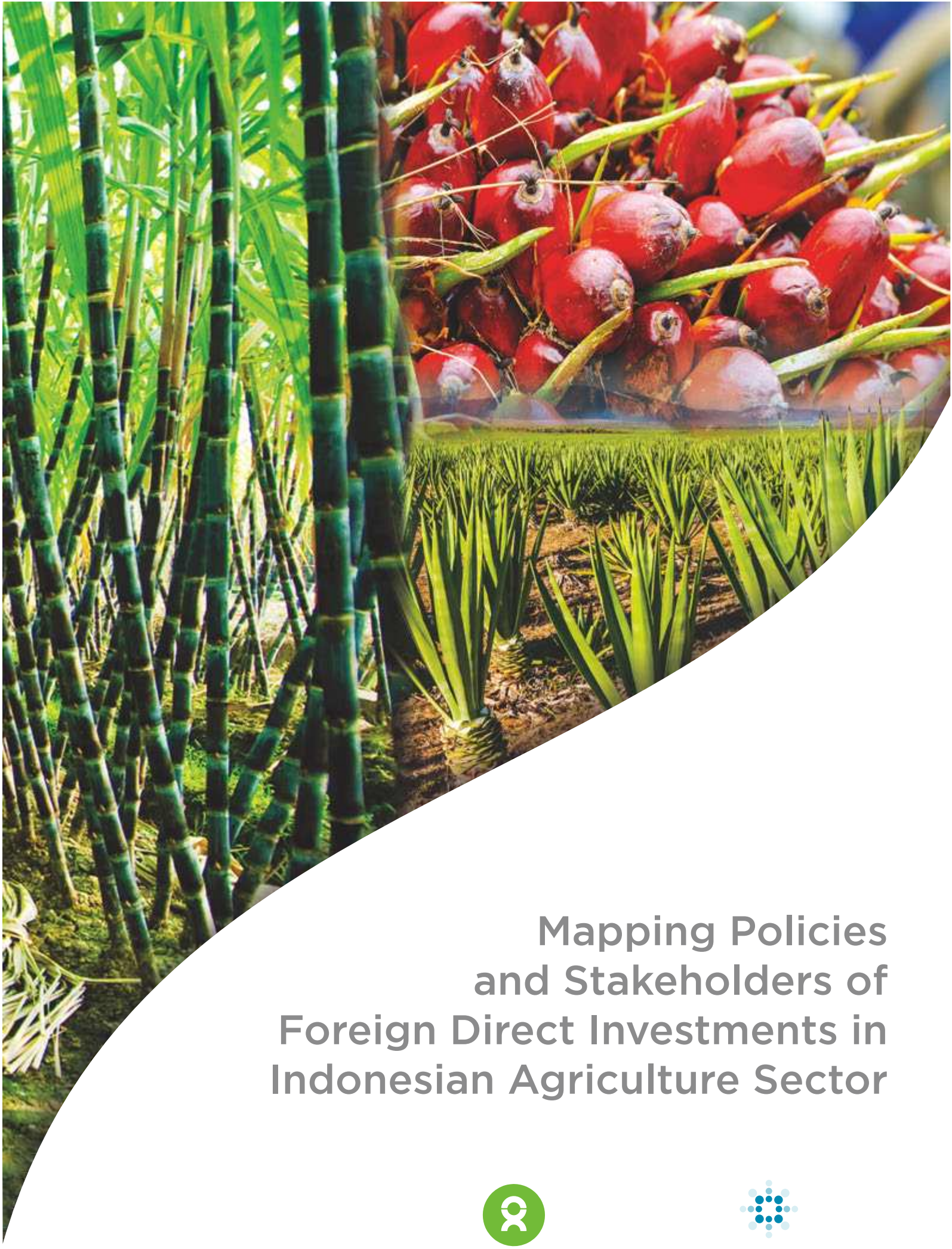

Mapping Policies and Stakeholders of Foreign Direct Investments in Indonesian Agriculture Sector

OXFAM

PRAKARSA
Welfare Initiative for Better Societies

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Authors:
Ruben Layukallo, Victoria Fanggidae, Dwi Rahayu Ningrum

Researchers:
Ruben Layukallo, Dwi Rahayu Ningrum

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Jl. Rawa Bambu I Blok A No. 8E
Pasar Minggu, Jakarta Selatan
Daerah Khusus Ibukota Jakarta
12520

Executive Summary

This research takes stock of and maps the Foreign Direct Investment (FDI) in Indonesia's agricultural sector. The research methodology is qualitative in nature, using case studies in 3 regions of Indonesia to illustrate FDI practices. The work also includes an analysis of secondary quantitative data, for instance on agricultural production trends and investments, and on FDI trends in general. Primary data was obtained using qualitative techniques such as field observations and interviews in Jakarta and in the case study areas to record the opinions of stakeholders (governments, foreign business representatives) and people living or working near the plantations regarding foreign investments practices.

The findings suggest that most FDI in the agricultural sector is attracted to the large scale plantation sub-sector, high value and export oriented crops, due to the high profits they incur. The palm oil sector alone contributes more than 85% of the FDI in agriculture since 2008. This was driven by an increased global demand, which has nearly doubled in the last two decades, soil and climate suitability, and fiscal incentives such as tax relief.

Law No.25/2007 on Foreign Investment is the key policy that encourages and incentivizes FDI in the agricultural sector. In contrast, the Negative Investment List (DNI), which is periodically reviewed through Presidential Regulations, functions as a disincentive for foreign investment. The Ministry of Agriculture is a central actor in attracting FDI since it sets the sector's policy. The other core institutions are; Investment Coordinating Board (BKPM), Ministry of Agrarian and Spatial Planning/National Land Agency (BPN), and local governments, including all local government institutions at both provincial and district levels.

Under Indonesia's decentralized system of government, district governments play an important role when it comes to issuing permits and other licenses to support FDI initiatives. For example, HGU (right to use), building permits (HGB) are just two of the many permits that are issued by district governments. Only the principal investment license and the deed of company are issued by the central government. The plasma-nucleus business model must be implemented by foreign companies planning to invest in the agricultural sector based on DNI and Agriculture Minister Regulation No.98/2013. But the study's results found that it is poorly implemented, if at all, and is the source of conflicts between the companies and communities.

Among other recommendations, the government needs to accelerate and clarify the 'one map policy' and periodically update the land database to provide transparent information about land for investors and community members alike. It is also recommended that a tripartite or multi-stakeholder body at the local level be established that consists of government, corporate and citizens' representatives and/or farmers.

Finally, the role of BKPM needs to be expanded not only just to issue principal licenses and facilitate investment but also to oversee and advise on legal measures or even law enforcement in cases where investors are breaking the law.

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List of Abbreviations

AMDAL	:	Analisis Mengenai Dampak Lingkungan/Environmental Impact Assessment
APINDO	:	Asosiasi Pengusaha Indonesia
ASEAN	:	Association of Southeast Asian Nations
Bakesbangpoldagri	:	National and Political Unity Agency
Bappenas	:	Badan Perencanaan Pembangunan Nasional
BKPM	:	Badan Koordinasi Penanaman Modal/Indonesian Investment Coordinating Board
BKPMD	:	Badan Koordinasi Penanaman Modal Daerah
BPPSDMP	:	Badan Penyuluhan dan Pengembangan Sumber Daya Manusia Pertanian
BKPMPT	:	Badan Koordinasi Penanaman Modal dan Pelayanan Terpadu
BPS	:	Badan Pusat Statistik/Statistics Indonesia
BLH	:	Badan Lingkungan Hidup/Environmental Agency
CSR	:	Corporate Social Responsiblity
CPO	:	Crude Palm Oil
Ditjenbun	:	Direktorat Jenderal Perkebunan/Directorate General for Plantations
DNI	:	Negative Investment List
EU	:	European Union
FAO	:	Food and Agriculture Organization
FDI	:	Foreign Direct Investment
GAPKI	:	Gabungan Pengusaha Kelapa Sawit Indonesia/Palm Oil Growers Association
GoI	:	Government of Indonesia
GDP	:	Gross Domestic Product
HGB	:	Hak Guna Bangunan/Building Rights
HGU	:	Hak Guna Pakai/Cultivation rights
IFAD	:	International Food and Agriculture Development
ILO	:	International Labour Organization
IUP	:	Plantation Business Permit
KPA	:	Konsorsium Pembaruan Agraria/Consortium for Agraian Reform
MoEF	:	Ministry of Environment and Forestry
NGO	:	Non Governmental Organization
RPJMN	:	Rencana Pembangunan Jangka Menengah Nasional/Medium Term National Development Plan
RPJPN	:	Rencana Pembangunan Jangka Panjang Nasional/Long Term National Development Plan

SKPD	:	Satuan Kerja Perangkat Daerah
SPPL	:	Statement of Environmental Management and Monitoring Undertaking
UKL	:	Environmental Management Effort
UPL	:	Environmental Monitoring Effort
UNCTAD	:	United Nations Trade and Development
UUPA	:	Basic Agrarian Law 5/1960
VAT	:	Value Added Tax
Walhi	:	Wahana Lingkungan Hidup/An Indonesian Environmental NGO
WFP	:	World Food Programme

Foreword

Agriculture is one of the main pillars of the Indonesian economy. Indonesia's agriculture commodities had been traded at the global market for centuries, and the sector also absorb tens of millions of workers. However, Indonesia has been mainly relying on exports of raw commodities and not the processed ones, and still apply the old simple formula: planting, harvesting and selling. Export of raw commodities contributes approximately 60% of Indonesia's total exports. Therefore, domestic economy is very vulnerable to any changes because of volatility of commodity prices in the global market.

The Indonesian government has set the national long-term development plan 2005-2025, and for the agricultural sector, the objectives are, among others, to expand and strengthen the national production base, to industrialize the agricultural sector for added value, to increase income and strengthen food security. However, agricultural sector's contribution to the gross domestic product is continued to decline, from 15.19% (2003) to 14.13% (2013). Employment in this sector is also declined, from 38 million (2013) to 35.5 million (2014). The government expects foreign investors to boost the sector's contribution to the national economy. Yet, foreign investments in the agricultural sector is mainly dominated by large-scale plantation and export oriented sub-sector, such as palm oil, as indicated by the data in this research.

This research report presents policies and stakeholders mapping pertaining to agriculture foreign investments in Indonesia and discusses case studies of how foreign investors implement their business in reality. The findings suggest that there are overlapping of policies as well as roles and responsibilities between stakeholders, –especially with decentralization where the role of local government have become stronger in decision making and issuance of business related permits and licenses.

Perkumpulan Prakarsa undertook this research titled "*Mapping of Policies and Stakeholders in Foreign Direct Investment in Indonesia's Agriculture Sector*" between March and August 2016 in Jakarta and three provinces in western, central and eastern part of Indonesia. The research is a collaborative work between Perkumpulan Prakarsa with Oxfam Hongkong and Oxfam Indonesia.

On behalf of Perkumpulan Prakarsa, I would like to thank Kevin Li (Oxfam Hongkong), Dini Widiastuti and Andhika Maulana (Oxfam Indonesia) for their funding support and valuable inputs for the research. Also to Tamba Hutapea and Septiria Christina from *Badan Koordinasi Penanaman Modal* (BKPM), Agung Pambudhi (Indonesian Business Association-*Asosiasi Pengusaha Indonesia*), Setyo Budiantoro (Senior Researcher Perkumpulan Prakarsa), Fithra Faisal Hastiadi (LPEM UI), Prof Tulus Tambunan (Chairman of Center for Industry, SME, and Business Competition Studies, Trisakti University), Syukur Iwantoro (Minister Expert Staff for Indonesia Agriculture Investments), Sonfiani (Head of Integrated Services Board of East OKU District, South Sumatera), Adi Irwansyah (Head of Investment Coordinating Board and Integrated Service Bulungan District, North Kalimantan), Hajamuddin (Head of Investment Coordinating Board and Integrated Service West Sumbawa District, West Nusa Tenggara), M Husin (Head of Forestry and Plantation, East OKU District), Mustofa (Head of Plantation division West Sumbawa District), M Iqbal (Head of Agriculture Office Bulungan District), Dede Sineba (WALHI South Sumatera), Robert Tanjung (Pionir Foundation, North Kalimantan), Heru Haeruddin (Nusra Empowering Forum, West Nusa Tenggara), Mesdin Kornelis Simarmata (Director of Trade, Investments and International Economic Cooperation of Bappenas), Sri Yanti JS (Director of Food and Agriculture, Bappenas), Lukas Rumboko (Researcher of P3SEKPI Ministry of Environment and Forestry), Ageng Herianto (Food and Agriculture Organization/FAO), Dedi Junaidi (World Food Programme/WFP), Anissa Lucky Pratiwi (International Fund for Agriculture Development/IFAD), Iwan Nurdin (Secretary General- Konsorsium Pembangunan Agraria/KPA), Mohamad Fadhil Hasan (Executive Director of Gabungan Pengusaha Kelapa Sawit Indonesia/GAPKI) and other parties that have provided their valuable time and views for this research.

