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# Palm Oil Development in the Congo Basin: Opportunity versus Injustice

This document details the rise of palm oil development in the Congo Basin. As developers are looking to this region of the world as the next hotspot for palm oil production, lessons must be applied from countries like Indonesia and Malaysia, where 85% of globally traded palm oil is currently grown. It is imperative that Congo Basin governments draw lessons and seek to recognize and protect community rights to land as large-scale palm oil investments rise.

## Overview

- The Congo Basin rainforest is the second largest in the world.
- The establishment of oil palm plantations generally suggest significant economic growth for developing countries.
- The Congo Basin's unique landscape makes it desireable for palm oil development; however, there are also great potential risks.

## It's a Fact

**75%**

is the expected biodiversity loss in Cameroon if plans for a Herakles oil palm plantation move forward.

## Introduction

Palm oil is used in our most-consumed food and beauty products and is currently a growing staple of the biofuels industry around the world. Currently, 85% of globally traded palm oil is grown in the Southeast Asian countries of Indonesia and Malaysia[1]. But the growing international demand for palm oil—specifically, and more recently, for biofuels—has brought land-hungry capital to the Congo Basin region seeking to replace vast areas of forested land with large-scale industrial oil palm plantations. Congo Basin governments are increasingly opening the doors to these corporations (see Table 1) to convert forested land for large-scale agricultural development. As a result, palm oil plantations are threatening the Congo Basin's tropical forests[2], encroaching on protected and community lands[3], linking to alleged human rights abuses[4], and increasingly linking with illegal deforestation[5]. Congo Basin countries must find ways to ensure that further palm oil development is done in a fair and sustainable way. Fully understanding the potential threats and illegalities of palm oil development is critical to redirecting the discussion.



## Palm Oil Expansion in the Congo Basin

The Congo Basin rainforest is the second largest rainforest in the world and hosts a variety of rare and endangered wildlife including chimpanzees, gorillas, and forest elephants. More importantly, it is the home of nearly 500 million people[6] including indigenous communities who heavily depend upon the forest for their livelihoods, ecosystem services, and

cultural activities.

Palm oil is derived from the fruits of Elaesis guineensis and has been cultivated in the Congo Basin for centuries. Oil palm has traditionally been part of the culture of Congo Basin communities, who have planted it on their lands and collected its fruit, leaves, and sap from the forest. The crop is locally processed to obtain palm oil for domestic use or it is sold in local markets to produce palm oil and palm wine. However, the growing market for palm oil products is creating a huge demand for establishing large scale agro-industrial plantations. Simultaneously, it is becoming increasingly difficult to acquire new land in Southeast Asia. The Congo Basin now represents the new palm oil frontier.[7]

Since the early 2000s, nearly 1.1 million hectares of land deals have been signed within the region. With global palm oil consumption predicted to triple by 2050, the trend of rapid large scale expansion is set to grow.[8]

### The human rights dimensions of palm oil

The establishment of oil palm plantations in most Central African countries is generally promoted as a way of bringing economic development to developing countries, especially in impoverished, rural areas. However, the reality is often gravely different. Multiple reports[9] claim that palm oil development is linked with several serious negative outcomes on nearby communities. These include, among other things,



The Congo Basin now represents the new palm oil frontier. Since the early 2000s, nearly 1.1 million hectares of land deals have been signed in the region.

forceful displacement of communities from their native lands, exploitative labor conditions for local workers, forced child labor, and non-consideration of communities' right to their free, prior and informed consent when allocating lands.

Land Grabbing: The lack of recognition of customary land rights throughout the Congo Basin often has devastating impacts on the people in these areas and are leading to conflict as the government freely allocates customary land for agri-business expansion. Communities, in most cases, are completely excluded from the land allocation process and are denied their right to their free, prior and informed consent. Because much of the forested land in Africa falls under "State Domain," lands which have been occupied by local communities and indigenous peoples for centuries are at risk for backdoor deals between government officials and investors.[11] As a result, some communities are evicted from their lands that they have been occupying for generations, and in turn are deprived from their main source of food, fuel, water, and income (hence denied access their own financial benefits).

