

Legal Review of Forest Conversion For Palm Oil Plantations in the Interests of Renewable Energy

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Abstract

This research examines the legality and legal validity of online auctions within the framework of applicable laws and regulations, and assesses its consistency with the principles of administrative law and legal protection for the parties. The purpose of this study is to analyze whether the implementation of online auctions has an adequate legal basis and how the formal and material validity of online auctions is normatively guaranteed. This research uses juridical-normative method with statutory approach and conceptual approach. The data analysis technique is carried out qualitatively by reviewing relevant laws and regulations, including the Minister of Finance Regulation (PMK), the Regulation of the Public Procurement Policy Agency (LKPP), and other technical regulations for the implementation of online auctions. The novelty of this research lies in the normative evaluation of the convergence between positive law and the rapidly growing practice of digital auctions. The results show that although the implementation of online auctions has been accommodated in a number of regulations, there are still lacunae of norms and inconsistencies between regulations that have the potential to cause legal uncertainty. On the other hand, the legal validity aspect of online auctions is still considered not fully fulfilling the principles of transparency, accountability, and legal protection for participants. This study recommends the establishment of special regulations regarding online auctions in the form of laws or at least comprehensive government regulations, in order to strengthen the legal basis and ensure certainty and justice in the practice of online auctions in the digital era.

1. Introduction

Forest conversion to oil palm plantations has become a complex issue in Indonesia. As the world's largest producer of palm oil, Indonesia faces a dilemma between economic growth and environmental sustainability. Oil palm plantations make a significant contribution to the national economy, both through job creation and increased exports. Currently, based on data from the Indonesian Palm Oil Entrepreneurs Association (GAPKI) and the Palm Oil Plantation Fund Management Agency (BPDPKS), the total area of national oil palm plantations has reached 16.38 million hectares. Of this amount, large private plantations control 53% or equivalent to 8.68 million hectares, state plantations or State-Owned Enterprises (BUMN) by 6% or 0.98 million hectares, and independent farmers with land control of 41% or an area of 6.72 million hectares. Regulatorily, the government has enacted several laws to regulate forest conversion. Law Number 41 of 1999 concerning Forestry states that forests are resources that must be protected and utilized sustainably. Law Number 32 of 2009 concerning Environmental Protection and Management also emphasizes the importance of environmentally conscious development and stipulates that any activity that has the potential to damage the environment must have an Environmental Impact Analysis (AMDAL). However, weak law enforcement often makes these regulations ineffective in preventing deforestation.

In addition, Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction regulates sanctions for parties who carry out illegal logging and illegal land conversion. Unfortunately, the implementation of this law still faces various obstacles, including overlapping policies between the forestry, plantation, and energy sectors. On the one hand, Law Number 39 of 2014 concerning Plantations actually encourages the expansion of oil palm plantations on the grounds of increasing the economy and providing raw materials for biodiesel. This policy contradiction creates legal uncertainty that hinders sustainable forest management. From an economic perspective, the palm oil industry has a strategic role in the Indonesian economic constellation. The total economic value of the palm oil sector from upstream to downstream nationally reaches more than IDR 750 trillion per year, equivalent to 3.5% of the national Gross Domestic Product (GDP) in 2023 which reaches IDR 20,892 trillion. This shows that palm oil exports have a major impact on national economic growth and Indonesia's economic resilience. However, on the other hand, uncontrolled expansion of oil palm plantations has the potential to damage the environment and threaten the sustainability of forest ecosystems.

On a global scale, Indonesia is also bound by various international agreements and standards, such as the Convention on Biological Diversity (CBD) and the 2015 Paris Agreement, which require countries to reduce deforestation rates in order to reduce carbon emissions. However, the implementation of domestic policies often contradicts these international commitments, especially when economic interests are prioritized over

environmental sustainability. This poses a challenge for the government in balancing development and conservation interests. In addition to ecological impacts, forest conversion for oil palm plantations also has social impacts. Indigenous and local communities who depend on forests are often victims of this plantation expansion. Land disputes between companies and indigenous communities often result in prolonged legal conflicts, given that indigenous peoples' land rights are often poorly recognized by law. Although there is legal protection in the form of recognition of customary rights, in practice many indigenous peoples lose their land rights due to weak implementation of related policies.