I would also like to thank all the staff in Perkumpulan Prakarsa, especially the research team i.e. Victoria Fanggidae (Research Manager), Ruben Rayukallo (Lead Researcher), Muto Sagala (Researcher), Dwi Rahayu Ningrum, Dia Mawesti and Afriza Mufida (Research Assistant). Their hard work and thoughts are crucial for this research to be completed.

Last but not the least, we expect that this research report will be useful for knowledge development and become evidence for policy formulation and improvement of foreign investments in agriculture sector.

"*The earth has enough for everyone's neet, but not for anyone's greed*" – Mahatma Gandhi.

Jakarta, 30 September 2016

Ah Maftuchan
Executive Director of Perkumpulan Prakarsa

Chapter 1
Introduction

1.1 Background

In the National Long Term Development Plan 2005 – 2025 (RPJP), the Government of Indonesia (GoI) states that one of the goals of the nation's economic development is to "… *widen and strengthen the national production base, and the industrialization process must increase the value added of the primary sector especially agriculture… it has a strategic role because it is closely related to the lives and livelihoods of the Indonesian people, closely related to strengthening national food security…*"(Bappenas, 2007).

In order to translate its political vision into action, the government of Indonesia (GOI) identified five priority sectors for foreign direct investment (FDI): agriculture, infrastructure, manufacturing, maritime, as well as tourism and area development (BKPM, 2015). The underlying objective of these priorities is to ensure that Indonesia can meet increasing domestic demands as the economy grows while reducing the nation's import based consumption.

The agriculture sector's contribution to the economy has slightly decreased over the last decade, from 15.19% of the total Gross Domestic Product (GDP) in 2003 to 14.13% of the GDP in 2013. Meanwhile, the 2013 Agriculture Census data found that 26.4 million households or about 38 million people rely on the agriculture sector (BPS, 2013). In 2014, the number declined to 35.5 million people. Nevertheless, this still constitutes over one-third of the total labor force (BPPSDMP, 2015).

The agriculture labor force is dominated by people in their late productive age and by an aging population with a low level of education. The Ministry of Agriculture's data indicates that 82% of the agriculture labor force are from the older generation and only 18 percent are from the young generation, with almost 5 million people 60 years or older (BPPSDMP, 2015). In addition, almost three-quarters of the agriculture labor force has only attended primary school. This is one of the causes of low productivity in the agriculture sector (FAO, 2011; BPPSDMP, 2015).

Poverty in Indonesia is still concentrated in rural areas as opposed to urban areas. Of the 27.2 million poor people, 17.4 million are rural poor, with the majority relying on agricultural sector for their livelihoods (BPS, 2015). Therefore, improving the productive capacity of this sector will contribute to the GOI's poverty reduction goals. Moreover, with a population of 250 million people, the GoI has an ambitious plan to secure the domestic food supply to meet increasing demands and reduce dependence on importing commodities such as rice and salt. But to address these challenges, greater investment in agriculture is needed.

According to the FAO (2012), since 2000, investments in agriculture have remained relatively low, compared to its importance to the Indonesian economy. The report also highlighted a downward trend in FDI inflows to the agriculture sector since 2000, but there has been large scale private investment in palm oil and biofuel since 2010 (FAO, 2012). Indonesia is now the largest Crude Palm Oil (CPO) producer in the world with 47% of the global market share (BKPM, 2015).

Within the agricultural sector, the plantation sub-sector constitutes the majority of agriculture's contribution to the GDP. Of the total 14.13% agriculture contributed to the GDP (or IDR 1.41 trillion), the plantation sub-sector's share is 28.21% in 2014, followed by food crops at 24.38%, and the fisheries sub-sector in the third place with 17.52 percent. In fourth, fifth and sixth place are, livestock -11.84%, horticulture -11.31% and forestry - 5.29% (Ditjenbun, 2015).

Investment in food crops and plantations brings both benefits and challenges. These sectors need land to expand and with the multiple demands for land, it is not as plentiful as it was in the past. Plantations currently cover 23.8 million ha and employ about 14 million people. Palm oil is rapidly expanding, outstripping other plantation commodities. Between 2010 and 2015, palm oil plantations expanded 36%, from 8.4 million ha to 11.4 million ha. In contrast, rubber grew only 6% and cocoa grew 3% over the same period (Ditjenbun, 2015).

The impacts of FDI in Indonesia are mixed. On the one hand, the presence of foreign corporations has triggered competition thus pressuring local companies to become more competitive (Dharma Negara and Adam, 2012). At the same time, more job opportunities have been created. In the agricultural sector, FDI is seen as a way to meet food security and to boost Indonesian exports. FDI is also seen as the solution to the government's budget deficits. Nevertheless, research and reports from both environmental and human rights NGOs found that FDI has caused economic losses for the poor, caused environmental degradation, human rights and labour rights abuses, land grabbing and other conflicts between plantation companies and local/ indigenous people due to the opening of large plantations. For instance, Obidzinski (2012) points out the unequal economic gains of palm oil and biofuel sectors at the cost of environmental destruction. Cahyadi (2013) documents the effects of contract farming in Indonesia's oil-palm industry on smallholders' wellbeing; while Frankie and Morgan, (2015) found numerous problems with palm oil investments in Papua. Finally, Walhi (2015) exposed the poor labour standards of palm-oil companies in Central Sulawesi.

This research will map and assess the FDI in Indonesia's agricultural sector. The case studies focus on the plantation sub-sector, since this is the sub-sector that dominates agricultural FDI in Indonesia. The assessment will explore the policies that influence investment inflows in this sector and identify the key stakeholders. The results will contribute to public debates about FDI's role in agricultural development

1.2 Research Question

1. What are the roles and positions of the key policy stakeholders, the institutional arrangements and legal arrangements in Indonesia's agricultural sector?
2. How are the types of investment, business models and practices of foreign agriculture investments having an impact on the social relations and the environment in three regions of Indonesia?

1.3 Research Objectives

The research presents a case study on FDI in Indonesia's agricultural sector, and in particular, it aims to:

1. Map the role and positions of key policy stakeholders, institutional arrangements and legal arrangements in Indonesia's agricultural sector.
2. To investigate the types of investment, business models and practices of FDI in the agricultural sector that have an impact on social relations and the environment in three regions.

1.4 Research Metodology

This research is qualitative in nature using case studies in 3 regions of Indonesia.

The selection of these three regions was done purposively, based on the investor's home country, the value of the foreign investment, the division of geographic regions (the western, central and eastern Indonesia), as well as commodities. Since the early 2000s, Singapore and Malaysia have been the two investors with the highest investment value in Indonesia's agricultural sector, so this study chose two areas in which both countries are investing, namely in the district of East OKU, South Sumatra (Singapore) and Bulungan, East Kalimantan (Malaysia). Meanwhile, the West Sumbawa district was selected because there is considerable Chinese investment in the plantation sector. Chinese investment increased rapidly since 2014, making China an investment force to be rekoned with.

Palm oil plantations receive of most of the FDI but there also other commodities in the plantation sub-sector where FDI is significant, namely a sugarcane plantation in East OKU Timur, South Sumatra and a sisal plantation in Sumbawa Barat, West Nusa Tenggara, in addition to the palm oil plantation in Bulungan district, East Kalimantan.

Much of the work also includes an analysis of secondary quantitative data, for instance on trends in agriculture production and investments, and on FDI trends in general. Primary data was collected using qualitative techniques such as field observation and interviews to understand perceptions of stakeholders (governments, foreign business representatives) and people around the operational areas (workers, community members) regarding foreign investment issues and problems. This research is designed to build a body of evidence on the nature of FDI in Indonesia's agricultural sector.

Data Collection

a. Secondary data

Secondary data was collected from various sources: Coordinating Investment Board (BKPM), Chamber of Commerce, Ministry of Agriculture Data Centre, and Statistics Indonesia (BPS). The data included:

- Official databases, previous research results and reports related to FDI trends and impacts and recent debates surrounding FDI in the agricultural sector both regionally and nationally.
- Laws and regulatory frameworks, as well as institutional arrangements related to FDI such as Law No.25/2007 on Investments, Law No.40/2007 on Companies and Law No.32/2009 on the Environment as well as other regulations related to multinational corporations operations and their social and environmental responsibilities.
- Relevant media.

b. Primary data

Primary data was collected through field observation and semi-structured interviews with the following institutions and people:

Table 1. Institutions and Key Informants

Levels	Institutions/persons	
Institutions in Jakarta	1	Indonesia Investment Coordinating Board (BKPM)
	2	BAPPENAS
	3	Ministry of Agriculture (MoA)
	4	Ministry of Environment and Forestry (MoEF)
	5	National NGOs (Walhi, KPA)
	6	Relevant national associations (APINDO, GAPKI)
	7	International agencies (FAO, IFAD, WFP)
Provincial/district level (South Sumatra, North Kalimantan, West Nusa Tenggara)	1	Regional Investment Coordinating Board (BKPMD)
	2	Provincial/District Environmental Agency (BLH)
	3	Provincial/District Agriculture Agency
	4	Corporate representative
	5	Non-governmental organizations (NGOs)
	6	Workers
	7	Local communities

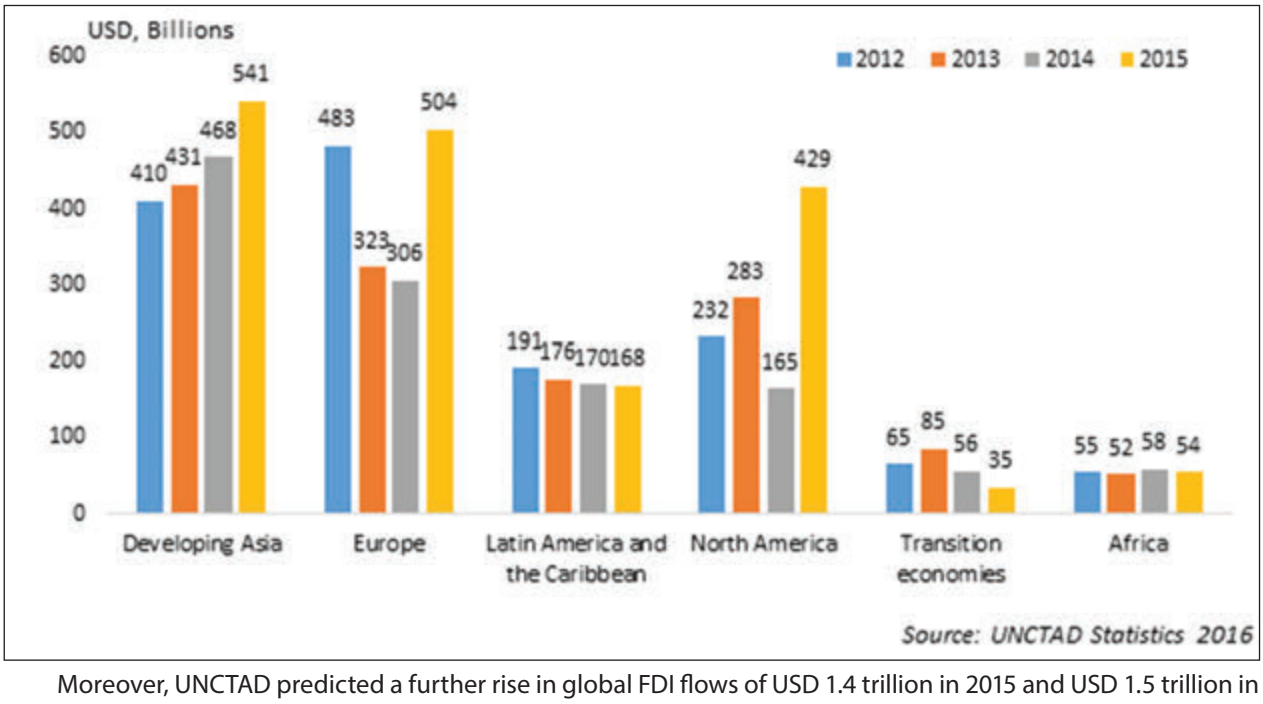
Chapter 2
Overview of FDI in the Agriculture Sector

2.1 Foreign Direct Investment: Global and Regional Trends

In order to promote economic growth, efforts to attract both domestic and foreign investment have intensified especially in developing countries, including Indonesia. Concomitant with this drive to attract funds, is investment policy reform and new regulations to create a more conducive investment climate for investors.

Globally, the trend of FDI inflows decreased 16% in 2014 (UNCTAD, 2015). The decline in FDI inflows was caused by the weakening global economy, uncertain policy and high geopolitical risks in 2014. Another factor is divestment. North America experienced a decline in FDI by 40% due to the divestment by some companies (Chart 1). Transition economies in central and eastern Europe also experienced a decline in FDI by 52% due to regional conflicts and economic sanctions imposed on Russia. In contrast, Asian countries experienced a 9% increase in investment flows with China as the biggest recipient in the period 2012-2014.