Labor Abuses: Local labor conditions are often abominable, and in remote areas of Indonesia and Malaysia, children are made to carry large loads of heavy fruit, weed fields, and spend hours every day collecting fruit from the plantation floor. Heat exhaustion and cuts and bruises from climbing thorny oil palms are commonplace in this dangerous workspace. More often than not, children receive little or no pay for their efforts.

With plantations systematically destroying and eliminating the rainforest land upon which the communities depend, locals are often left with no choice but to become plantation workers. They generally receive very low wages[12] and rarely have any social security. Faced with degrading working conditions, they often earn barely enough income to survive and support their families. Instead of being able to sustain themselves, local people and indigenous communities become reliant on the success of the palm oil industry for their income and survival, leaving these communities incredibly vulnerable to market forces over which they have no control.

## Environmental Impacts and Forest Conversion

Palm oil expansion has drawn international concern because of its documented environmental impacts such as deforestation, watershed pollution, biodiversity loss, and climate change. Expansion of palm oil plantations often leads to forest clearing. Heavy use of fertilizers and pesticides pollutes watersheds, putting local food and water supplies at risk while causing health problems for employees and nearby villagers[15]. Forest-dependent wildlife—such as elephants and many primates--are fragmented and displaced. When tropical forests are cleared to make way for monocultures, greenhouse gas emissions are released into the atmosphere exacerbating the effects of climate change. The carbon lost from clearing forests exceeds that sequestered by the oil palm trees, and vast amounts of below-ground carbon stores are released when lands are drained or burned.[16]

In Southeast Asia, forest destruction for palm oil is widespread. Deforestation in Indonesia contributes hugely to Indonesia's emissions, and from 1990-2010, almost 90% of palm oil plantations in the Kalimantan region of Indonesia resulted in forest cover loss[17]. In the Sambas area of Kalimantan, Indonesia, peat swamp forests are areas of high carbon stock and high conservation value. Yet the majority of these peat swamp forests have already been degraded or destroyed due to logging and industrial agriculture including oil palm, coffee, rubber, fruits.[18]

### Conversion Timber

Illegal logging is logging that has occurred in contravention of any countries' laws to promote forest governance or protect plants including theft of plants, failure to pay taxes, logging in national parks, or violation of log export bans, for

# Learning from Examples: Herakles in Cameroon

Land disputes are common throughout In Southeast Asia, which is currently the production center for palm oil globally. In Indonesia, 3,000 conflicts have been registered between local communities and the government with the National Lands Agency[13]. Especially where regulations are weak or law enforcement is inadequate, indigenous people are frequently dispossessed of their land, including areas of subsistence farming and ancestral grounds, often in direct conflict with their internationally respected rights.[14]

The Cameroonian concession owned by Herakles Farms, a company based in New York, U.S., is located throughout five protected areas, some of which contain forest elephants and gorillas that are known to cross the concession area on their migration routes[19]. Herakles conducted an evaluation and was said to have set aside areas that were of high conservation value and areas used by local communities. However, independent experts and the German development agency GIZ criticized Herakles' evaluation and the areas set aside, stating that Herkales vastly underestimated the area of high conservation value forest and disregarded local tenure and customary use rights. Herakles' own environmental and social impact assessment states that it expects to destroy existing biodiversity in 75% of the concession, resulting in an overall loss of fauna, although it will adopt "best practices" for protecting the elephant migration route.

Furthermore, Herakles has not evaluated the amount of carbon emissions that would be caused by clearing the forests in the concession, and is clear-felling these forests despite its statements to the international human rights organization, Rainforest Foundation UK, that it would not be doing so[20]. Finally, the project is being met with vehement opposition from local villagers and NGOs.



