



# POLICY BRIEF

## MAKING PALM OIL MORATORIUM AND EVALUATION OF PALM OIL LICENSES WORK ON THE GROUND



## Civil Society Recommendations for Palm Oil Moratorium Implementation

In brief, our recommendations to make Presidential Instruction No. 8/2018 on palm oil moratorium work on the ground are as follows:

1. Officially involve representatives of civil society and indigenous peoples in palm oil moratorium Work Team that will coordinate the implementation of palm oil moratorium through self-election mechanism.
2. Create a communication forum for palm oil moratorium implementation involving civil society and indigenous people. Existing civil society coordination/communication forums can be used for this purpose. The government can use this forum to: (i) gather inputs from civil society, for example regarding palm oil plantation licenses that must be evaluated, (ii) gather inputs from civil society regarding the implementation of palm oil moratorium at the regional level and on the ground, including violations that occur, (iii) convey progress and results of palm oil moratorium implementation, (iv) mobilize civil society support in the implementation of palm oil moratorium at national, provincial and district levels, e.g. support for mapping, data collection, etc.
3. Periodically issue public report(s) outlining progress and results of the implementation of palm oil moratorium in addition to the mandatory periodic reports to the President, or make provisions that the latter shall be made accessible by the public as for example in the case of reports of agrarian reform implementation in Presidential Regulation No. 86/2018 on Agrarian Reform.
4. Strengthen implementation of public information disclosure based on prevailing laws and regulations, including data regarding HGU (land use right) of palm oil plantations, which has been ruled by the court as information that can be disclosed to the public.
5. Synchronize various agenda and results from various work teams/groups in the palm oil moratorium Coordination Meeting that will take place, by:
  - a. Focusing on resolution of overlap between forest area and palm oil plantations. The Work Team should disclose to the public information regarding palm oil plantations located in forest area along with the locations. This recommendation is based on the assumption that the Presidential Instruction is only effective in resolving palm oil plantations that overlap with forest area.
  - b. After determining palm oil moratorium work area, coordinating with other work teams that also work on palm oil plantations that overlap with forest area, including PTKH Team (Resolution of Land Control in Forest Area Acceleration Team), National Agrarian Reform Team, and Agrarian Reform Task Force.
  - c. Ensuring that the Coordination Meeting maintains coordination with KPK's Coordination and Supervision Team - Forestry and Plantation Sector, specifically the palm oil section of the National Movement to Save Natural Resources (GNPSDA), based on the assumption that the work areas are similar.
6. Take legal actions against palm oil plantation companies that are violating laws and regulations and/or have caused adverse impacts on the environment and surrounding communities in accordance with each condition using various forms of sanctions.

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## A. Background

Palm oil plantation area in Indonesia has now reached 22.2 million hectares (Sawit Watch, 2018), of which 30 percent are owned by smallholders.<sup>1</sup> Palm oil industry currently contributes significantly to the national economy. Exports of crude palm oil (CPO) constituted 12 percent of Indonesia's national exports in 2016 with a total production of 31 million tons. This added up to US\$ 17.8 billion or Rp231.4 trillion to the state revenue.<sup>2</sup> Domestically, the government is also intensifying the use of palm oil-based biodiesel. The government has set a target of CPO production of 40 million tons per year by 2020.

Despite its economic contribution, palm oil plantations have created many problems on the ground, such as environmental damage, agrarian conflict, poor worker conditions, and threat to food security. Sawit Watch (2016) notes that 782 communities are still in conflict with large-scale palm oil plantations.

Empirically, palm oil plantations development in Indonesia is problematic due to the following reasons: (1) Deforestation due to land clearing activities, (2) Overlapping concession permits, (3) Grabbing of indigenous people and local communities' land due to the absence of FPIC (free, prior, informed, consent) mechanism, (4) Policy infringement by plantation businesses, for example of spatial planning policy, (5) Difficulty to obtain information, (6) Silent expansion conducted by smallholder, (7) The absence of a permanent mechanism for handling land conflicts, (8) Existing palm oil plantations in forest area, and (9) Illegal palm oil plantation operation.<sup>3</sup>

With the increasing trend of palm oil plantation development and the accompanying problems, the government has to do its best to resolve the pressing problems related to palm oil governance. Palm oil moratorium must be used as the government's standing position. Moratorium is critical since it provides a "time-out" for the government to study the problems more deeply and restructure all existing palm oil plantations.