Chart 1. FDI Inflow to World's Regions 2012-2015

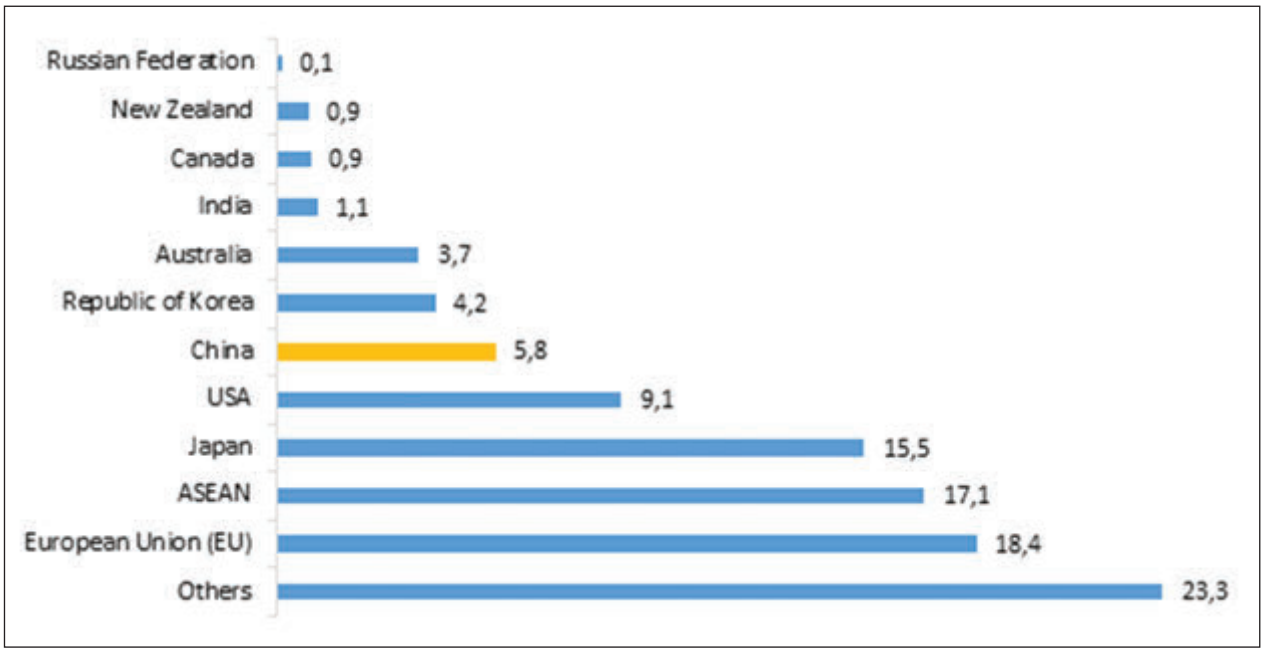


Moreover, UNCTAD predicted a further rise in global FDI flows of USD 1.4 trillion in 2015 and USD 1.5 trillion in 2016. According to the latest trends, FDI inflows have shown a 13% rise in the first half of 2015 as more investment flowed into the United States and Hong Kong (Chart 4). Improvements in the US economy and the acquisition agreement and merger of several companies in the United States sparked investment in the country (OECD, 2015) [1].

At a glance, ASEAN investment statistics indicate that the 'traditional' investors are the European Union (EU), Japan, and the United States, but a closer look reveals that ASEAN member countries are the second largest foreign investors in the region. As Chart 2 indicates, between 2013 and 2015, the share of FDI net inflows in ASEAN from ASEAN member countries contributed 17.1 % of the total net FDI, where the European Union (EU) share is 18.4% and Japan's, 15.5%. The US share is only 9.1%, which is almost half of the ASEAN's own investment, and China ranks as the 5th largest investor in ASEAN.

1 OECD. FDI in Figures, October 2015.

Chart 2. Share of FDI net inflows in ASEAN from selected partner countries/regions (%), 2013-2015



Source: ASEAN, 2016

The ASEAN region experienced a sharp increase of FDI inflows in 2014, which for the first time since 1993 surpassed the level of FDI inflows from China. This makes ASEAN the largest FDI recipient among developing countries. By country origin, FDI from the United States increased by 165%, from Australia 63%, EU 31%, South Korea 22% and from China 31%. Overall, the Intra-ASEAN is the largest contributor to FDI inflows into ASEAN followed by Japan and the United States (Table 2).

Each FDI country investor concentrates on different industrial sectors. Table 2 shows that the Intra-ASEAN is more active in the financial sector, manufacturing and wholesale and retail. FDI in extractive industries was dominated by European Union and ASEAN investors. Japan, ASEAN, the Republic of Korea and the European Union, in that order, accounted for 64 per cent of total FDI inflows into the manufacturing industry in 2015 (ASEAN Investment, 2016) [2].

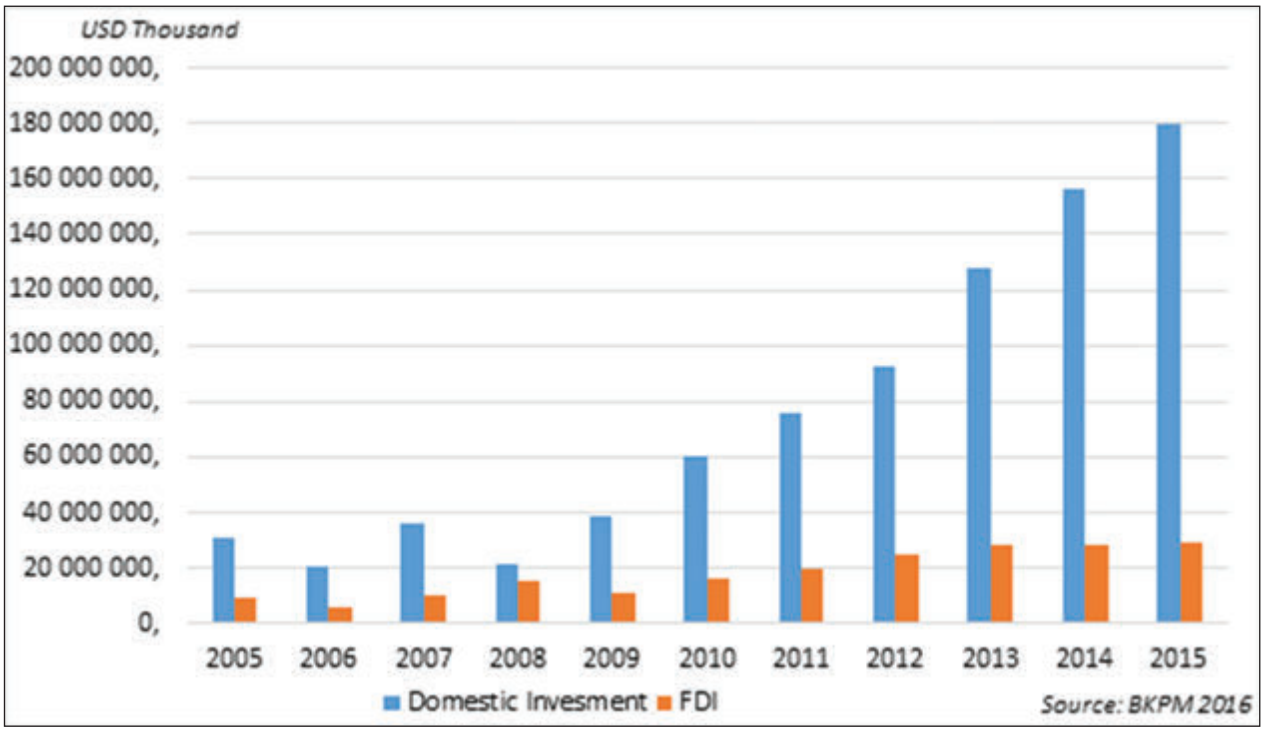
2 ASEAN Investment Report, ASEAN Secretariat & UNCTAD, 2016

Table 2. Top 10 Investors in ASEAN and Industry Recipient

Investing Country (million of dollars)				
2014			**2015**	
Country/region	**Amount**		**Country/region**	**Amount**
Intra-ASEAN	22,134		Intra-ASEAN	22,149
Japan	15,705		Japan	17,395
United States	14,749		United States	12,191
Luxembourg	7,997		China	8,155
United Kingdom	7,583		Netherlands	7,907
China	6,990		United Kingdom	6,698
Australia	6,282		Republic of Korea	5,680
Republic of Korea	5,751		Australia	5,193
France	2,761		Denmark	2,693
Netherlands	2,699		New Zealand	2,241
Top 10 Total	**92,651**		**Top 10 Total**	**90,303**
Top 10 share of FDI in ASEAN	**71%**		**Top 10 share of FDI in ASEAN**	**75%**
Industry Recipient				
2014			**2015**	
Industry	**Amount**		**Industry**	**Amount**
Financial and insurance activities	45,624.5		Financial and insurance activities	39,322.2
Wholesale and retail trade	20,526.5		Manufacturing	29,015.0
Manufacturing	18,012.5		Wholesale and retail trade	11,188.0
Other services	11,224.2		Real estate activities	9,207.4
Real estate activities	10,088.1		Other services	8,142.3
Mining and quarrying	7,660.1		Mining and quarrying	7,253.0
Agriculture, forestry, and fishing	4,715.8		Agriculture, forestry, and fishing	4,831.0
Others/unspecified	4,215.2		Others/unspecified	3,927.0
Transportation and storage	2,742.7		Transportation and storage	3,281.2
Information and communication	1,298.0		Electricity, gas, steam, and air conditioning supply	1,982.5
Electricity, gas, steam, and air conditioning supply	428.8		Information and communication	1,825.3
Total	**129,995.1**		**Total**	**119,974.8**

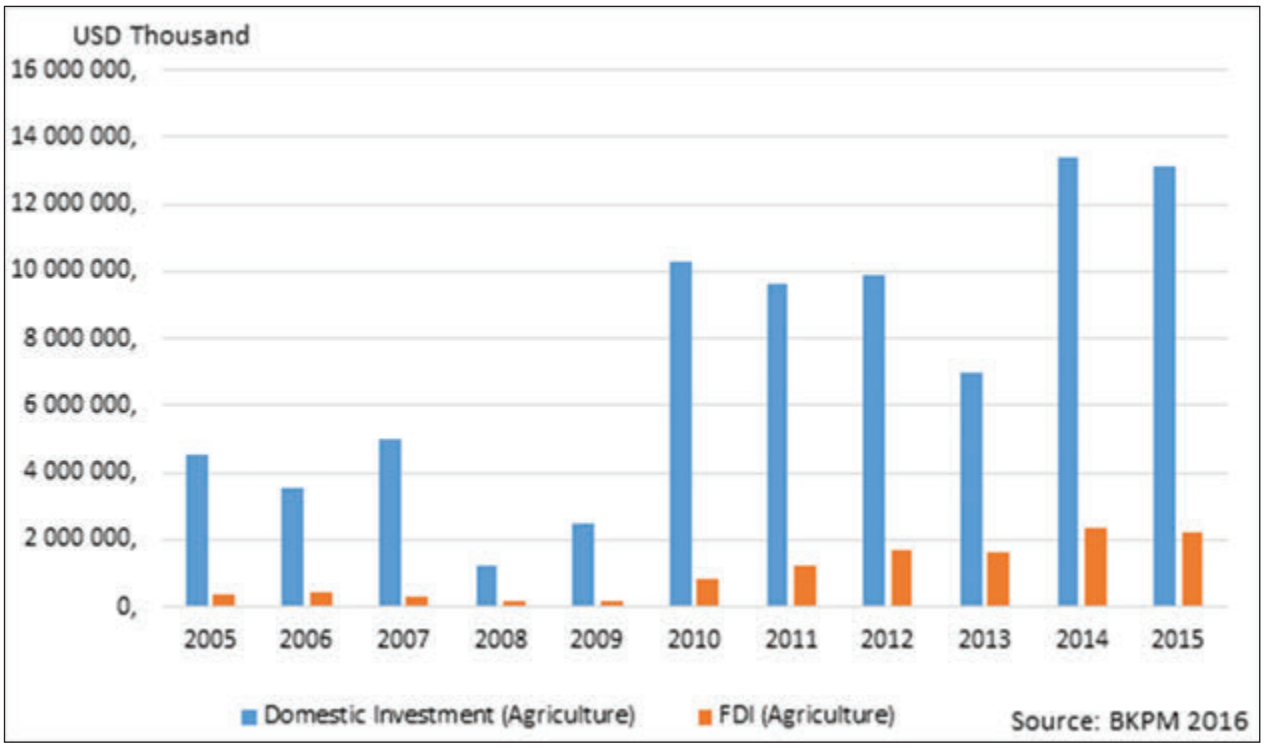
In Indonesia, domestic investment (DI) is greater than FDI. The value of domestic investment is nearly six times greater than the value of FDI in the same period in 2015. The growth of FDI is very slow compared to domestic investment, especially since 2010, as shown in Chart 3.