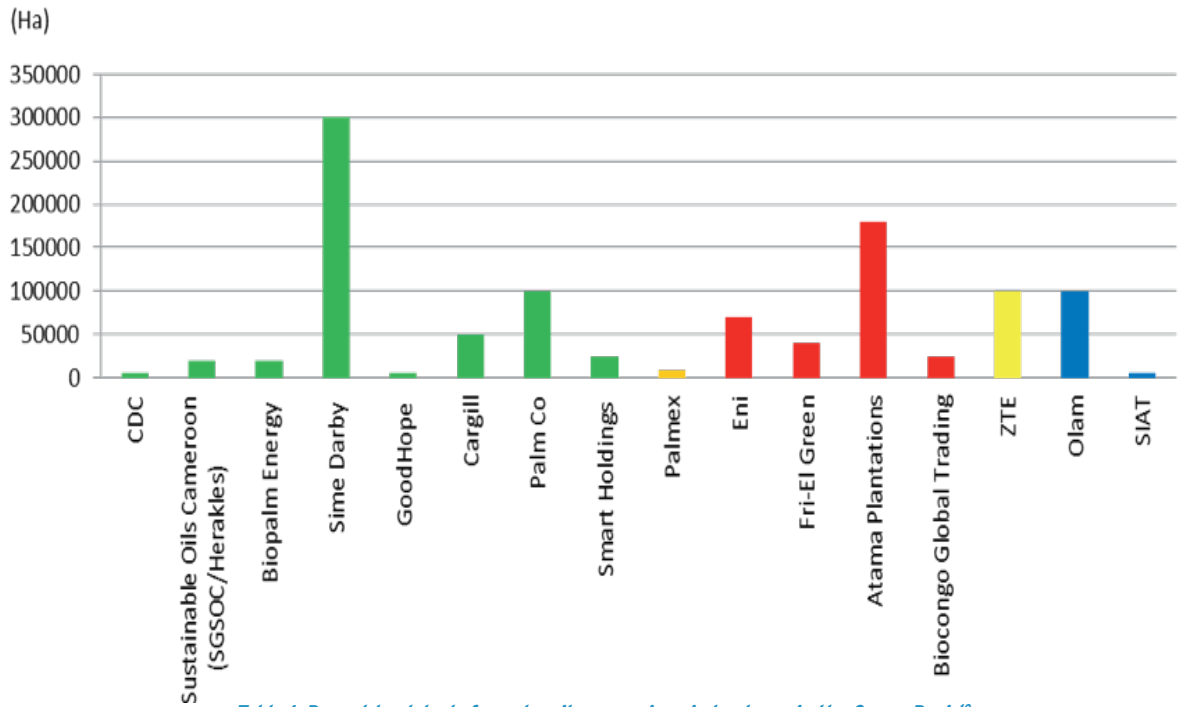



*Table 1: Recent land deals for palm oil concessions in hectares in the Congo Basin[10]*



example. Many palm oil developers now seek to lease land for the primary purpose of logging. In Papua New Guinea, for example, palm oil companies use agricultural permits to circumvent logging regulations in order to access the timber[21]. The timber harvested from future palm oil lands is often cleared and sold illegally. Profits from timber sales help subsidize further palm oil development and expansion. However many global timber markets have shut their doors to illegally-sourced timber through strict regulations for buyers. Although consumer countries have not yet prohibited import of illegally sourced palm oil, the timber felled for agricultural plantations cannot be sold on many international markets if it was illegally sourced. Failure to obtain permission to log a concession, or violation of any other laws pertaining to management of forest resources, would render that felled timber "illegal" and sale of that timber is prohibited in the United States, European Union and Australia.



## Frameworks to Address Palm Oil Expansion-Related Issues

A number international initiatives, frameworks, and tools could be used to address social and environmental issues driven by palm oil. While some have been specifically designed for palm oil, others are dedicated to broader forest governance.