The value of Indonesian palm oil exports has fluctuated during the period 2012 to 2022, with a trend showing a significant increase in the last two years. In 2012, the export value was recorded at 20.53 billion USD and had decreased to 18.14 billion USD in 2016. However, after experiencing several increases and decreases, exports jumped sharply from 22.97 billion USD in 2020 to 28.52 billion USD in 2021, then peaked at 39.09 billion USD in 2022. This sharp increase was likely influenced by increasing global demand and fluctuations in palm oil prices on the international market. Palm oil is the only Indonesian export commodity that dominates the world market. Data from the Ministry of Trade shows that during the period 2019 to 2023, the average export of Indonesia's five main palm oil products reached US\$ 29.9 billion per year. Indonesia is ranked first with a palm oil export market share of around 53% of the world's total palm oil product exports, which averaged US\$ 56.39 billion in the last five years. With this dominance, Indonesia is faced with a major challenge to ensure that palm oil production remains sustainable without damaging the environment and causing social conflict. This study aims to analyze the effectiveness of regulations governing forest conversion for oil palm plantations in the interests of renewable energy. Using a normative legal approach, this study will evaluate the extent to which national regulations are in line with international standards and

identify obstacles in the implementation of existing policies. The results of this study are expected to provide policy recommendations that are able to balance economic, ecological, and social interests. Stricter policies in monitoring forest conversion, more effective law enforcement, and harmonization of regulations between sectors are key to achieving this balance. With a more sustainable approach, Indonesia can remain a leader in the global palm oil industry without sacrificing environmental sustainability and the rights of forest-dependent communities.

2. Research Method

This study uses a normative legal method with a statute approach and a conceptual approach. The data used consists of primary legal materials, such as Law No. 41 of 1999 concerning Forestry, Law No. 32 of 2009 concerning Environmental Protection and Management, and Law No. 39 of 2014 concerning Plantations. In addition, this study also analyzes international policies, such as the 2015 Paris Agreement and the Convention on Biological Diversity (CBD), which relate to environmental management and the sustainability of the palm oil industry. Secondary data were obtained from legal journals, research reports, and publications from environmental organizations. The analysis was carried out by examining the extent to which national regulations are in line with international standards and identifying challenges in implementing forest conversion policies in Indonesia.

3. Result and Discussion

Principles Of Sustainable Development In Forest Conversion

The principle of sustainable development is a key concept in environmental law that aims to balance economic, social, and environmental interests (Kusumaputra, 2021). This principle emphasizes that development must be carried out without sacrificing the ability of future generations to meet their needs. In the context of forest conversion for oil palm plantations, this principle requires a mechanism to ensure that land conversion is carried out by considering environmental carrying capacity and does not cause massive ecosystem degradation.

However, the implementation of this principle still faces major challenges, especially in terms of law enforcement and compliance with environmental regulations. The conversion of forests to oil palm plantations is often carried out without adequate environmental studies. Several large companies clear land by burning forests, which not only causes loss of biodiversity but also contributes to greenhouse gas emissions (Hermawan et al., 2024). In fact, in accordance with Law Number 32 of 2009 concerning Environmental Protection and Management, every activity that has a major impact on the environment is required to have an Environmental Impact Analysis (AMDAL). Unfortunately, weak supervision and corrupt practices in granting environmental permits have caused many business actors to ignore this obligation.

Globally, this is also influenced by how developed countries often use their

financial and technological superiority to dictate environmental standards that are difficult for developing countries to implement (Mulyono & Karo, 2023). In addition to ecological impacts, forest conversion also has an impact on social aspects, especially for indigenous peoples and small farmers who depend on forests for their livelihoods. The principle of environmental justice should ensure a fair distribution of environmental benefits and burdens. However, in practice, the expansion of oil palm plantations benefits large corporations more than indigenous peoples and small farmers. There are many cases where local communities lose access to land and natural resources due to permits granted to large companies without considering social aspects (Farina et al., 2021). As a result, agrarian conflicts often occur between plantation companies and surrounding communities who lose their customary rights.

From an environmental law perspective, the state has the primary responsibility to manage natural resources for the benefit of the people. Article 33 paragraph (3) of the 1945 Constitution states that the earth, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. Therefore, the state must ensure that forest conversion is carried out with the principle of caution and in accordance with applicable regulations. This responsibility also includes law enforcement against violations, such as illegal forest encroachment and violations of plantation business permits.

However, in its implementation, law enforcement against environmental violations is still weak. Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction has set strict sanctions for parties who destroy forests, including fines and criminal penalties. Unfortunately, many cases of illegal logging and illegal land clearing are not taken seriously. Many companies continue to operate even though they are proven to have violated regulations because of the involvement of certain parties who trade permits illegally.