Chart 3. Domestic Investment vs Foreign Direct Investment in Indonesia



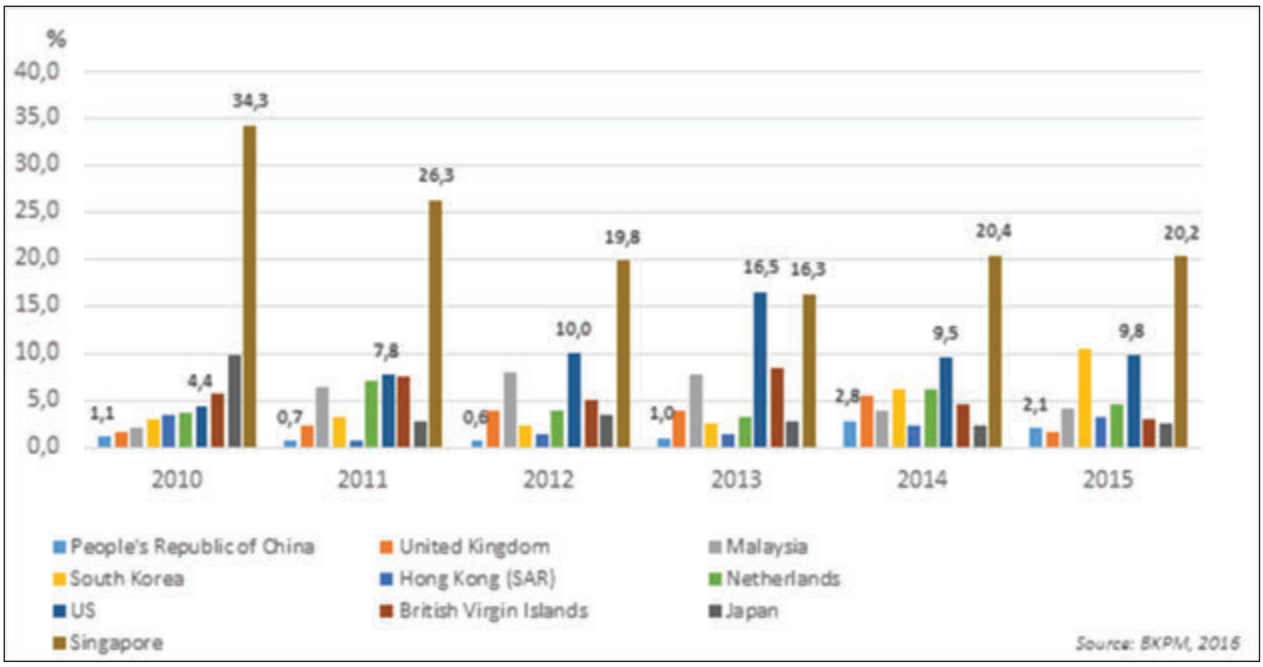
In the agriculture sector, domestic investment is about 6 times greater than FDI as can be seen in Chart 4.

Chart 4. Agriculture Domestic Investment vs Agriculture FDI



FDI in Indonesia resembles that of the ASEAN region. The ASEAN regional financial crisis during the period 1998-2000 followed by domestic political turmoil in Indonesia resulted in an average 2.7% decrease in FDI (Sarwedi, 2002). This decline in investment was a reminder of how a combination of global and regional economic factors, government policy, and political conditions play a role in shaping the investment climate.

Chart 5. Share of FDIs realization of the 10 largest[3] countries in Indonesia, 2010-2016



Singapore, a fellow ASEAN member country, was the largest foreign investor in 2014, outstripping all other investors. Nevertheless, since 2010 its share of investment has declined while other countries have increased their investment. China and the United Kingdom's (UK), share of investment grew threefold over the period, while Malaysia, South Korea and Japan, doubled and the Netherlands grew two-thirds between 2010 and 2014 (Chart 5).

In terms of geographical distribution, FDI remains Java–centric with nearly 68% of the FDI concentrated on Java. The most recent data shows that in the 2nd quarter of 2015, more than half of the 4,460 FDI projects are concentrated in DKI Jakarta and West Java (BKPM, 2015).

In order to attract more FDI, Indonesia enacted Law No.25/2007 regarding Investment. Under this law, FDI is no longer under the Ministry of Trade but rather it is the responsibility of BKPM (Investment Coordinating Board). The law also relaxed regulations on hiring foreign workers for FDI-based firms, lowered tariffs for imported raw materials (Tambunan, 2012), and provided a series of tax waivers and exemptions as incentives (Fanggidae, in Herder et al, 2015), such as for free tax for raw materials, value add tax, acceleration of amortization and property tax (FAO, 2011). Although the law emphasizes good corporate governance of investments through transparency and accountability, it also requires companies to be socially active through corporate social responsibility (CSR), especially those companies operating in 'sensitive sectors' that are prone to environmental degradation and social conflicts (Article 15 b and 15 d).

FDI data in Indonesia is compiled by BKPM and the Bank of Indonesia (BI). However, the two institutions use different parameters in compiling FDI data. As reported by OECD (2012), significant discrepancies exist between the two data sets due to the differences in reporting FDI statistics. For example, the definition of FDI projects. BKPM categorizes investments as FDI (Penanaman Modal Asing, PMA) if foreign equity represents 1% or more of total shares of a company. Thus, FDI as measured by BKPM includes equity contributions from domestic partners and investments financed by domestic sources. This practice tends to inflate BKPM's FDI figures. BI, on the other hand, follows the standard FDI categorization of equity investment, retained earnings and other capital flows. On average, BKPM figures for FDI exceeded those from BI by 236% over the period 1990-2009. This discrepancy indicates that FDI projects licensed by BKPM have a significant local capital contribution from joint venture partners[4]. In addition, licenses for oil and gas, mining, banking, non-bank financial institutions, insurance and leasing are issued by other government bodies, these sectors are not covered under the BKPM statistics. BKPM is expected to increase the sectoral coverage gradually while BI statistics cover all sectors (US Dept. of State 2015). As the political conditions became more conducive along with policies reform, FDI began to increase after 2002. Table 3 presents the sectors and the types of businesses open for investment.

3 *Investasi Asing Langsung di Indonesia dan Faktor Yang Mempengaruhinya*, Sarwedi, 2002

4 OECD Review of Agricultural Policies: Indonesia 2012

Table 3. Types of Businesses Open For Investment in Each Sector

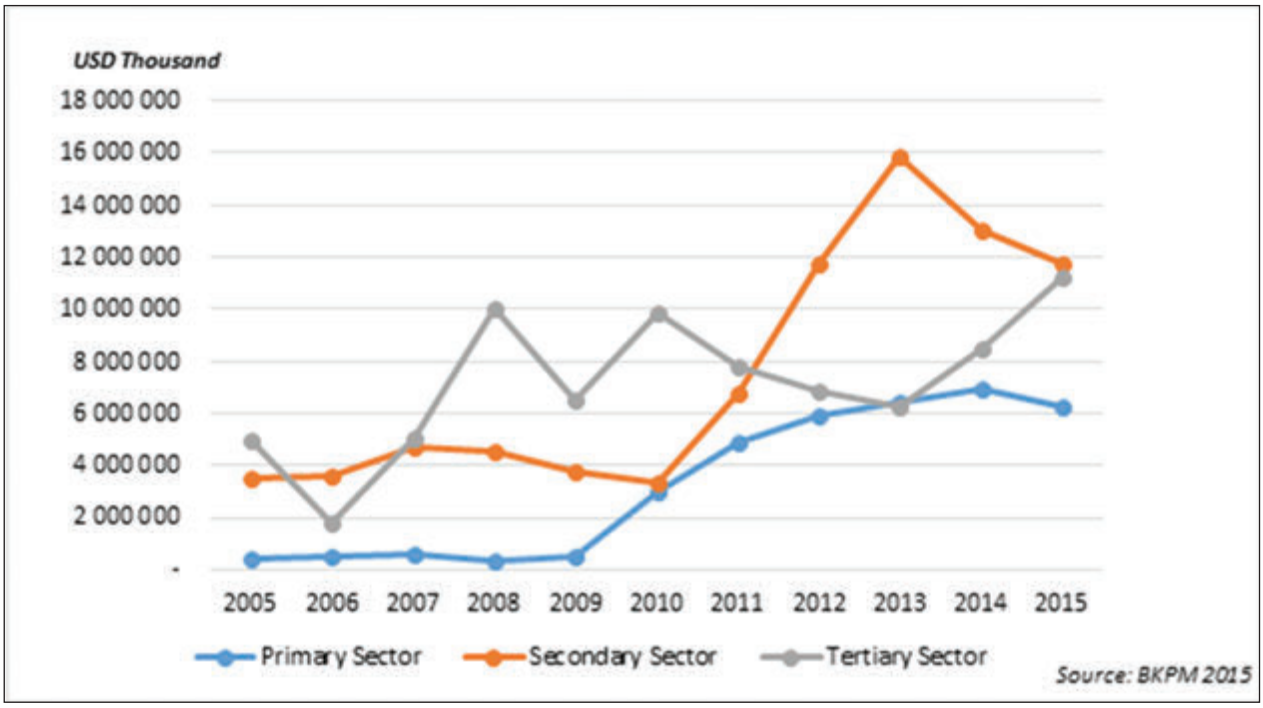
No	Sector	Types of Business Fields
1.	**Primary**	Food Crops and Plantation
		Livestock
		Forestry
		Fishery
		Mining
2.	**Secondary**	Food Industry
		Textile Industry
		Leather, leather goods and shoes Industry
		Wood Industry
		Paper Industry, Paper goods and printing
		Industry of Basic Chemical, Chemical and Pharmaceutical Goods
		Rubber Industry, Rubber and Plastics goods
		Minerals Industry, Non Metallic
		Industry of Basic Metal, Metal Products, Machinery and Electronics
		Industry Medical Instruments, Precision, Optics and Clocks
		Industry of Transport Equipment and other transportation
		Other Industries
3.	**Tertiary Sector**	Electricity, Gas and Water
		Construction
		Trade and Repair Service
		Hotel and Restaurant
		Transportation, Storage and Telecommunication
		Housing, Industrial and Offices area
		Other Services

Source: BKPM, 2016

Chart 6 shows that in the secondary sector, FDI spiked in 2011. The chemical base industry had 161% FDI increase compare to the previous year. FDI in transportation and basic metal industries also increased by 202% and 276%, respectively. In the tertiary sector, there were many FDI fluctuations but with a tendency to increase when compared to previous years. Electricity/ water/ gas services, hotels and restaurants, as well as transportation/ warehouse/ telecommunication services was the highest recipient of FDI the tertiary sector. FDI in the primary sector also increased in 2010. Investment in the mining sector rose 1,531% from the previous year and food crops and plantations rose 360%. Both were the largest contributor to the sharp rise in FDI in the secondary sector.

The new investment, Law 25/2007, has significantly impacted the increased of investment in 2007, particularly for the tertiary sector. However, with global economic crisis the FDI inflows decreased during 2008-2009. As the economy began to recover, in 2010 the FDI inflow regained its 2007 level and continued to increased, supported by the investment shifting from other countries to Indonesia.