### The Round Table for Sustainable Palm Oil (RSPO)

The RSPO is a multi-stakeholder sustainability scheme that was developed in 2004 which aims to eliminate harmful social and environmental damage from palm oil supply chains through credible global standards and through the engagement of various stakeholders. The RSPO certification is meant to assure consumers that plantations are free of conflict and unsustainable production. However NGOs have increasingly identified several significant weaknesses of the RSPO standards. For example, the RSPO standards do not exclude plantations cultivated on peat land[22]. Evidence particularly from Indonesia[23] has also shown that some RSPO certified companies are clearly linked with human rights violations including labor trafficking, child labor, unprotected work with hazardous chemicals, and long-term abuse of temporary contracts. It is clear that RSPO standards must be strengthened and better enforced so that community rights are protected and ecosystem services preserved. In Liberia for example, local communities filed complaints to the RSPO against the palm oil company Sime Darby for planting without consent and destroying valuable crop lands critical to subsistence agriculture demonstrating that merely obtaining RSPO status is not enough to safeguard communities from land grabbing.[24]

### Free, Prior and Informed Consent (FPIC)

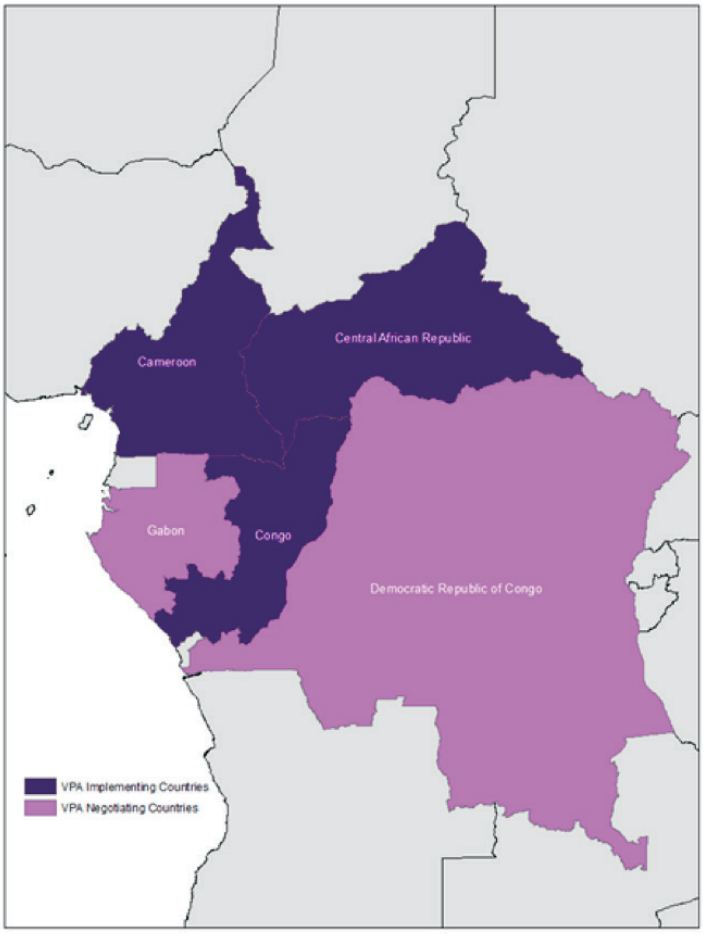
Free, Prior and Informed Consent (FPIC) has emerged as a principle of international law that derives from the collective rights of indigenous peoples to self-determination and to their customary lands. It is a collective right of indigenous peoples to make decisions through their own freely chosen representatives or other institutions and to give or withhold their consent prior to the approval by agri-businesses of any project that may affect their traditional lands, territories, and resources that they customarily own, occupy, or otherwise use. For palm oil expansion projects, communities' FPIC should be ensured well in advance of any forest clearance.

More specifically, two Congo Basin countries (Central African Republic and Congo Brazzaville) have taken important steps[25] in their legal frameworks to ensure the right to consultation for indigenous communities. The Central African Republic (CAR) has ratified the ILO Convention 169 while Congo Brazzaville has developed a national Indigenous People Law, the first of its kind in Central Africa. These

frameworks provide provisions which fully protect indigenous peoples' rights and require consultation before any investment, and must be fully applied to any planned palm oil projects. Countries without such laws must take additional steps to ensure the internationally recognized human rights of their citizens are protected in the course of agribusiness expansion.