In addition to national regulations, Indonesia is also bound by various international policies aimed at reducing the rate of deforestation and supporting sustainable development. One of them is the 2015 Paris Agreement which targets reducing carbon emissions from the land-based sector (Zuhir et al., 2017). Oil palm plantations are one of the significant contributors of carbon emissions due to deforestation and land fire practices (Kurniawan et al., 2023). Therefore, the Indonesian government needs to align plantation development policies with international commitments so as not to only prioritize economic aspects but also maintain environmental and social balance.

To support the implementation of sustainable development principles, the government has issued Presidential Instruction No. 8 of 2018 concerning the Moratorium on Oil Palm Plantation Licensing. This policy aims to postpone and evaluate plantation permits in order to reduce the rate of deforestation. However, the effectiveness of this policy is still questionable due to weak supervision at the regional level and minimal transparency in the evaluation of permits that have been issued. Several studies have shown that even though the moratorium has been implemented, illegal land clearing continues in several areas, especially in Sumatra and Kalimantan (Kamim et al., 2024).

With the various challenges that exist, the implementation of sustainable development principles in forest conversion for oil palm plantations requires a stronger commitment from various parties. The government must strengthen the monitoring and law enforcement system so that existing regulations can run effectively. In addition, community involvement in environmental management also needs to be increased so that they have an active role in maintaining forest sustainability (Saleh Husin, 2024).

National Regulations and International Policies Regarding Forest Conversion

Forest management in Indonesia is generally regulated in Law No. 41 of 1999 concerning Forestry, which is the legal basis for maintaining the balance of ecological, social, and economic aspects. Article 18 of the law stipulates that changes in the function of forest areas can only be carried out through strict procedures, including environmental studies and approval from the central government. However, in practice, forest conversion is often carried out illegally without following these procedures, resulting in deforestation and agrarian conflicts (Rahman, Wibowo, & Syahputra, 2023).

In addition, Law No. 32 of 2009 concerning Environmental Protection and Management requires an Environmental Impact Analysis (AMDAL) before implementing a project that has the potential to damage the environment. Unfortunately, the implementation of AMDAL often does not run optimally due to weak supervision and high levels of corruption in the licensing system (Rahman et al., 2023).

Law No. 18 of 2013 concerning the Prevention and Eradication of Forest Destruction provides a legal basis for imposing criminal sanctions against forest destruction, both directly and indirectly. This law is intended to prevent illegal land clearing practices that often occur in the expansion of oil palm plantations, but its implementation is still weak and inconsistent (Amil & Rachman, 2019).

In the plantation sector, Law No. 39 of 2014 concerning Plantations stipulates that every company is required to obtain a forest area release permit before clearing land. However, there are still many companies that carry out illegal forest conversion, ignoring applicable legal procedures (Hutagalung & Butar Butar, 2021).

The Indonesian government has also issued Presidential Instruction No. 8 of 2018 concerning the Moratorium on Oil Palm Plantation Licensing to reduce the rate of deforestation. This policy aims to evaluate and regulate problematic plantation permits. However, the effectiveness of this policy is still limited due to weak regional supervision and lack of transparency in the evaluation process (Sawit et al., 2018).

Internationally, Indonesia is a party to the Convention on Biological Diversity (CBD) which emphasizes the importance of protecting biodiversity in managing forest ecosystems. However, the realization of this commitment still faces major challenges in the field due to economic pressures and the expansion of the palm oil industry (Assidiq, 2022).

Indonesia is also bound by the 2015 Paris Agreement, which targets reducing carbon emissions from the land-based sector, including deforestation due to forest conversion. Unfortunately, the expansion of oil palm plantations continues rapidly, which hinders the achievement of climate change mitigation targets (Assidiq, 2022). In the context of the Sustainable Development Goals (SDGs), especially goal 13 (addressing climate change) and goal 15 (protecting terrestrial ecosystems), forest conversion management has a major impact on environmental sustainability.

In addition, the 2015 Paris Agreement has placed considerable pressure on Indonesia to reduce greenhouse gas emissions, the majority of which stem from land-based sectors, including forest conversion into oil palm plantations. Climate change, driven by carbon emissions from deforestation, has become a global issue. Consequently, Indonesia needs to realign its forest conversion policies with its climate change mitigation commitments. This aligns with the view of Mulyono and Karo (2023), who argue that developing countries must formulate policies that are not solely beneficial to vulnerable groups, as incentives and free trade policies often favor medium and large-scale enterprises. While these countries depend on funding and technological support from developed nations to implement such policies, their domestic policy alignment remains crucial.

