISPO about legality, the (independent) smallholder must fulfil several legal requirements. The first of these is to acquire official land titling and therewith the land rights for the area planted with palm oil (Personal Conversation Amanah, 2017). Many farmers do not have this land titling yet, since they use ADAT rights or because of the lack of implementation and monitoring with respect to land rights by the responsible governmental agencies (Personal Conversation Riau University, 2017).

The process to receive official land titling consists of several steps, until 2015 the first step was to acquire a *letter from the village head*, with this letter at hand one could go to the sub-district level to acquire the *Surat Keterangan Tanah* (SKT). This document confirms the ownership of a certain piece of land (Personal Conversation Amanah, 2017; Personal Conversation Riau University, 2017). Based on the national governmental regulation, in Riau a regulation was implemented to organise all issuing of permits by a special Integrated Government Permit Agency, in which officials from all different government agencies sit together to issue the permits they are responsible for. As is more often the case in Indonesia, this policy was not universally implemented, for example in the Jakarta province implementation started just in 2017, therefore the current procedure of permit issuing may vary from province to province (Personal Conversation Riau University, 2017). However, this policy was also implemented in the district of Pelalawan, in which the Amanah smallholders live and work. Therefore from 2015 onwards SKT is here to be acquired at the agricultural desk of the Integrated Government Permit Agency in the Pelalawan district (Personal Conversation Amanah, 2017; Personal Conversation Riau University, 2017). To gain the SKT in the new situation one need to bring a sketch of one's land and provide the costs for the administrative process. The later went steeply up from 1700 IDR to 2 000 000 IDR, currently. The length of the process is said to vary widely, but it might take quite some time, even up to five years (Personal Conversation Amanah, 2017; Personal Conversation Riau University, 2017; Personal Conversation Plantation Agency Riau, 2017; Personal Conversation Palangkaraya University, 2017).

After having acquired the SKT certificate, smallholders are allowed to form some sort of smallholder organisation. Although all costs involved in the further certification procedure are individual costs, a smallholder organisation provides the benefit of faster processing for the smallholders and a reduction in transaction costs for the governmental agencies involved (Personal Conversation Amanah, 2017). There are three types of smallholder organisations, respectively a cooperation (kooperasie), association and gapoktan. A kooperasie is under the Ministry of Kooperasi, while a gapoktan is under the Ministry of Agriculture and an association is more independent in general (Personal Conversation Riau University, 2017). The forming of such an organisation provides smallholders with a legal body that can become certified, since certification does not deal with the individual smallholders, although hypothetically this would be possible.

With the SKT in hand, the independent smallholders may continue the procedure by going to the district BPN office (of which the giving out of permits is now incorporated in the Integrated Government Permit Agency) and apply for the *Sertifikat Hak Milik* (SHM) (Personal Conversation Riau University, 2017). Officials from the BPN office will check the location and coordinates in order to verify whether the land has a clear legal basis in the cadastre (APL land status). This process may take around six months, of course heavily depending on the local situation. Everything is taken care for by the Integrated Government Permit Agency which requires a payment of 6 000 000 IDR (Personal Conversation Amanah, 2017).

Provided with the SHM prove of land titling as a next step an independent smallholder will need to ensure (STDB) certification. The STDB document is drafted by the smallholders themselves. Apart from the coordinates of the land (from the SHM), it contains information about the type of crop (although STDB is yet only for palm oil). In addition, the production per ha, the number of trees, the planting material, the fertiliser applied and the eventual company or partnership must be listed (Personal Conversation Riau University, 2017).

In the Pelalawan district STDB is free of charge for the farmers, correspondingly to the national regulation of the Ministry of Agriculture. However, whether STDB is free of charge heavily depends from district to district and is correlated with the budget remaining as well as the integrity of the government officials (Personal Conversation Riau University, 2017). For the process itself the independent smallholders just need to bring their identity documents and the SHM and go to the Dinas Perkebunan at the district level, but to the agricultural desk at the Integrated Government Permit Agency. The officials from the Dinas Perkebunan need to verify the smallholders location and order the document. In the Pelalawan district this process normally only takes five days, although recently the process had become longer, since more smallholders want to get STDB (Personal Conversation Amanah, 2017).