## Domestic Laws: An Opportunity to Address Illegal Palm Oil Production

As Congo Basin countries continue to strengthen and ratify existing forest governance and trade laws, it is critical to include safeguards against illegal agro-industrial expansion particularly in primary forests and community lands. Countries such as Cameroon and the Republic of Congo are currently




*Congo Basin countries currently implementing or negotiating VPA contracts*

revising their national forest laws while DRC is revising its land tenure law. Therefore, countries should take advantage of the opportunity offered by these ongoing reforms as to address palm oil issues including illegal forest conversion. More broadly, Congo Basin countries should take this as a clear opportunity as to design more coherent natural resources laws and policies for efficient land use planning.

## REDD

Congo Basin countries are also currently engaged to implement REDD+ (Reducing Emissions from Degradation and Deforestation). For that purpose, they have committed to save the remaining Congo Basin natural forests[30], therefore they must be mindful about the consistency of their commitment to reduce deforestation[31] and the threats that palm oil development posed for forests. In fact, illegal forest clearance driven by palm oil will definitely undermines Congo Basin's efforts to reduce greenhouse gas emissions. REDD+ countries have agreed a set of safeguards mostly called the Cancun safeguards. These safeguards are designed to prevent social and environmental threats when implementing REDD+ activities; however, they are very relevant for detrimental palm oil expansion. For example, Safeguard requests to countries that REDD+ activities should be 'consistent with the conservation of natural forests and biological diversity' and also calls countries to ensure that REDD+ activities 'are not used for the conversion of natural forests'[32].

## Conclusion

Palm oil developers are looking to the Congo Basin as the next frontier for large-scale plantation development. Lessons must be applied from Indonesia and Malaysia, where land disputes, poor working conditions, and environmental destruction due to palm oil expansion have severely disrupted communities and had extreme detrimental effects on forest landscapes. Many local and international groups have been successful in thwarting the sometimes illegal expansion of agroindustry, yet much work needs to be done in order to secure land rights and protect the area's unique biodiversity. Detailed documentation of this expansion is much needed with the leadership and collaboration of civil society organizations on the ground.

EIA and other local and international organizations want to highlight and explore the role of civil society organizations in putting an end to illegal palm oil expansion. Investigative training and capacity building will help to increase the independent monitoring of illicit activities in the region. Palm oil investment and development must respect local rights and livelihoods. Congo Basin governments should support small-scale producers who have clear respect for the rule of law and environmental protection.

Unless corporations and governments overhaul their policies and practices to address these threats caused by oil palm expansion in the region, costs to ecosystems and human livelihoods will be high.

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# Timber Trade Laws Around the World

## Understanding Timber Trade Laws

Several tools currently exist to help stop illegal timber trade, namely the European Union's Forest Law Enforcement, Governance and Trade Action Plan (FLEGT) which includes the European Union Timber Regulation (EUTR) and Voluntary Partnership Agreements (VPAs), the U.S. Lacey Act, and others. These tools could help stop palm oil conversion if the timber cleared from palm oil concessions is harvested and traded against regional laws.

## The European Union Forest Law, Governance and Trade Action Plan (FLEGT)[26]

In 1993, the European Union established the FLEGT Action Plan in an effort to halt global trade of illegally logged timber.

Since that time, several producing countries have developed and signed bi-lateral agreements with the EU to develop and promote systems for legal wood trade, called Voluntary Partnership Agreements (VPAs). Each supplier country that has entered into the binding VPA process must work toward improvements in forest governance with the end goal of supplying the EU with only legal wood.