On April 14, 2016, President Joko Widodo announced that he would temporarily suspend the licensing process of palm oil plantations and coal mining. This commitment was finally realized in a policy that takes the form of Presidential Instruction No. 8 of 2018 on Suspension and Evaluation of Palm Oil Plantations Licenses and Improvement of Palm Oil Plantation Productivity (Inpres 8/2018).

Through this policy, the government attempts to improve the management of palm oil plantations to become more sustainable, provide legal certainty, safeguard and protect the environment, including by reducing GHG emissions, as well as enhance assistance for farmers and improve the productivity of palm oil plantations.

The moratorium and evaluation of palm oil plantations is a crucial momentum to improve the management of palm oil plantations in Indonesia. This paper seeks to provide information on challenges facing the implementation of palm oil moratorium and elaborate on the relationship between this policy and other relevant policies to ensure that the policy can be well-implemented in the very limited three years of its validity period.

## B. Scope of Palm Oil Moratorium

### 1. Inpres 8/2018 is targeting legality of business licenses and palm oil plantations in forest area

In general, Inpres 8/2018 contains instructions regarding the following:

- a. Postponement of licensing process of and new investments for new palm oil plantation permits or expansion of palm oil plantation located inside forest area.
- b. Evaluation of palm oil plantation licenses and land use rights (HGU) of existing palm oil plantations that are located in or which area originated from forest areas.
- c. Allocation and distribution of land originating from the release of forest area for palm oil plantation for community.
- d. Improvement of productivity of palm oil plantations by complying with ISPO (Indonesian Sustainable Palm Oil) instrument and strengthening smallholder institutional aspects.



Based on this scope of work, most of the contents of Inpres 8/2018 target the problem of overlap between forest area and palm oil plantations. This objective cannot be separated from palm oil plantations operating in forest area with unclear land status. A study conducted by Gadjah Mada University states that there are 2.3 million hectares of palm oil plantations overlapping with forest area.<sup>4</sup> This problem will very likely undermine the implementation of ISPO as the mandatory instrument for sustainable palm oil plantation business in Indonesia. The Directorate General of Plantation at the Ministry of Agriculture notes that from 11.3 million hectares of national palm oil plantations, there are still problematic areas. For example, from 6.7 million hectares of palm oil plantations managed by large private companies and the state, as much as 800 thousand hectares are indicated to be located in forest area. In addition, according to the records of the Coordinating Ministry for Economic Affairs, around 2.5 million hectares of palm oil plantation have not yet obtained Land Use Right (HGU) required for their operation.<sup>5</sup>

The issues surrounding palm oil plantation management are very complex. The inclusion of “sustainability” in plantation management discourse has made the complexity - in the context of ecology, tenure, and social aspects – present not only in plantations that overlap with forest area. Therefore, the problems cannot be fully answered by the palm oil moratorium policy. However, Inpres 8/2018 can at least help addressing the complexity with a win-win situation.

Regardless of its scope that does not target palm oil governance improvement as a whole as desired by civil society, Inpres 8/2018’s instruction on evaluation of palm oil plantation licenses is crucial because it has the potential to resolve various issues that hinder sustainable palm oil plantation governance. The following are five points that we think are crucial related to evaluation of palm oil plantation licenses:

1. Reenactment of forest area that has been released or exchanged for palm oil plantation. This can be construed as forest area gazettelement.<sup>6</sup> Based on the Forestry Law, the process of area gazettelement should form a continuous process that includes: (a) Forest area designation, (b) Forest area boundary demarcation, (c) Forest area mapping, and (d) Forest area enactment (see Article 14 of the Forestry Law).
2. Designation of forest area that has been released as *state land*. This can be construed as one of the stages in the process of enacting one of the land rights in the form of Land Use Right (HGU) in state land.
3. Enacting norms, standards, procedure and criteria (NSPK) for plantation business licenses or plantation registration letter (STD-P). This can be understood as an effort to

- integrate the process with the online licensing system (OSS system).<sup>7</sup>
4. Enactment of land as abandoned land and suspension of HGU issuance process or revocation of HGU; and/or
  5. Legal actions and/or demands for compensation for the illegal use of forest area for palm oil plantations based on data verification and evaluation of forest area release/exchange for palm oil plantations.