Chart 6. FDI in Indonesia by Sector



2.2 Indonesia's Agriculture Sector and the FDI Impact

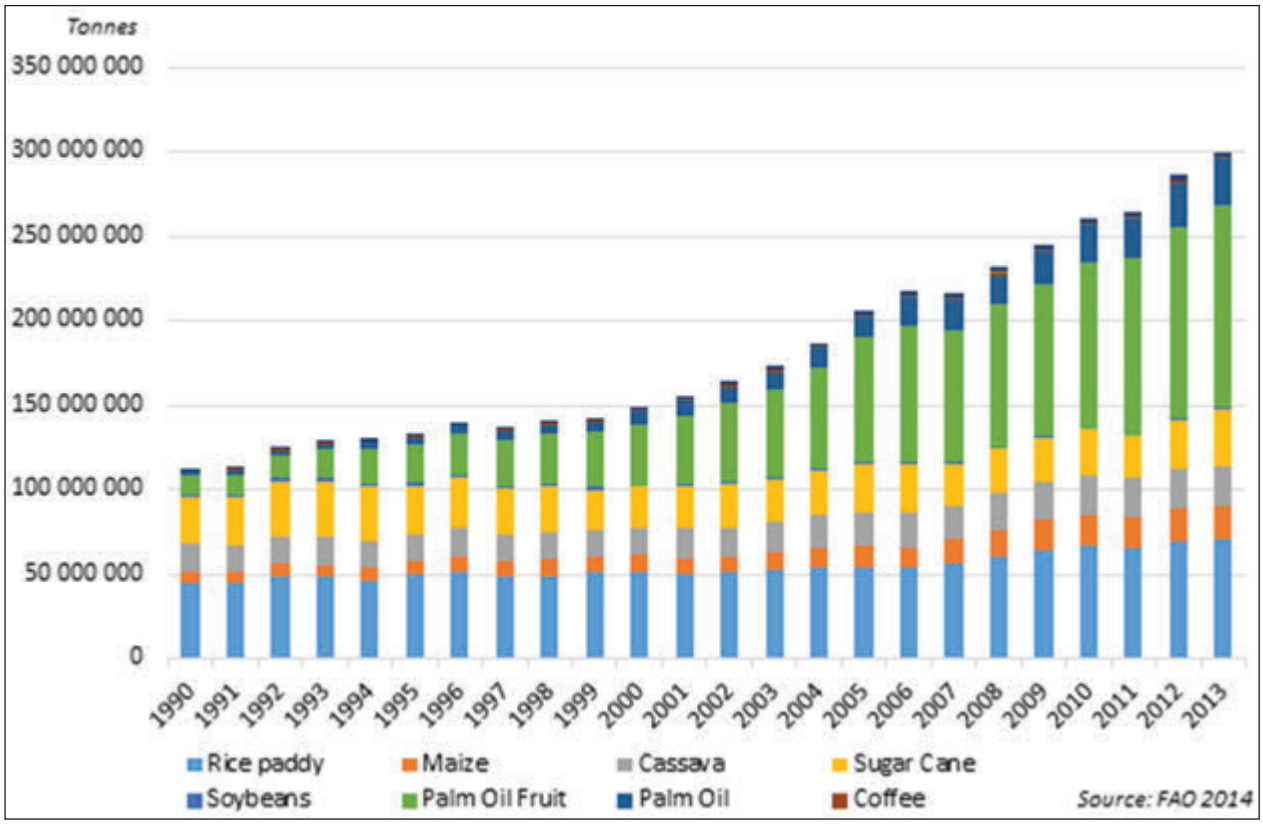
Agriculture is a critical component of the Indonesian economy and there is always pressure to improve the quality of production. Overall, agricultural production is characterized by an increase in annual production as Chart 7 indicates. What is significant, however, is that since 2003 oil palm has surpassed rice as the number one agricultural commodity. This is due to the increasing market demand for palm oil products. Annual growth of palm oil fruit production is on average 11.0% compared to rice production which only about 2.1%.

Palm oil has outperformed other commodities in Indonesia due to a number of factors. South-east Asia has the best conditions for palm oil cultivation in terms of soil quality, solar radiation and rainfall patterns. Technological advances have also enabled palm oil utilization as a basic ingredient in many manufactured products such as cooking oil, soap, detergent, cosmetics, household appliances, leather, textiles, metal, chemical industry and also as fuel as well as raw materials for the production of biodiesel. Currently, Indonesia and Malaysia, control 90% of global production and export of crude palm oil (OECD, 2012)[5].

The growth rates of other commodities are not much different from rice, with some even stagnating. Maize has an annual production growth rate of 5%, cassava 2%, and sugarcane 1.2%.

5 OECD Review of Agricultural Policies: Indonesia 2012

Chart 7. Agriculture Production by Primary Commodities 1990 - 2013

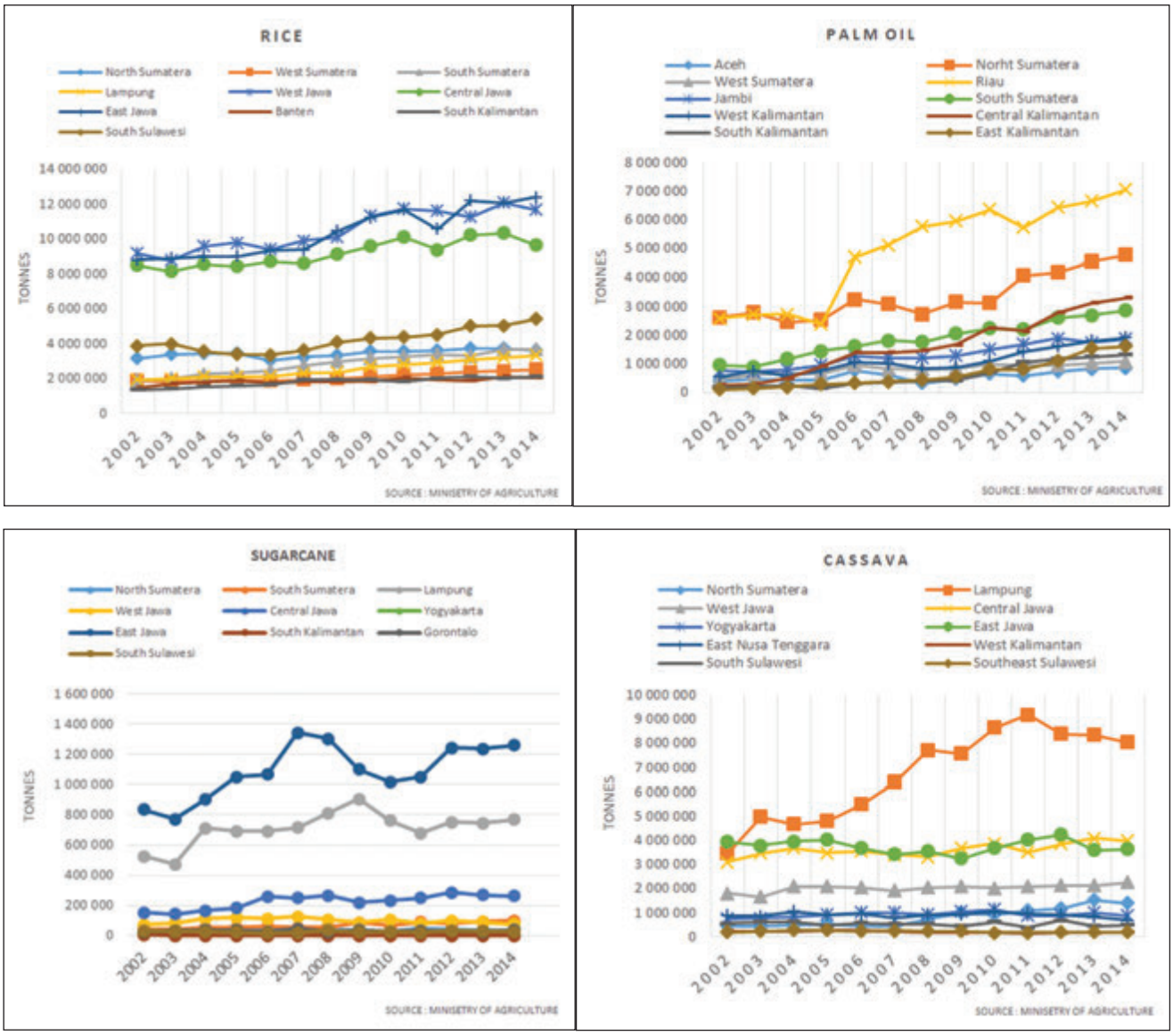


Based on the amount of production, we can see what regions are the cultivation center of certain agricultural commodities (Chart 8). Rice is concentrated in Java with the highest total production compared to other regions. East Java is the highest producer of corn with an average of 6 million tons per year. Cassava production in Lampung has increased from 3.5 million tons in 2002 and reached a total production of more than 9 million tons in 2011. According to Sugino and Mayrowani (2009), the huge increase in cassava production in Lampung was caused by the presence of foreign cassava processing companies for tapioca in particular. These companies are from Japan and the US, such as Ajinomoto and Cargill.

For palm oil commodities, Riau is the largest producer in Indonesia. Since the early 1980s, this province has established itself as the centre for oil palm plantation development. Palm oil plantations generate high profits, so that they can pay high wages for the workers. This attracts migrant workers form outside Riau to come and work in the province. Of the total immigrant population in Riau, 24% are spontaneous migrants who then become independent palm oil farmers (Budidarso, Susanti & Zoomers, 2013) [6].

6 Oil Palm Plantations in Indonesia: The Implications for Migration, Settlement/Resettlement and Local Economic Development, Suseno Budidarsono, Ari Susanti and Annelies Zoomers, 2013

Chart 8. Top Agriculture Producer by Province 2002 - 2014

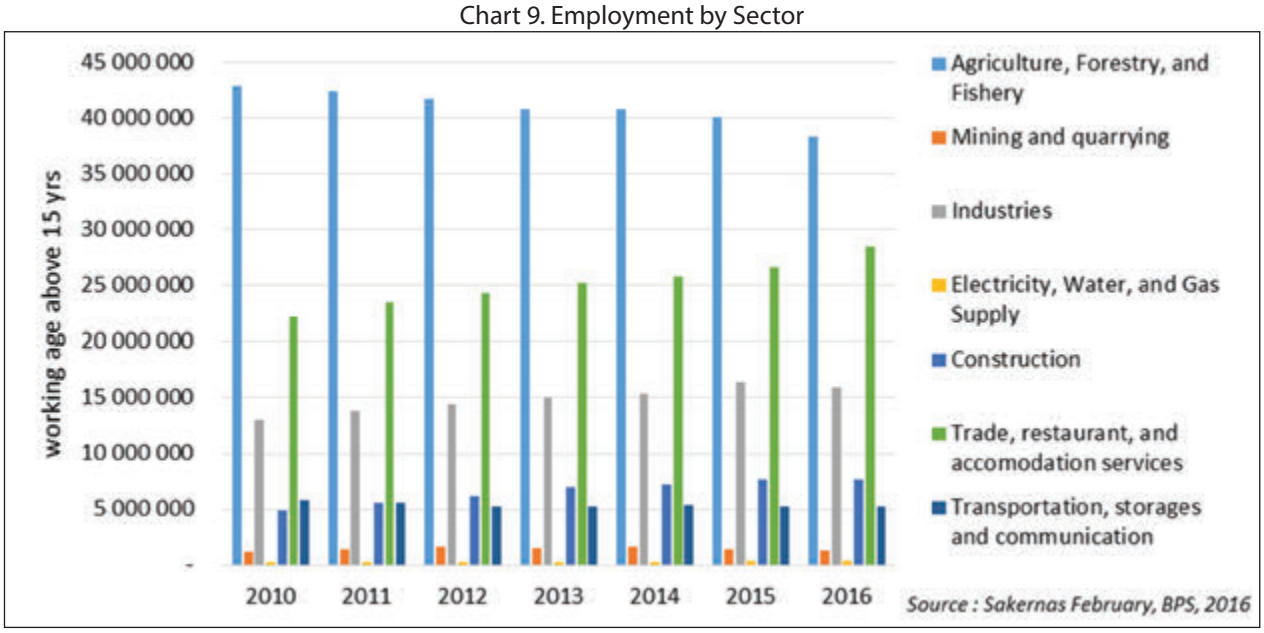


Indonesia's Gross Domestic Product (GDP) based on current prices increased in the period 2010-2014. The processing industry sector is the largest contributor with 20% of the total GDP. The agricultural sector also has increased its contribution each year with GDP roughly equal to the trade sector. Based on data from Statistics Indonesia (BPS), the contribution of the agricultural sector is not much different during the years 2010 to 2014, or about 14% per year. However, compared to the trend between 2003 and 2013, the agricultural sector's contribution to GDP declined from 15.19% in 2003 to 14.43% in 2013 (Kompas, 2014)[7].

However, up until February 2016, the agricultural sector employed the largest number of people with nearly 38 million workers, although there has been a decrease compared to 2010. The manufacturing sector continues to absorb new workers and is growing each year (Chart 9). The International Labor Organization (ILO) estimates that the changes in Indonesia's employment structure will continue as the workers from the primary and secondary sectors switch to the tertiary sector. Furthermore, employment in the agricultural sector is likely to drop from 34% in 2013 to 25-32% in 2019. In the agricultural sector, the number of jobs for unskilled or low-skilled workers is also forecasted to decline.