The final legal requirement for ISPO certification for independent smallholders is to have *Surat Pernyataan kesanggupan Pengelolaan dan Pemantauan Lingkungan hidup* (SPPL). To acquire this document one has to go to the representative of the environmental agency at the district level (Personal Conversation Amanah, 2017). Similarly with the STDB there are no costs involved with respect to the issuance of the SPPL. Actually this document is also prepared by the smallholders

themselves. Apart from some personal information and information about the land size, the SPPL deals with seven principles that correspond with the ISPO P&C. Besides, the smallholders need to show how they deal with these principles and the environmental impacts of their farming practise, finally they need to promise to adhere to these regulations (Personal Conversation Riau University, 2017). This data only needs to be monitored, the first time the monitoring is done by the environmental office, afterwards the auditor (while being certified) does the job. The government's target for finalising the process is 40 days of work (Personal Conversation Amanah, 2017). In the case of the Amanah smallholders, it took them eight months to one year to fulfil all legality aspects of the certification procedure. It was all paid by themselves and they did not get a loan (Personal Conversation Amanah, 2017).

After having received all legal documents that are needed to become eligible for ISPO certification, and having formed some sort of smallholder association, a smallholder may continue the further procedure. The further procedure contains many different types of training provided for the smallholders, in order to improve on their production process and ultimately become ISPO or RSPO certified. These include training with respect to; safety procedures, fertilisation and other Good Agricultural Practices (GAP) and finally to the ISPO P&C (Personal Conversation Amanah, 2017; Personal Conversation IFC, 2017; Personal Conversation CPO Fund; Personal Conversation Riau University, 2017). In the case of the Amanah smallholders, they were supported by WWFI, funded by Carrefour and received technical training from Asian Agri for acquiring the RSPO certificate as well as their first audit. To become ISPO certified they were funded by UNDP, which took also care of their first ISPO audit (Personal Conversation MoA, 2017).

Smallholders' status

At the start of 2018, only a few smallholder groups had become RSPO certified in Indonesia, respectively the Amanah smallholders (2013) and the Gapoktan Sanjung Sehati (2016). Regarding ISPO certification, only the Amanah smallholders (2015) are ISPO certified so far. Nevertheless there are several ongoing initiatives to provide smallholders with training, for example regarding GAP including the managing of pesticides etc. and safety procedures (Personal Conversation CPO Fund, 2017). For instance, IFC is supporting a project in the Pelalawan and Siak districts in collaboration with Musim Mas (IFC, 2017). Noteworthy also is the role of the private sector, while formally the private sector has no responsibility towards independent smallholders yet, some companies are taking part in smallholder support projects. Besides, some companies provide independent smallholders with some form of assistance on their own account (Personal Conversation Palangkaraya University, 2017; Personal Conversation Riau University, 2017; Personal Conversation Kehati, 2017; FoKSBI, 2017).

Smallholders' challenges

There are severe challenges for smallholders to become ISPO (or RSPO) certified. The very first is with respect to smallholders lack of access to information about the certification procedure (Personal Conversation SPKS, 2017; Personal Conversation Palangkaraya University, 2017; Personal

Conversation APKASINDO, 2017). Smallholders are often located in the more remote areas, but their large number in itself forms a challenge for the provincial and district level Plantation Agencies that are responsible for the ISPO socialisation procedure (Personal Conversation Plantation Agency Riau, 2017; Personal Conversation IFC, 2017). Often there is a lack of budget flowing from the national level or it is spend on different issues locally. But even if annual targets with respect to socialisation towards smallholders are met, their capacity is insufficient to inform all smallholders adequately. In addition, the government does not have secure data about where the smallholders are located, which forms a further obstacle to reach out (Personal Conversation Kehati, 2017).

While socialisation could increase smallholders awareness about the benefits of becoming certified, many smallholders are not willing to engage in a certification procedure either. There are several causes again which could explain their reluctance. Although some smallholders are part of some sort of smallholder association, not all are willing to form an association. Since forming an association comes with some risk and the handing over of responsibilities to the association, including with respect to production and price setting (Personal Conversation Palangkaraya University, 2017; Personal Conversation APKASINDO, 2017) In addition, associations sometimes are distrusted because of a reputation of corruption and instability (Personal Correspondence Riau University, 2017).