## 2. Synergy with other relevant policies

Inpres 8/2018 has limitations regarding its legal authority. To compensate for the shortcomings, there are at least seven other relevant laws and regulations with stronger legal basis to be implemented in parallel with Inpres 8/2018, namely:

### a. Presidential Regulation No. 88 year 2017 on Settlement of Land Tenure within Forest Area

As mandated by this Presidential Regulation (Perpres), the government has formed a Team for the Acceleration of Settlement of Land Tenure in Forest Areas (PPTKH). The challenge lies in synergizing PPTKH Team with Palm Oil Moratorium Work Team that will be established as a mandate of Inpres 8/2018.

**Table 1.** Types of resolution of land tenure in forest area

| Total Forest Area per Province                       | Before Designation         |                   |             |             | After Designation   |                   |             |             |                    |                      |             |             |
|--|----------------------------|-------------------|-------------|-------------|---|-------------------|-------------|-------------|--------------------|----------------------|-------------|-------------|
|  | Not Related to Forest Area |                   |             |             | < 30 % Forest Area  |                   |             |             | > 30 % Forest Area |                      |             |             |
| Utilization  | Housing                    | Public Facilities | Cultivation | Customary * | Housing   | Public Facilities | Cultivation | Customary * | Housing            | Public Facilities    | Cultivation | Customary * |
| Settlement Pattern                                   | Land Release (K)           |                   |             |             | Land Release (K), Land Exchange (T), Social Forestry (PS), Resettlement (R) |                   |             |             |                    |                      |             |             |
| Forest Function                                      |                            |                   |             |             |   |                   |             |             |                    |                      |             |             |
| Conservation   | K                          |                   |             |             | Resettlement (the entire conditions)  |                   |             |             |                    |                      |             |             |
| Protection   | K                          |                   |             |             | R   | PS                |             |             | R                  | >20 Yrs: K (in TORA) | <20 Yrs: PS |             |
| Not Fulfilling the Criteria of Protection Forest (?) | K                          |                   |             |             | T   | ??                |             |             | K                  | ??                   |             |             |
| Production   | K                          |                   |             |             | R   | PS                |             |             | K                  | >20 Yrs: K (in TORA) | <20 Yrs: PS |             |

Source: Hariadi K, 2017

## **b. Presidential Regulation No. 86 year 2018 on Agrarian Reform**

Since agrarian reform and palm oil moratorium are interrelated, we have found two potentials outputs from the evaluation of palm oil plantations relevant to agrarian reform. The first is enactment of land as object of agrarian reform (TORA) originating from former palm oil plantation concession (HGU) that is revoked or not extended. The second is realization of 20 percent land allocation rule for community plantation, both out of the total size of forest area released for palm oil plantations and of the total size of HGU which can be cultivated. Another matter in the Presidential Regulation that needs to be considered as relevant to palm oil moratorium is object of land redistribution that can take the form of state ex-abandoned land that is used for the benefit of community and the state through Agrarian Reform.<sup>8</sup> In practice, the stipulation of “abandoned land” requires establishment of “Committee C” to identify and conduct research on the object of abandoned land prior to legal enactment by the Head of the Provincial Land Agency (BPN).

One thing that needs to be integrated is agrarian reform object (TORA) allocation, which is set in an indicative map issued by the MoEF. The area might overlap with palm oil plantations and it might be used for new expansion of palm oil to areas that still have natural forest cover.

It is therefore imperative for the government to address data regarding abandoned land and agrarian disputes between community and palm oil plantation companies that are being resolved through agrarian reform scheme in the Coordination Meeting of the Palm Oil Moratorium Work Team.

One challenge in the Presidential Regulation on Agrarian Reform is the existence of the National Agrarian Reform Team chaired by the Coordinating Minister for Economic Affairs assisted by the Agrarian Reform Task Force (GTRA) which includes GTRA at the central level, GTRA at Provincial level, and GTRA in City/District level. The mechanism and procedures of the Agrarian Reform Team will be regulated further by Regulation of the Coordinating Minister for Economic Affairs, while the working mechanism and procedures for GTRA will be regulated by a Ministerial Regulation (not stated). The Presidential Regulation on Agrarian Reform requires the GTRA at the Central, Province, and the City / District levels to be formed no later than three months after the enactment of the Presidential Regulation. We need to ensure that the Palm Oil Moratorium Work Team works in harmony with the National Agrarian Reform Team and Agrarian Reform Task Force (GTRA) and that the Coordination Meeting set in Inpres 8/2018 acts as a mechanism to achieve this synergy.