7 *Satu Dekade, Kontribusi Pertanian Terhadap PDB Menurun*, Kompas, 2014

Chart 9. Employment by Sector

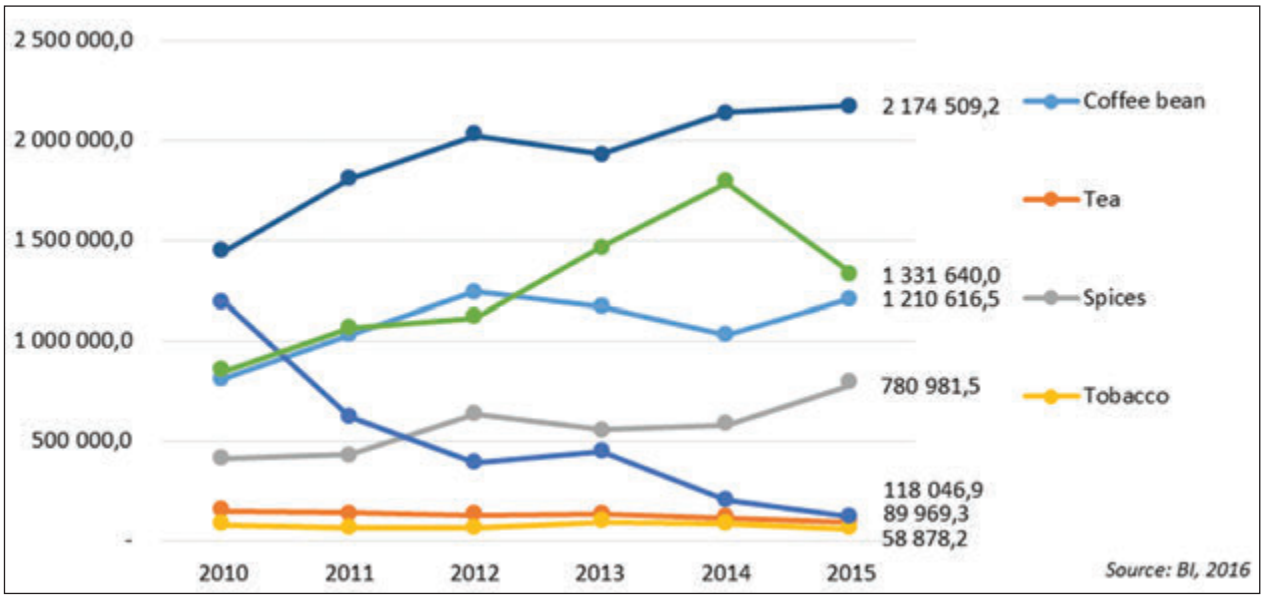


The total value of Indonesia's agricultural exports has increased every year but it still lags far behind the industrial sector. Total agricultural exports increased by an average of 6.5% per year. In the industrial sector, coal remained Indonesia's number one export followed by crude palm oil (CPO). Coal exports started to decline in 2012-2014 due to the low demand (particularly from China) and the decline in prices (World Bank, 2014)[8].

According to the Ministry of Agriculture[9], trade in Indonesia's food crops are in a deficit position or put another way, Indonesia is a net importer country of food commodities. Cassava leads in exports; while wheat, soybeans, corn and rice are the largest import commodities. The plantation sector has the largest share for agricultural exports where the export value is much higher than imports.

In the fisheries sub-sector, shrimp is the leading export commodity where the United States is the major export destination (Chart 10). The Ministry of Commerce reported an increase in shrimp exports by 25.9% in the period 2009-2014. In 2015, Indonesia became the number one shrimp exporter to the United States with 22.7% (Ministry of Trade, 2015). In contrast, cocoa bean exports decreased dramatically in the period 2010 - 2014. The implementation of export duties on cocoa beans in 2010 was the main cause of this decline. On the other hand, exports of processed cocoa beans increased in the same period (Kompas, 2015)[10].

Chart 10. Agriculture Exports by Primary Commodities

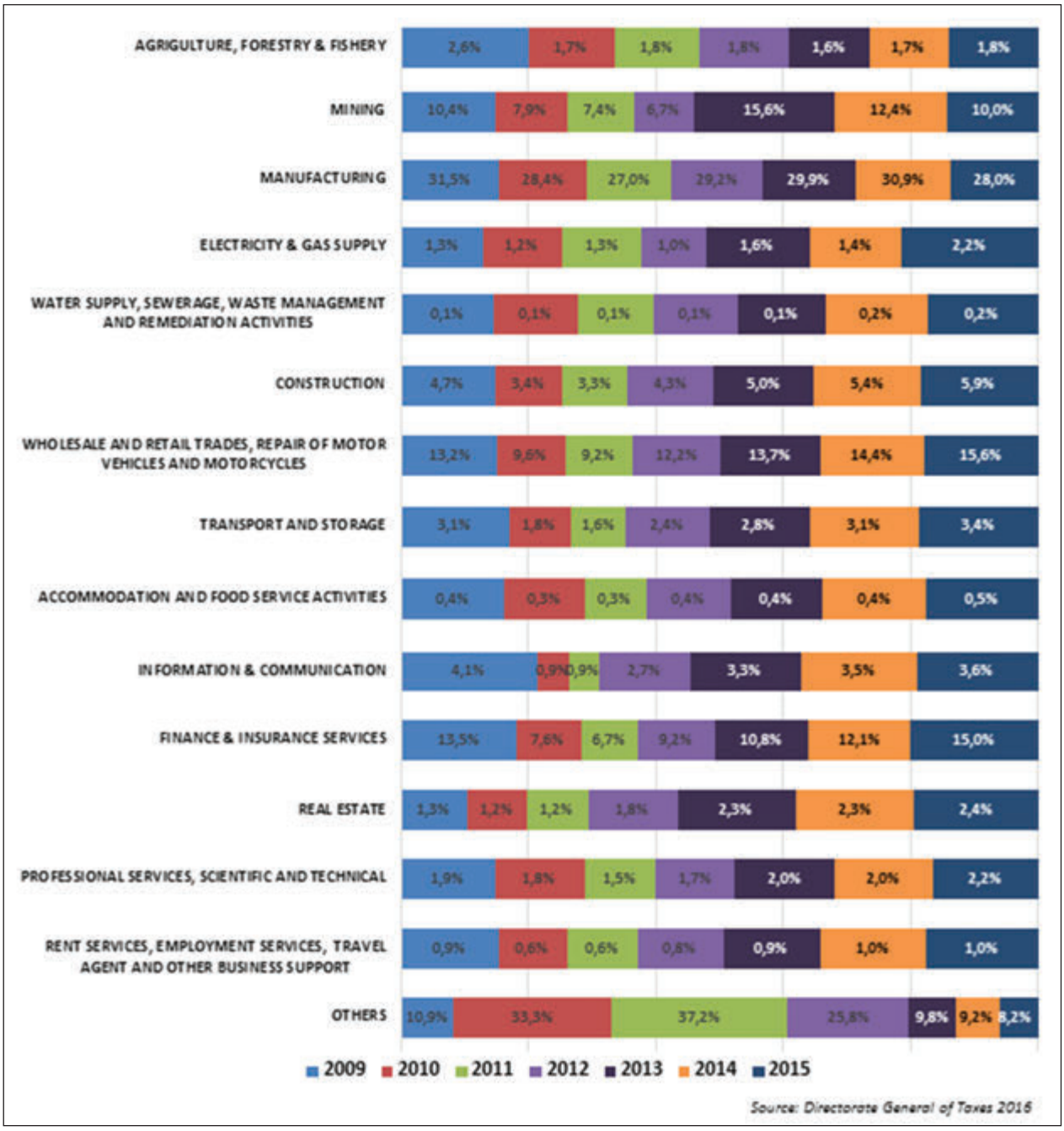


8 Indonesia Economic Quarterly, World Bank, Dec 2014

9 *Rencana Strategis Kementrian Pertanian 2015-2019*, 2015

10 *Hilirisasi Tingkatkan Ekspor Kakao Olahan*, Kompas, 18 September 2015

Chart 11. Tax Revenue by Sector (%)

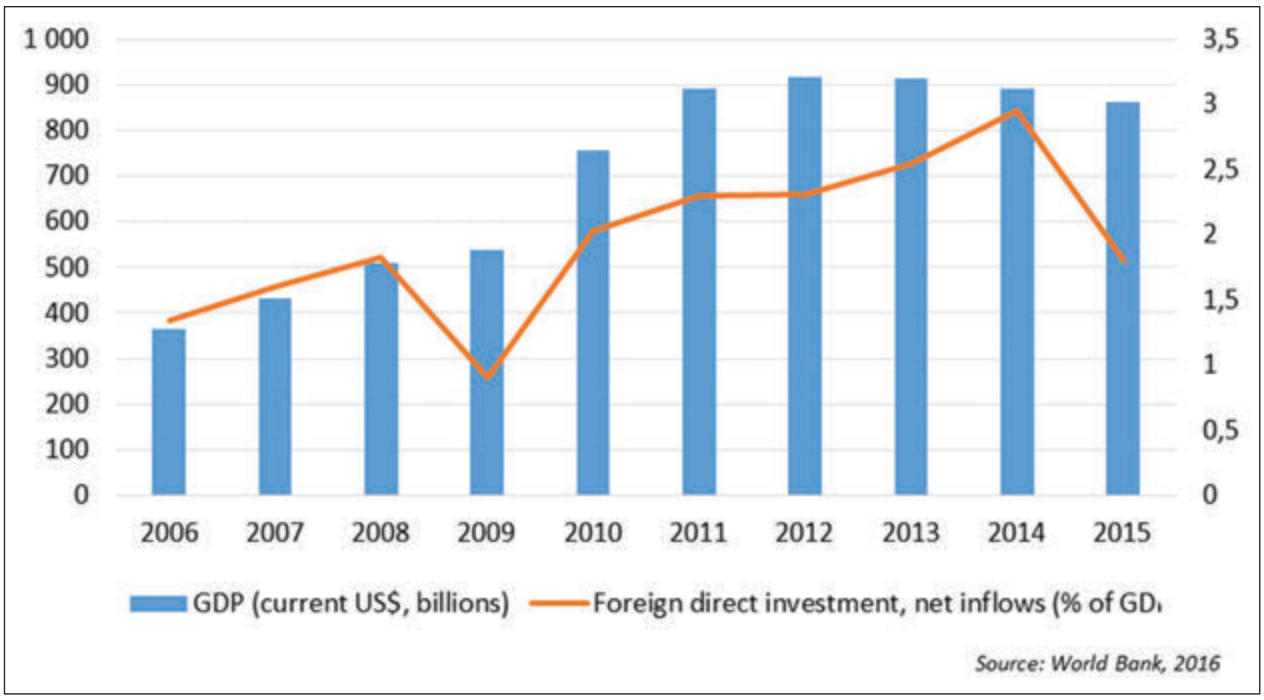


As can be seen in Chart 11, the agriculture sector is among the lowest contributors to government tax revenue. Since 2011, the ratio of income tax and value added tax (VAT) to GDP continued to decline with agriculture, construction, and services as the sectors with lowest tax ratio (MoF, 2014). Furthermore, agriculture, construction, and the service sector almost have the same trend over the last three years (2011-2013) in which their contribution to the GDP is relatively high but with low tax revenue. This is in contrast with other sectors where they are large contributors to the GDP accompanied by high tax revenue.

2.2.1 FDI in the Indonesian Economy

Data from the World Bank (Chart 12) shows that FDI net inflows have a very low contribution to annual GDP (below 3%), but also displays a quite strong correlation between FDI and GDP growth in overall. Khaliq & Noy (2007) found a positive effect of FDI on economic growth at aggregate level but results varied at the sectoral level.

Chart 12. FDI Contribution to Indonesia GDP



Other research by Almsafir (2013) also has largely proved that FDI exerts positive effects on the host country's economic growth. The research found that a sufficient workforce, advanced financial markets and the open trade policies have positive roles in the relation of FDI and economic growth. At the sectoral level, Khaliq & Noy (2007) found that the mining sector had a negative effect on economic growth, suggesting that extractive industries might not contribute to increases in economic growth. This argument is supported by Walsh & Yu (2010) which concluded in their research that FDI in primary sector does not have any strong linkages to macroeconomic stability, level of development or institutional quality.

Given that FDI has a positive effect on economic growth, this implies that FDI also has a positive impact on labor absorption since the increase in FDI generally will open more job opportunities. However, the level of absorption differs according to the economic sector. Based on the type of industry, Ningrum (2008) showed that the largest contributor to FDI from 2002 to 2007, in this case the chemical and pharmaceuticial sectors to not employ many workers. In contrast, leather goods, textile, and agriculture sectors employ large numbers of workers. One of the reasons is that the chemical and pharmaceutical sectors are capital-intensive and cannot be relied upon to play a large role in reducing unemployment. In the case of ownership, there are significant differences between foreign and domestic ownership related to employment growth. In the manufacturing sector, Lipsey, Sjoholm & Sun (2010) found that the employment in foreign owned Indonesia based plants grew more rapidly than Indonesian owned plants during 1975-2005. The foreign owned plants grew 5% faster in employment than domestic ones and plants that were acquired by foreigners grew even faster at 10%. Moreover, evidence suggests that multinational firms are less likely to shut down than domestic firms in Indonesia, thus employment is more secure and stable (Javorcik, 2013). This is because foreign firms are larger in size and superior in productivity than domestic firms.