Also, if smallholders do not have clear legality in the form of land titling, they may be hesitant to start the certification procedure. Especially if they have land in the area that is assigned with the forest status or if they are illegally encroaching into national park territory (Personal Conversation WWF, 2017b). Since in these cases they will not be able to become certified unless they manage to change the status of their lands with the Ministry of Environment and Forestry, which is practically impossible for a smallholder to take on (Personal Conversation WWF 2017b; Personal Conversation Riau University, 2017).

Then also the costs that are involved with the certification procedure make smallholders unable and unwilling to become certified themselves. In some cases this also concerns the costs that are charged for acquiring some of the legality documents, although these officially should be free of charge (Personal Conversation Riau University, 2017). But for all smallholders the costs of receiving training, fulfilling all procedures to become certified and being audited are huge, unless they do receive financial or technical assistance from an external organisation (Personal Conversation SPKS, 2017; Personal Conversation Amanah, 2017). In addition, smallholders often have poor access to finance, such as a bank loan, that would do in order to make the investments to become (ISPO) certified (Personal Conversation IFC, 2017; Personal Conversation SPKS, 2017; Personal Conversation CPO Fund, 2017).

Annex 5: Joint ISPO-RSPO study

Another element of the SPOI, is the ISPO-RSPO joint study that was conducted and completed in 2015. The aim of the ISPO-RSPO joint study was to examine the potential for collaboration between the ISPO and RSPO schemes in order to achieve higher efficiencies and lower costs with respect to field audits of the two schemes (Personal Conversation Independent, 2017b). Therefore the study investigated the (dis)similarities between the two schemes and provided recommendations on future collaboration. Specifically the *Minister of Agriculture Regulation Number 11 of 2015* with respect to the ISPO P&C and the *Indonesian National Interpretation of the RSPO P&C 2013* were studied, as well as the laws and regulations of the management of palm oil and the environment in Indonesia (Suharto et al., 2015).

Based on its findings, the study emphasized the similarities between the ISPO and RSPO certification schemes. For instance with respect to the commitment of both schemes to contribute to a reduction in the loss of forest coverage and the identification of carbon stock emissions that is required before land clearing for plantations may occur. In addition, both schemes only provide certification for plantation companies that have legally sound land rights and licences and that comply with national and district laws and regulations. It is concluded that these similarities provide a strong incentive for the ISPO and RSPO certification schemes to start combined audits of their common (legal) elements by auditors that are approved by both organisations (Suharto et al., 2015).

At the same time there are still dissimilarities between the ISPO and RSPO certification schemes, such as the cut-off date for palm oil plantation development at the expense of forests. Here ISPO follows the *Presidential Instruction Number 10 of 2011 with respect to the Postponement of the Issuance of New Licences and Improving Governance of Primary Natural Forest and Peatland to follow the new indicative government Plantation License Postponement Map*, while RSPO sets their cut-off date at November 2005. Also “RSPO does not allow new plantings on converted primary forests, HCV and HCS areas and other areas where the developer has not obtained the Free Prior Informed Consent (FPIC) of indigenous and local peoples” (Suharto et al., 2015 p. 12). Regarding the dissimilarities between their schemes ISPO and RSPO are advised to further investigate these differences and to develop audit guidelines as well as a checklist to be used for the combined ISPO and RSPO audits.

Up till early 2018, no joint audits or any further attempts to collaborate between the ISPO and RSPO certification schemes have been attempted however. On behalf of the ISPO, they will first focus on completing the Strengthening ISPO process, before they will proceed to collaborate with the RSPO regarding joint audits. However, according to some of the ISPO Strengthening’s team members, they do expect to continue collaboration regarding setting up joint audits (Personal Conversation Kehati, 2017; Personal Conversation FS2SB, 2017), when the RSPO will have completed their revising process as well (RSPO is namely also in the process of revising its P&C, which are expected to be adopted in 2018) (RSPO, 2018; Personal Conversation SPKS, 2017).