## **c. Public Information Disclosure on HGU and HGU Maps**

Although it has been regulated in numerous laws, such as Law No. 14/2008 on Public Information Disclosure, Law No. 41/1999 on Forestry, Law No. 26/2007 on Spatial Planning, Law No. 32/2009 on Environmental Protection and Management, and Law No. 39/2014 on Plantation, information disclosure is still difficult to achieve, especially for data regarding plantation sector. Although the obligation to disclose information regarding palm oil plantation HGU has been reinforced by the Supreme Court, which ruled that HGU information and its maps are open for public, the party that holds Plantation Business Permit (IUP) and HGU information is still reluctant to disclose it.<sup>9</sup> Evaluation of palm oil plantation licenses cannot be done properly without transparency of concession data.

## **d. ISPO (Indonesian Sustainable Palm Oil)**

Over the past three years, the government has been steering a process to improve ISPO (Indonesian Sustainable Palm Oil) certification system, which is one of Indonesia’s national policies to develop the Indonesian version of sustainable palm oil plantation standard to improve performance, competitiveness and sustainability of Indonesian palm oil. ISPO is a mandatory certification according to the Regulation of the Minister of Agriculture of the Republic of Indonesia No.11/Permentan/OT.140/3/2015.

In parallel to palm oil moratorium implementation, the President must ensure that

the Presidential Regulation on ISPO is published with stronger standards, principles and criteria based on civil society inputs, or at least contains legal compliance aspects. The Presidential Regulation on ISPO must guarantee the protection of natural forests, peatland and the environment in general; ensure good plantation management, responsibility for workers and social responsibilities; empowerment of community; traceability and transparency; and respect for human rights.

#### **e. NDC (Nationally Determined Contribution) and Reduction of Greenhouse Gas Emissions**

Reducing greenhouse gas emissions is one of the explicitly stated objectives of palm oil moratorium. Therefore, this policy can be taken as one of the policies to achieve Indonesia's national climate commitment or NDC targets, specifically through reduction of deforestation and forest degradation (REDD+). Even so, Inpres 8/2018 only links sustainability issue in the palm oil industry to the Indonesian Sustainable Palm Oil (ISPO) certification system, which is still in the process of being revised.

To truly reduce greenhouse gas emissions, the sustainability aspect in palm oil moratorium cannot be based solely on ISPO certification. Rather, it must be achieved by:

- 1) Prioritizing natural forests that can still be saved within palm oil plantation concessions to reduce deforestation based on ecological urgency and Indonesia's commitment to reduce emissions from deforestation and forest degradation.
- 2) Clarifying the definition of 'productive forest' that can be re-enacted as forest area in order to save the remaining natural forests within palm oil plantation concessions.
- 3) Using the momentum of palm oil plantation licenses evaluation to improve law enforcement and compliance among palm oil plantation companies related to peatland ecosystem protection.

#### **f. One Map Policy**

Implementation of palm oil moratorium will contribute to acceleration of the implementation of One Map Policy (KSP), which deadline is only a few months away, namely June 2019. This policy mandates mapping, collection and verification of data and maps related to palm oil plantations, including data and maps of community plantations, which are incomplete. On the other hand, the process of collecting and verifying data/maps mandated in Inpres 8/2018 also relies on data and maps that have been compiled, integrated and synchronized through the One Map Policy. In both policy processes, transparency and participation are the key to success and legitimacy of the process and results.

#### **g. Corruption Eradication**

Corrupt practices are inseparable from management of natural resources in Indonesia in all sectors. In a study regarding Palm Oil Commodity Management System released in 2016, the Corruption Eradication Commission (KPK) highlighted three underlying problems in palm oil plantation sector. They are (i) unaccountable palm oil plantation permits monitoring, (ii) ineffective CPO export levies implementation, and (iii) ineffective tax collection. According to the KPK, the area of overlapping palm oil plantation permits is 4.69 million hectares, with 3 million hectares of HGU overlapping with mining concessions, 534 thousand hectares with industrial timber plantations, and 349 thousand hectares with natural forest concessions (logging). The KPK also found that 801 thousand hectares of HGU are located in peat domes. Eradicating corruption can help solve this problem.