## The U.S. Lacey Act[27]

The United States banned the sale and trade of illegally-sourced timber with amendments to the U.S. Lacey Act in 2008. No U.S. company may import timber that has been harvested or traded illegally, beginning in the country of the timber's origin. Enforcement actions against major U.S. companies have sent a strong signal to the international market that the United States has a zero tolerance for illegal wood in its market.[28] All wood-products operators must exercise due care in the entirety of their supply chains, and importers of certain materials are required to file a declaration stating the origin of the wood product. Even if products are processed in a different country, the trader in the U.S. can be held liable. For example, logs from Congo Basin processed into finished products in China sold to the United States must be of legal origin.

## Australia and Other Markets

Australia has had the Illegal Logging Prohibition Act in force since November 2012. The Regulation amendment, which requires companies to exercise due diligence, entered into force November 30, 2014. Outside of the United States, the European Union, and Australia, several other countries are in the process of creating new laws or strengthening existing timber trade regulations.[29]



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26 For additional current information on FLEGT and the VPAs, visit the EU FLEGT Facility website at http://www.euflegt.efi.int/home.

27 For more information on the U.S. Lacey Act, visit EIA's Lacey Act pages at http://eia-global.org/campaigns/forests-campaign/u.s.-lacey-act/.

28 Enforcement actions to date for the U.S. Lacey Act include major companies such as Gibson Guitars and Lumber Liquidators. For more information visit www.eia-global.org.

29 Canada has The Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA) ; China has an MOU with the United States, and Japan is drafting language. Updates may be found at eia-global.org

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# EIA Hosts Workshop for Civil Society, Local Communities, and Indigenous Groups as Development Increases

In December 2014, EIA organized an unprecedented regional workshop for Civil Society Organizations (CSOs), local communities, and Indigenous people groups in the Congo Basin to address the emerging threat of palm oil development in the region. Nearly 40 civil society experts and community leaders from over 25 organizations gathered in DIn December 2014, EIA organized an unprecedented regional workshop for Civil Society Organizations (CSOs), local communities, and Indigenous people groups in the Congo Basin to address the emerging threat of palm oil development in the region. Nearly 40 civil society experts and community leaders from over 25 organizations gathered in Douala, Cameroon for three days of discussion, presentations, and strategic reflections on how to address harmful issues related to palm oil expansion in the region.

To support communities fighting unsustainable and unjust forest destruction in the Congo Basin, EIA is now applying the lessons learned from decades of campaigning against illegal and unsustainable logging to the next big threat to the biodiversity and peoples of the region: oil palm plantation development. Several local and national NGOs have already been working to create transparency and accountability in palm oil development. EIA is supporting these efforts by bringing our expertise on illegal timber trade to the palm oil debate, including by documenting illegal activities in palm oil plantations and assisting our allies to assert their rights to their lands, territories, and resources. For example, "conversion timber," or the timber felled to clear land for other uses, such as palm oil, is often felled without legal permits or community consent, rendering it illegal on the U.S. and EU markets, and EIA hopes to use existing legal levers to arrest massive illegal forest clearance driven by palm oil expansion.

The first step in EIA's approach was to gather CSOs and community leaders from several countries in the Congo Basin for a three-day workshop to discuss the implications of current and future plans for palm oil development in the region, taking local and indigenous communities' rights into full account. Participants at the workshop, civil society and indigenous peoples groups from Cameroon, the Central African Republic, the Democratic Republic of Congo, Gabon, and the Republic of Congo, agreed to a joint position on the expansion of oil palm in the region, including recommendations for the Congo Basin governments.

Among these recommendations, they urge governments:

1. To commit to no conversion of primary forests and high conservation value areas, as well as to limit the conversion of natural forests for oil palm plantations to the highest extent possible,

2. To increase transparency in the palm oil sector to allow effective participation of CSOs and local communities when negotiating palm oil contracts, and

3. To recognize and secure community land tenure rights, as well as to fully respect community rights to Free, Prior and Informed Consent (FPIC) when allocating lands for palm oil plantations.

With this statement, EIA and partner organizations in the region can now begin to hold governments and companies accountable with joint force. EIA will continue to work with these organizations and communities on the ground to identify and track illicit activities.



## About EIA

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