Rising FDI inflow also denotes the increase of government tax revenue, which in turn can be used to further develop public infrastructure and facilities. The implementation of tax holiday as incentive for FDI could decrease government revenue. However, tax incentives and tax rates are not the main consideration for investors in investment decision making compared to the economic and political situtation, infrastructure and the openness policy (Fahmi, 2012). The availability of those conditions are more likely to rapidly increase the amount of FDI inflow and might also offset the lack of revenue from a tax holiday. Furthermore, tax revenue from FDI largely derives

from income tax. Eka Putri (2012) has demonstrated a more positive and significant correlation between FDI and income tax compared to property and sales tax. This result implies an increase in income tax comes from greater employment as FDI increases.

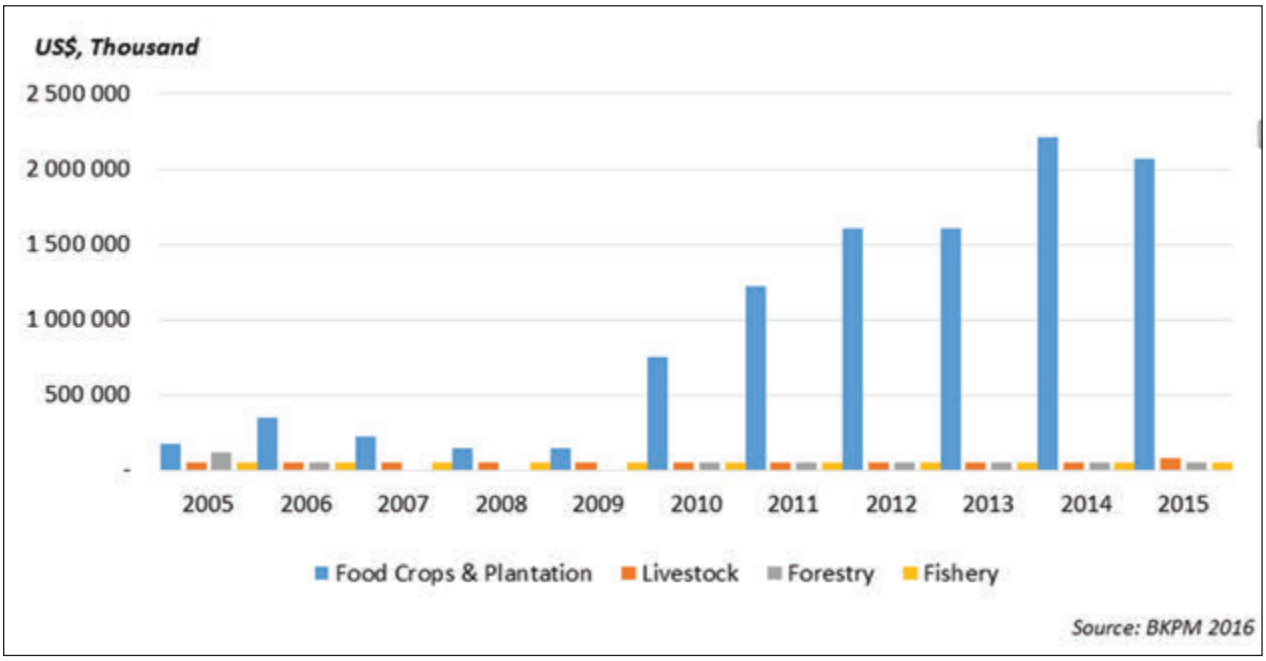
More importantly, the impact of FDI on employment and government revenue also have a significant role in poverty reduction. Foreign firms are likely to provide jobs with higher earnings than local firms thus leading to a higher standard of living (Javorcik, 2013). The indirect impact of FDI on poverty reduction is mostly from taxation, which increases government revenue and later could be used for funding social development programs (Tambunan, 2005). Suryadama and Suryahadi (2007) also concluded that private sector investment and government spending significantly reduce poverty compared to other national expenditure components.

According to the World Bank (2016), the general ease of doing business in Indonesia rose from 120 in 2015 to 109 in 2016. However, in the category of starting a business, Indonesia's ranking dropped 10 places to 173 in 2016 after reaching 163 in the previous year. Meanwhile, in the category of tax payments, Indonesia's ranking improved from 160 in 2015 to 148 in 2016.

2.2.2 FDI Trends in the Agricultural Sector in Indonesia

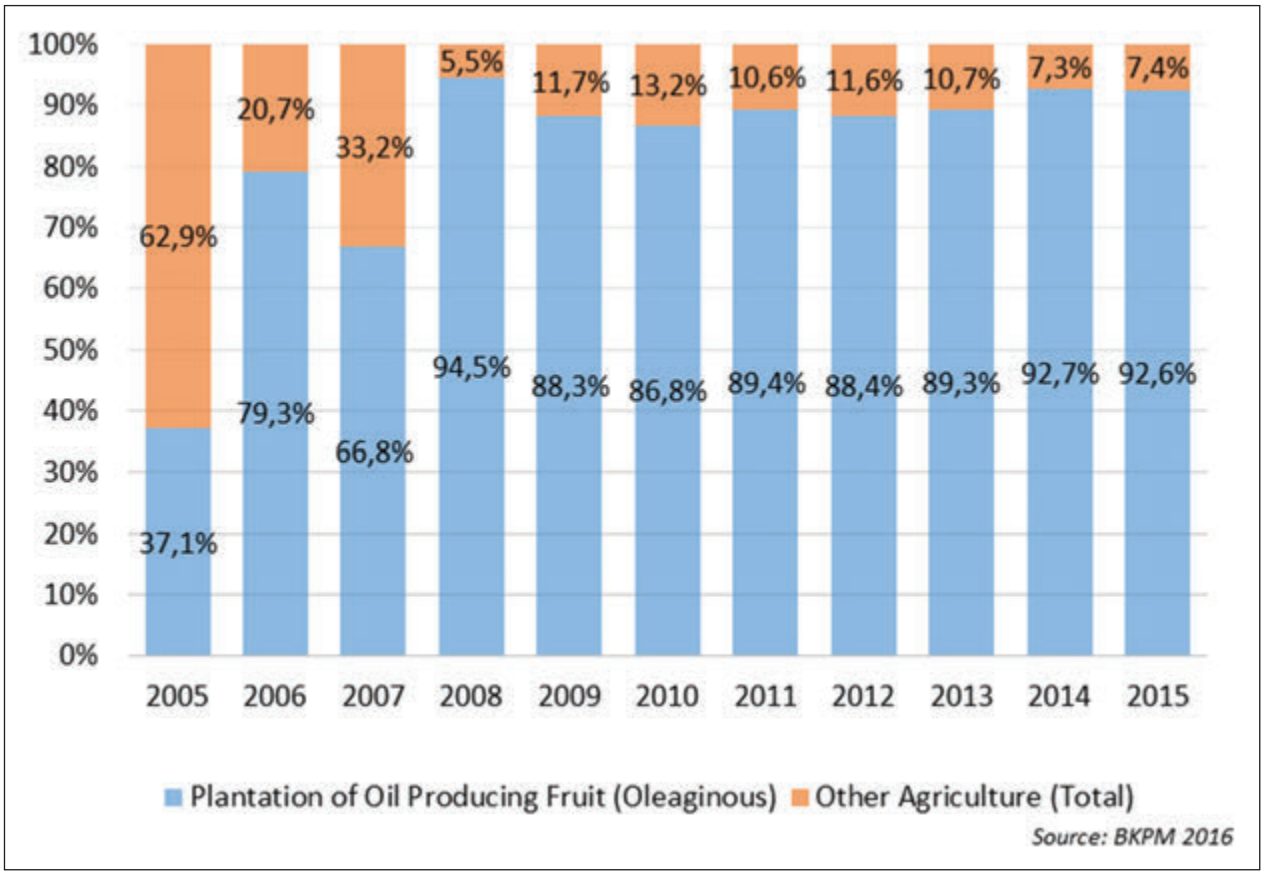
Food crops and plantations were characterized by a significant increase in FDI in 2010 compared to other agricultural sub-sectors (farming, forestry or fisheries) which are relatively stable. Chart 13 shows a significant increase in FDI in the sub-sectors of food crops and plantations until 2014 and then it decreased in 2015 but it is still larger compared to 2011.

Chart 13. FDI in the Agriculture Sector



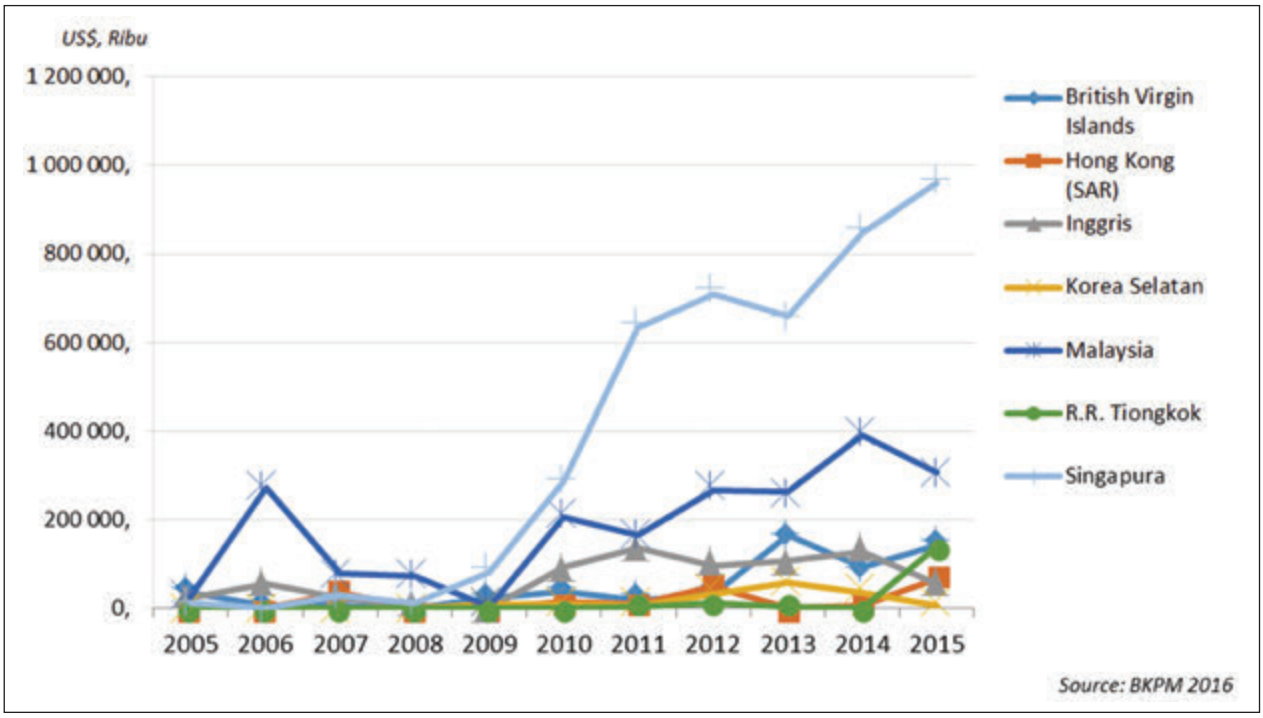
Since 2010 palm oil plantations have been attracting FDI. Based on the Indonesian Standard Industrial Classification (ISIC) BKPM, oil palm plantations are included in the category of fruit-producing plant oils (oleaginous). Increased FDI in palm oil plantations are in line with the rising demand for this commodity in global market. Europe, India, Pakistan and China are the main markets for palm oil commodities which are found in numerous food products. The drastic increase in palm oil investments was also triggered by import substitution policies by countries that depend on imported vegetable oils such as the Philippines, India and Vietnam, and also by countries that want to use biodiesel / biofuel to reduce dependence on fossil fuel imports (Colchester & Chao, 2011). Chart 14 illustrates the contrast between the value of the total FDI in palm oil plantations with other agricultural sub-sectors. The dominance of palm oil shows the lack of interest by foreign investors to invest in other agricultural sub-sectors, including food crops.

Chart 14. FDI in Oil Producing Fruit Plantation vs. FDI in Other Agricultural Commodities (Total)



In the last 10 years, Singapore and Malaysia have been the largest FDI investors in the agricultural sector in Indonesia (Chart 15). More than 90% of agriculture's FDI value from the two countries came from palm oil plantations. The British Virgin Islands and UK are also heavy investors in palm oil plantations, with the majority of their investment going into agriculture, 85% and 92% respectively, of their total FDI. As a result of the large inflows of FDI for these oil palm based commodities 47% of the world's total palm oil production came from Indonesia in 2011 (Demiyanti & Priyatna).