To ensure that palm oil moratorium achieves its goal to improve palm oil plantation governance, the government must coordinate and collaborate with KPK, both in the

process of evaluating palm oil plantation licenses and in conducting follow-up measures afterwards, especially the law enforcement.

### 3. Unclearly regarding institutional and structural aspects of palm oil moratorium Work Team

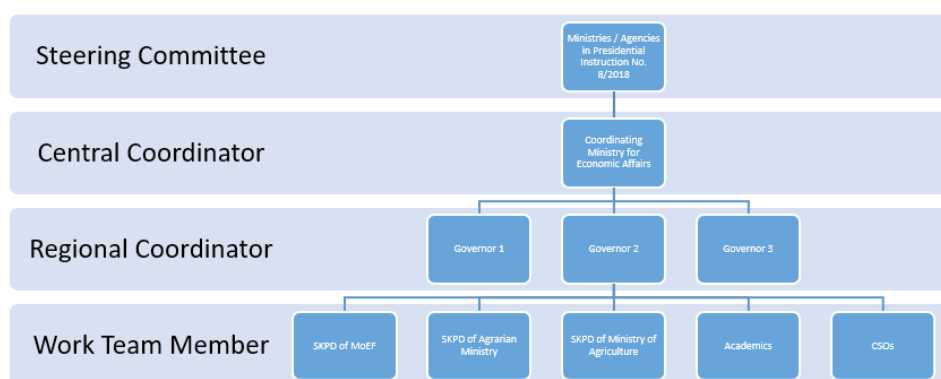
Inpres 8/2018 states that the Coordinating Minister for Economic Affairs has to form a Work Team to coordinate implementation of palm oil moratorium. However, it does not specify any further regarding what, who, and how this team should carry out its duties. Therefore, we submit a proposal regarding the Work Team, which is based on three considerations. First, the work carried out by the Work Team must be based on the principles of good environmental management in accordance with the mandate of Law No. 32/2009 on the Environment. Second, the institutional scheme of the Work Team must be formed both at the central and regional level. Third, there must be a mechanism for monitoring and reporting on the performance of the Work Team in transparent and accountable manner to the public.

*First, why must the work carried out by the Work Team be based on the principle of good environmental management? The answer is stated in the preamble of Inpres 8/2018, which reads "In order to improve the management of palm oil plantations to be sustainable, provide legal certainty, safeguard and protect environmental sustainability including reducing greenhouse gas emissions, as well as increase assistance to palm oil farmers and increasing productivity of palm oil plantations ...".* Most of these goals can be achieved by adhering to the principles of good environmental management as mandated in Law No. 32/2009 regarding the use of natural resources that must be harmonious, in line and balanced with environmental functions. Consequently, any development policy, plan and/or program must be inspired by the obligation to preserve the environment and realize sustainable development goals.<sup>10</sup> Normatively, Inpres 8/2018 is one of the manifestations of these principles, so that the existence of this Instruction should be appreciated. Thus, its implementation must be consistent with its underlying principles.

*Second, why should the institutional scheme of the Work Team be present both at central and regional levels? Most of palm oil plantations in Indonesia are located outside Java island, namely in Sumatra, Kalimantan, Sulawesi and Papua. Local governments, especially Governors and District Heads/Mayors, as the issuers of Plantation Business Permits,<sup>11</sup> are supposedly more knowledgeable regarding licenses they have issued, both administratively and technically compared to the central government.*

In addition, the local government through the Regional Government Organizational Unit (SOPD) or Regional Work Unit (SKPD) should be aware of the ongoing licensing process and whether it should be continued or stopped because it might be categorized as a moratorium object based on Inpres 8/2018. On-field checking is also easier to be conducted by the regional government, if necessary, so that they contribute significantly to the moratorium implementation. Based on the scope of work and required competencies, we propose the SKPD of the Ministry of Environment and Forestry, SKPD of the Ministry of Agriculture, and SKPD of the Ministry of Agrarian and Spatial Planning to join the Palm Oil Moratorium Presidential Instruction Team.