Unfortunately, many national policies in Indonesia still do not fully align with carbon emission reduction targets. The rapid expansion of oil palm plantations continues at a significant pace. Within the framework of the Sustainable Development Goals (SDGs), particularly Goal 13 (climate action) and Goal 15 (life on land), forest conversion policies have a profound impact on the achievement of sustainable development targets. Uncontrolled expansion of palm oil plantations leads to land degradation, biodiversity loss, and increased carbon emissions, which ultimately hinders progress toward these global goals. Therefore, Indonesia must ensure that palm oil plantation management policies consider not only short-term economic gains but also long-term environmental sustainability.

Beyond government policies, there are also international standards designed to ensure sustainable palm oil production, such as the Roundtable on Sustainable Palm Oil (RSPO) and the Indonesian Sustainable Palm Oil (ISPO) scheme. RSPO is a global initiative that establishes sustainability standards for the palm oil industry, while ISPO was developed by the Indonesian government to ensure national environmental regulations are met. In 2004, RSPO introduced a sustainability certification scheme for the palm oil industry, aiming to establish global standards that include environmental and social criteria such as deforestation bans, biodiversity protection, and respect for the rights of workers and indigenous communities (Abidin, 2023).

However, RSPO certification has not been entirely effective. Despite adoption by several companies, deforestation and biodiversity loss still occur, especially in regions with weak monitoring or low compliance. According to data from the Central Bureau of Statistics (Badan Pusat Statistik, 2024), as of 2023, there were 2,294 palm oil companies operating in Indonesia. Yet only about 198 of these companies had obtained RSPO certification, as recorded by Global Forest Watch (2023). This indicates that the majority of Indonesia's palm oil producers still operate without strict sustainability

standards.

Tabel
Table 5.3.3 **Jumlah Perusahaan Perkebunan Besar Menurut Jenis Tanaman, 2019–2023**
Number of Large Estate Crop Companies by Types of Crops, 2019–2023

Jenis Tanaman Type of Crops	2019	2020	2021	2022	2023*
(1)	(2)	(3)	(4)	(5)	(6)
Tanaman Tahunan Perennial Crops					
Karet/Rubber	286	301	288	266	272
Kelapa sawit/Oil palm	2.056	2.511	2.466	2.389	2.294
Kopi/Coffee	89	82	76	77	79
Kakao/Cocoa	72	56	37	31	29
Teh/Tea	93	95	86	87	87
Tanaman Semusim Seasonal Crops					
Tebu/Sugar cane	95	91	85	80	80
Tembakau/Tobacco	4	3	3	4	4

Sumber/Source: Badan Pusat Statistik, Survei Perusahaan Perkebunan/BPS-Statistics Indonesia, Estates Survey

Figure 2. Number of Large Plantation Companies by Crop Type, 2019-2023

In 2019, Indonesia established ISPO, a mandatory certification scheme for all palm oil companies operating in the country. Despite this regulation, only about 5.45 million hectares (32.44%) out of the total 16.8 million hectares of plantation areas have ISPO certification. This area, which is ten times the size of Bali, represents just over one-third of Indonesia's total oil palm plantations. This gap reveals a significant compliance issue, as nearly two-thirds of the country's palm oil plantations remain uncertified. To accelerate sustainable practices, the Indonesian government has actively promoted ISPO certification since 2005, including for smallholder plantations.

To support this initiative, the Ministry of Agriculture issued Regulation No. 38/2020 on the Implementation of Sustainable Palm Oil Plantations in Indonesia, which provides guidelines for certification. Nevertheless, the adoption of sustainable practices remains low, with only a small portion of the industry meeting either RSPO or ISPO standards. This low certification rate hampers the competitiveness of Indonesian palm oil in global markets, as many environmentally conscious international buyers and consumers prefer sustainably sourced palm oil. Unfortunately, many companies have yet to fully implement these standards, drawing criticism from global environmental organizations.

Enforcement of these standards must be strengthened through stricter monitoring and clear penalties for non-compliance. This discussion illustrates that while national regulations and international policies cover various aspects of forest conversion for palm oil plantations, the main challenge lies in implementation. Weak enforcement and ineffectiveness in curbing deforestation and land conflicts caused by land conversion remain significant issues. Therefore, there is a pressing need for synergy between national regulations and global policies to ensure that forest and palm oil plantation management is both sustainable and equitable. The government must

enhance law enforcement mechanisms, improve transparency in licensing, and ensure that environmental policies are not merely administrative documents but are genuinely implemented to protect increasingly threatened natural resources.