To guarantee public participation, we recommend that the government involves academics and civil society organizations (CSOs) in the Work Team because CSOs are the embodiment of democracy and public participation in policies made by the government. CSOs also have diverse capacities, both at the grassroots level that assists communities affected by palm oil plantations, as well as in forest governance, mapping, environmental law, etc. The involvement of CSOs as an element of public participation is consistent with the three main pillars of good environmental management, namely access to public participation, access to information, and access to justice. Meanwhile, academics act as an independent and objective counterweight, as well as a vehicle for capacity building for the government and CSOs in the Work Team. The academics must have the capacity, competence, and integrity in the related fields, which include but are not limited to knowledge about the administration and governance of palm oil plantation permits, forestry, agriculture, environmental law, spatial mapping, and other relevant fields. The scheme that we propose can be seen in the following chart:



Third, we want a mechanism for monitoring and reporting performance of the Work Team in transparent and accountable manner to the public. This also underlies our urge that CSOs are involved in the Work Team. If CSOs could not join the Work Team, with monitoring and reporting mechanism, its performance will be measurable, transparent, accountable, and can be monitored by the public. This mechanism of public monitoring can be realized through period reporting of Work Team results, both in face-to-face discussions and through online platforms accessible to the public, for example through the related ministries/agencies' websites.

#### 4. Lack of law enforcement against problematic permits

If palm oil moratorium is successfully implemented, there will only be two categories of permits: those that comply with all requirements and obligations so that they can continue operating and problematic permits that must be addressed. What will the government do with the second category of permits?

For us the question is worth asking because we have witnessed various problems related to palm oil plantation licenses including: (1) license overlap, both with forest area and with other licenses; (2) unfulfilled obligations (non-procedural processes) in various aspects such as environment, taxation, facilitation of community plantation development (plasma), partnership with the community, etc.; and (3) legal violations, such as pollution, corruption, conflicts with surrounding communities, etc. What is the government's commitment when encountering such problematic permits?

We are of view that the government must give strict sanctions for companies that have been proven of violating the law, ranging from administrative sanctions to criminal sanctions in accordance with the prevailing laws and regulations. Types of administrative sanctions in the environmental field can be seen in the table below.<sup>12</sup>

**Table 2.** Types of environmental administrative sanctions

| Sanction Type          | Conditions  |
|------------------------|---|
| Written Notice         | Violating requirements and obligations mentioned in the permit without yet any adverse effect to the environment  |
| Government Enforcement | Violating requirements and obligations mentioned in the permit resulting in adverse effect to the environment in the form of environmental damage/pollution   |
| Permit Suspension      | Not complying with government enforcement, conducting actions not stated in the permit, or indicated of committing forgery of documents in the process of obtaining permit  |
| Permit Revocation      | Transferring its business permit to a third party, failing to comply with most or the entire part of government enforcement in a certain period, or causing environmental damage and/or pollution that could threaten human safety and health |

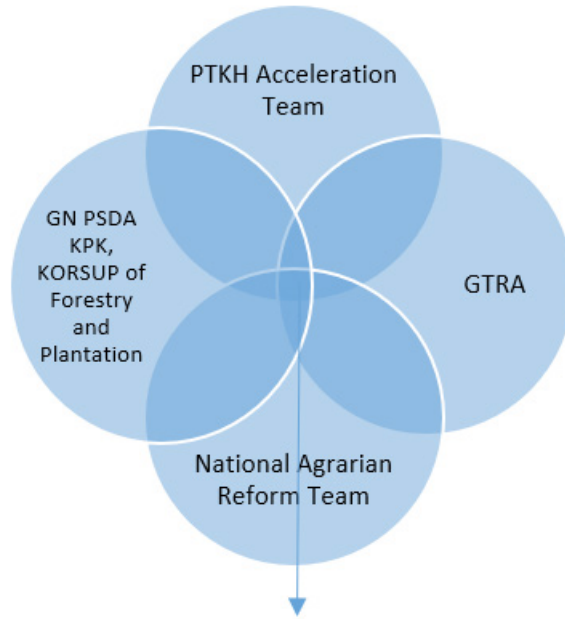
Findings of the Work Team are very important to be used as the basis and justification for giving sanctions to violators. Follow-up actions taken based on the findings of the Work Team must be accessible to the public, especially data regarding the following:

1. Companies with problematic permits
2. Imposed sanctions to these companies
3. On-field execution and periodic supervision regarding sanctions implementation

## C. Conclusions and Recommendations

In brief, civil society recommendations to make Presidential Instruction No. 8/2018 on palm oil moratorium work on the ground are as follows:

1. Officially involve representatives of civil society and indigenous peoples in palm oil moratorium Work Team that will coordinate the implementation of palm oil moratorium through self-election mechanism.
2. Create a communication forum for palm oil moratorium implementation involving civil society and indigenous people. Existing civil society coordination/communication forums can be used for this purpose. The government can use this forum to: (i) gather inputs from civil society, for example regarding palm oil plantation licenses that must be evaluated, (ii) gather inputs from civil society regarding the implementation of palm oil moratorium at the regional level and on the ground, including violations that occur, (iii) convey progress and results of palm oil moratorium implementation, (iv) mobilize civil society support in the implementation of palm oil moratorium at national, provincial and district levels, e.g. support for mapping, data collection, etc.
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  - f. Ensuring that the Coordination Meeting maintains coordination with KPK's Coordination and Supervision Team - Forestry and Plantation Sector, specifically the palm oil section of the National Movement to Save Natural Resources (GNPSDA), based on the assumption that the work areas are similar.
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Coordination Meeting of Inpres  
8/2018

## (Endnotes)

<sup>1</sup> Sawit Watch. 2016. *Menerka Luasan Kebun Sawit Rakyat*. Bogor.

<sup>2</sup> Accessed from <http://www.netralitas.com/bisnis/read/17817/menkeu-sri-mulyani-harapkan-sumbangan-industri-sawit> on April 29, 2017, 20.00 Western Indonesian Time.

<sup>3</sup> Roadmap Masyarakat Sipil untuk Reforma Perkebunan Sawit Indonesia Berkeadilan, 2018.

<sup>4</sup> There are differing data regarding the total size of palm oil plantations operating within forest area. Minister of Environment and Forestry stated that the total is 2.3 million hectares (<http://www.mongabay.co.id/2018/10/20/menteri-lingkungan-bakal-evaluasi-23-juta-hektare-kebun-sawit-di-kawasan-hutan/>). Meanwhile, a study by UGM states that 2.8 million hectares of palm oil plantations are operating in forest area with 35 percent of it managed by the community and the rest by companies (see <http://www.mongabay.co.id/2018/11/04/kajian-ugm-28-juta-hektare-kebun-sawit-di-kawasan-hutan-65-milik-pengusaha-solusinya/>). Meanwhile, Forest Watch Indonesia (2017) found that 8.9 million hectares of forest area are overlapping with HPH, HTI, and palm oil plantations in 8 provinces (<http://www.mongabay.co.id/2017/12/13/kajian-fwi-89-juta-hektare-lahan-tumpang-tindih-di-8-provinsi/>).

<sup>5</sup> Accessed from <https://www.infosawit.com/news/8131/mengurai--kendala-skim-berkelanjutan-ala-indonesia>.

<sup>6</sup> See Decision of Constitutional Court No. 45/PUU IX/2011.

<sup>7</sup> See Government Regulation No. 24 of 2018 on Electronically Integrated Business Permit Service

<sup>8</sup> Further reading on abandoned land can be seen in Government Regulation No. 11 of 2010 on Regulation and Utilization of Abandoned Land.

<sup>9</sup> Mongabay, "Setahun Lebih Putusan Mahkamah Agung, Kementerian ATR Belum Buka Data HGU Sawit" <http://www.mongabay.co.id/2018/06/22/setahun-lebih-putusan-mahkamah-agung-atr-belum-buka-data-hgu-sawit/>

<sup>10</sup> Law No. 32 of 2009 on Environmental Protection and Management, State Gazette No. 140, Supplement of State Gazette No. 5059, Point 3 Overview.

<sup>11</sup> Law No. 39 of 2014 on Plantation, State Gazette No. 308, Supplement of State Gazette No. 5613, Article 48 paragraph (1).

<sup>12</sup> Compiled based on the Regulation of Minister of Environment No. 2 of 2013 on Guidelines for Implementing Administrative Sanctions in the Field of Environmental Protection and Management.