Analysis Of Economic, Social, And Environmental Impact Due To Forest Conversion

Forest conversion in Indonesia has had a significant impact on economic, social, and environmental aspects. Data from the Central Statistics Agency (BPS) shows that Indonesia's net deforestation rate, both inside and outside forest areas, has fluctuated during the period 2013–2022. In 2013, deforestation reached 1,130,000 hectares, decreased to 480,000 hectares in 2017, but increased again to 650,000 hectares in 2020 (Central Statistics Agency, 2023).

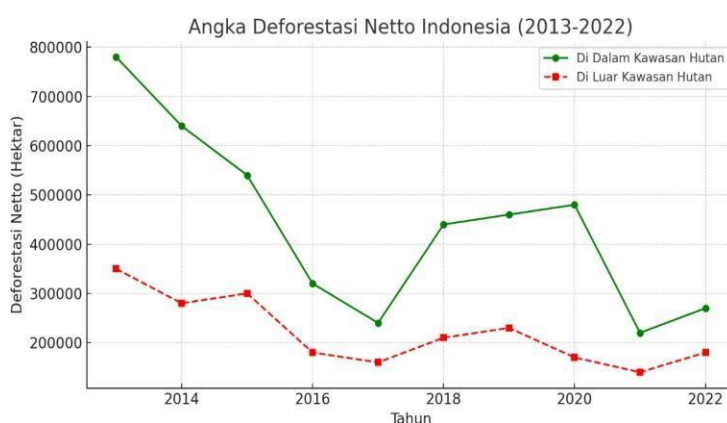


Figure 3. Net Deforestation Rate in Indonesia (2013-2022)

From an economic perspective, the expansion of oil palm plantations, which is often the main reason for forest conversion, has made a significant contribution to the national economy. According to BPS data, the area of oil palm plantations increased from 10.5 million hectares in 2013 to 14.6 million hectares in 2022. Palm oil production also increased from 26.5 million tons in 2013 to 45.5 million tons in 2022 (Central Statistics Agency, 2023). This industry is an important source of foreign exchange for the country and provides employment for millions of people. However, these economic benefits are often unevenly distributed, as most of the profits are enjoyed by large companies, while local communities only receive minimal benefits.

forests are also significant. Many indigenous and local communities have lost access to land that was previously their source of livelihood. This has triggered agrarian conflicts between communities and plantation companies. In addition, changes in social structures have occurred due to the influx of migrant workers into plantation areas, which can cause social friction and the loss of local culture (Farina et al., 2024). From an environmental perspective, land use change

From an environmental perspective, forest conversion causes loss of biodiversity. Indonesia's forests are habitat for various endemic flora and fauna

species, and deforestation threatens the survival of these species. In addition, forest conversion contributes to greenhouse gas emissions. Deforestation and burning release the carbon stored in them, which then increases global climate change (Farina et al., 2024). Hydrological impacts are also felt due to forest conversion. Forests play an important role in maintaining the water cycle, preventing erosion, and reducing the risk of flooding. Converting forests to plantations reduces the soil's ability to absorb water, thereby increasing the risk of flooding and landslides. In addition, the use of pesticides and chemical fertilizers in plantations can pollute water sources and endanger the health of people who depend on the water.

To address these negative impacts, the government has issued various policies, including a moratorium on new permits for oil palm plantations and the implementation of sustainability certification such as the Indonesian Sustainable Palm Oil (ISPO). However, the implementation of these policies still faces various challenges, including weak law enforcement and corrupt practices in the licensing process. Overall, although forest conversion provides economic benefits, the negative impacts on the environment and society cannot be ignored. Therefore, it is important to find a balance between economic development and environmental preservation and social welfare. A sustainable development approach must be a priority in the management of Indonesia's natural resources.

4. Conclusion

The conversion of forests to oil palm plantations poses major challenges to environmental, social, and economic sustainability. The government needs to strengthen monitoring of land conversion by implementing technology such as satellite imagery and strict law enforcement for illegal actors, including revocation of permits and financial sanctions. Protection of the rights of indigenous peoples and small farmers is also very important through land certification programs and involvement in the decision-making process. Harmonization of policies between sectors—forestry, environment, and plantations—is a strategic step to avoid overlapping regulations. Coordination between ministries needs to be improved to create integrated policies that support sustainable development. Evaluation of the oil palm plantation permit moratorium must be carried out transparently to ensure that there are no illegal practices that harm the environment and society. At the global level, Indonesia's commitment to sustainability standards such as RSPO and ISPO must be strengthened to maintain the industry's competitiveness. Synergy between the government, private sector, communities, and environmental organizations is crucial so that land conversion does not sacrifice environmental sustainability or social welfare. Therefore, improving governance, law, and public participation must be a priority in fair and sustainable natural resource management policies.

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