Chart 15. FDI in Agriculture sector by Country 2005-2015



2.2.3 Indonesia Agriculture's Business Model

Data with regard to the existing business models for agriculture investment in Indonesia is not straightforward and readily available. Although there is an official institution that is dedicated to investment-related issues namely, the Investment Coordination Board (BKPM – *Badan Koordinasi Penanaman Modal*), the data produced by this institution does not offer information on the existing business model for agricultural investment. The literature on this subject is also very limited. In those studies that are available, there is often a lack of explicit distinction between the investment pursued by foreign or local firms (Tambunan, 2014)[11].

Patrick (2004) suggested that contract farming is by far the most popular approach to investing in agriculture in Indonesia, both for large domestic large firms and foreign companies. There are at least four types of contract farming that are commonly used in Indonesia:

1. Plasma-nucleus partnership
2. Sub-contracting
3. Harvest and pay
4. Operational cooperation (KPO– *Kerjasama Operasional*)

1. Plasma Nucleus

This type of contract requires the agribusiness company (nucleus) to provide inputs to small holders (plasma), usually a small farmer or groups of farmers, and buying agriculture products from them at an agreed quantity and price. In this plasma nucleus scheme, or *Pola Inti Rakyat (PIR)* the company is also required to provide technical expertise for farmers to develop their commodity. The small holder's obligation is to produce the commodity and supply the products in an mutually agreed upon period of time.

Historically, the plasma nucleus scheme has been implemented in Indonesia since late 1970's and it was considered succesful in improving the welfare of small farmers. In particular, palm oil industries in Indonesia have organized themselves as Nucleus Estate Small Holders (NES). Based on Presidential Decree 1/1986, plantation companies are required to develop an area for palm oil for individual farmers (plasma) around the the company's own plantation (nucleus) (Tambunan, 2012).

11 Identifying Business Models Adopted by FDI in Agriculture in Indonesia, Tulus Tambunan, 2014

2. Sub-Contract

This is a contract where an agribusiness company agrees to supply commodity products to a third party based on quantity, quality and price. The company then sub-contracts the production of the commodity to small farmers. For agribusiness companies, sub-contracting arrangements offer the benefits of low labour costs and a more efficient working environment (Tambunan, 2012).

The sub-contract scheme is generally used for off-farm products such as pandan leaves, rattan or dairy products. This model has been widely use due to increasing demand for milk, rattan furniture and pandan mats. The high demand is also generating interest from large agricultural companies as smallholder's skills improve (Sumiyati, 1992).

Patrick (2004) gives a detailed example of a sub-contract model in Baturiti, Tabanan district, Bali. An agricultural trader has a contract to supply horticultural products (tomatoes, lettuce, cabbage, etc.) to hotels and restaurants. The trader then sub-contracts the production to a group of farmers in several villages in the Bedugul area where some groups grow tomatoes and some grow lettuce. There is no technical assitance provided by the trader to the farmers, only an agreement to buy a certain volume per day/week with a specific quality at the spot market price. The trader benefits by reducing supply fluctuation and satisfying large contracts while the small farmers can reduce transport cost and obtain a guaranteed market price.

3. Harvest and Pay

This type of contract is an old scheme known as Ijon in Indonesia and it is still being used. A harvest and pay scheme generally occurs only in small-scale production systems where the local trader provides credit to smallholders to buy inputs, such as seed and fertiliser, with the smallholders promising to sell their produce to the trader. At harvest time, the smallholder pays back the credit to traders in the form of a lower price for the produce. This contract usually happens when the smallholders do not have access to credit (Patrick, 2004).

4. Kerja Sama Operasional (KSO)

Kerja Sama Operasional (KSO), or *Operational Cooperati*on, is a system where an agriculture company not only provides all the inputs but also pays the smallholders a rental fee for using the land for a season or more at the market value. This payment is referred to as an imbalan *penggunaan lahan* (IPL) or payment for land. The renter usually pays in advance when the contract starts and it serves as a base payment to be topped up depending on the harvest. This can be considered as a minimum wage for the length of KSO. This scheme gives smallholders income security with an incentive when they produce a good crop and the company obtains a guaranteed supply.

KSO was introduced in 1988 when the government formed a state-own company, PTP Nusantara XI which acted as mediator for smallholder farmes and sugar mills. The sugar industry was suffering because sugar cane crops take more than a year to mature and the smallholders do not have enough capital to invest for such a long period. This scheme provided an incentive for smallholders to continue planting sugar cane while ensuring a constant supply of sugar cane to the mills.

2.3 Impact of FDI in the Agricultural Sector: Social and Environmental Dimensions

FDI in the agricultural sector, especially in the plantation sub-sector has resulted in a number of social and environmental impacts as highlighted in a number of studies.

According to Obidzinski (2012) palm oil plantation development in West Papua (Manokwari), West Kalimantan (Kubu raya), and Papua (Boven Digul) has resulted in a number of social and environmental impacts. The study assesed the activities of MNCs such as Sinar Mas, Wilmar, Golden Hope, Cargill, and Lyman which control major palm oil plantations in the province. The study found that palm oil plantations has improved the welfare of employees, out-growers, and investing households. However, the benefits were not evenly distributed. Other stakeholders, particularly traditional landowners, experienced restrictions on traditional land use rights and land losses. In addition, increasing land scarcity, rising land prices, and conflicts over land occurred in all research sites. In terms of environmental impacts, the development of palm oil has caused deforestation. This brings significant secondary external impacts such as water pollution, soil erosion and air pollution.

Another study conducted by WALHI (2015) as a member of the Responsibank Indonesia coalition found that the palm oil plantations were having a negative impact on the environment in Central Sulawesi. Palm oil plantations consume high volumes of water to the detriment of other crops. Drought is threatening the sustainability of corn and soybean farms belonging to local communities. In addition to crop failure due to drought, community rice farms are also being threatened by rat infestations. From a social perspective, plantation workers suffer from unjust practices, such as low wages and the absence of plasma smallholdings that is part of the company's investment obligation.

Frankie and Morgan (2015) also revealed problems due to FDI in the palm oil sector in Papua. They found that the massive land clearing for palm oil development in Papua caused a variety of social and environmental problems. Social problems arise due to the absence of fair compensation for land use, inter-tribal fights and problems between local people and migrants with respect to land use rights. Deforestation is the number one environmental problem due to palm oil plantation development. Deforestation has also caused other environmental problems such as floods, landslides and destruction of forest ecosystems.

Chapter 3
Findings from Key Informant Interviews and Case Studies

3.1 National Key Stakeholder Perceptions

3.1.1 Overlapping and Conflicting Policies and Institutional Roles

Based on interviews with key informants, there are a number of overlaps in policy which make it very difficult to implement a consistent approach across different levels of government. For example, both the Ministry of Public Works (MPW) and the Ministry of Agriculture (MoA) share responsibility for the agriculture irrigation network where the primary and secondary irrigation network falls under the responsibility of MPW and the tertiary network is the responsibility of the MoA. In some cases, the rehabilitation of the primary/secondary irrigation network is not synchronized with the rehabilitation of the tertiary network, and vice versa, thus suggesting different policy directions and lack of coordination between the two institutions.

At the local level, there are also instances of a lack of a comprehensive policy approach, for example between agriculture and land use policies at the province or district level. Although the government may be promoting the construction of new dams and irrigation networks to boost agriculture production, it is not putting the brakes on land conversion, especially in semi and peri-urban areas. The irrigation network is in good condition and the new ones are being constructed, but land conversion from agriculture to residential areas has not stopped. As a result, the effort to build irrigation infrastructure is ultimately futile:

> *…for instance, … the paddy fields have good irrigation infrastructure…but now it is covered by, you know, and the irrigation came to a halt, because of (land) conversion, the conversion has been incessant, although the irrigation infrastructure used to be so excellent, but because the conversion is unstoppable, now the irrigation network is shut down, then the area turned into housing area, so (that's why) a comprehensive policy must be composed, should be clear where do we want to go…* (Interview with FAO official).

Decentralization does not necessarily ease the investment procedures for the business community. There is still a lack of synchronization between the various levels of government for permits and licenses, even though integrated investment permits were introduced almost a decade ago:

> *… the coordination with the local government hasn't been fully implemented..the one that is implemented by national BKPM hasn't touched the regional level at all because there are still a number of auhtorities for principal permits that are still under the head of district, mayor, (for instance) the TDP, SIUP, HO, then location permit, IMB, those all are under head of district's authority … the authority of the national institution is basically only the principal permit, right? But if we talk about the operational permits, we still have to go to the local governments…* (Interview with APINDO official).

Given Indonesia's decentralized system of government, it is difficult for the BKPM to provide a one stop service for licenses and permits since investors still need to approval from local governments:

> *… the licensing and permits at the central government are the principal permits and business permits, so they are under the central government's authority, but before they can do their business, they have to have operational permits from the provincial or district level, for instance the location permit, IMB, then the HO, AMDAL, they are part of local government's authority and it has to be managed by the local governments. If the AMDAL is cross-district, that means the investor has to go to the provincial government, but if only in one district, then (the investor) should go for location permit to the head of district*. (Interview with BKPM official).

Complications arising due to the overlapping roles of government and regulations were underscored by a number of international and national development agencies. For instance, according to the Food and Agriculture Organization (FAO) Indonesia, there are 150 problematic regulations in the agriculture sector resulting in problems such as access to land. Also, the KPPOD (Komite Pemantauan Pelaksanaan Otonomi Daerah) (2014) noted that the presence of one stop services does not always correlate with the quality of service, hence the confusion about who should do what remains. This, however, is not the perception of the BKPM:

> *If there is a regulation from the MoA that must be fulfilled by the investor both domestic and foreign we always coordinate with MoA so that they can fulfil it. BKPM must pay attention and implement the minister's regulation… in the case of horticulture, it says maximum foreign ownership is 30 percent, we implement that, but we ask, where is the implementing regulation so that we know the procedures, we ask MoA, we have a meeting with them to formulate the implementing regulation. So that's how we work, we are one team with the MoA. Not separated, BKPM cannot issue a regulation itself about agriculture, BKPM implements the policy and regulation of the MoA. (*Interview with BKPM official).

Yet, this coordinating function is often not translated into facilitating the investors, local governments and local communities in finding solutions and mediation of issues in the field since there is a lack of guidance for all parties on the procedures for resolving issues when they emerge.

3.1.2 Public Private Partnership/Infrastructure

Indonesia's infrastructure remains poor in most sectors be it agriculture, energy, maritime and transportation. For agriculture in particular, according to Irawan (2006) irrigation, public roads and electricity have a significant role to play in increasing FDI and exports. Based on his calculations, every 1% increase in public investment in public roads at the provincial level will result in an increase of 1.33 % investment in agriculture in the short run and 7% in the long run, while a 1% increase in irrigation will result in an increase of 1.9% in agriculture investments.

In order to improve the infrastructure, the government adopted a Public Private Partnership (PPP) approach to reduce dependency on the National Budget (APBN) for infrastructure development. One of the legal foundations for the PPP is Perpres No 13 / 2010 on Coopoeration between Government and Business for Infrastructures Provision. The estimated financing capacity of the state budget covers less than a third of the total funds required to fill the infrastructure gap, hence the government plans to cover an additional third from private investments through the scheme (Bappenas, 2011). The regional governments are also expected to invest in infrastructure development in rural areas, such as roads to industrial zones and to areas which are difficult to access. There is a need to accelerate infrastructure development to support the agriculture sector. Moreover, infrastructure readiness is one of the major concerns of foreign investors:

> *… so, actually PPP (public private partnership) has to emerge, (although) the main stakeholder has to be the government, yes, should be the government, the private sector must work with it in synergy, we can't just talk about government only, because private companies should also take a role, …also for food as a public good, private companies also have a role to play in certain food crops, not just rice, such as maize, which is quite big for instance, because most seeds are also held by private companies although the government has its seed center…so we think there should be synergy between the two* (Interview with FAO official).

However, based on input from civil society organizations, the government must be careful to maintain its control of the agriculture sector, particularly food production, and not give too much control to the private sector, especially the big players, because it might threaten food sovereignty.

3.1.3 Food Sovereignty and Food Security

Increasing the production of estate crops such as rice, corn and soybeans is central to achieving food self-sufficiency, as mandated in Law 18/2012 on Food. Some interviewees noted that the program is contributing to a high cost economy since the government needs to purchase high quality seeds to increase outputs. In addition, this may benefit the seed-producing companies more than the farmers who have to buy the seeds. Abundant agricultural production food prices may also reduce farmer income:

> *… Indonesian food sovereignty is (clearly stated) in the Food Law which was support by civil society so that we can achieve food sovereignty with characteristics for instance, production means are controlled by the farmers, mainly land, seeds and production tools. Secondly, our food trade and commerce controlled by the state and does not rely on food imports…agriculture production's backbone is farmers or farmers cooperatives…so if the backbone now is Indofood or Monsanto we may not just import our food, but also let them control our food, this is not sovereignty. Take the CPO tragedy as an example, we are the largest CPO producer in the world but even the price of cooking oil cannot be controlled by this republic, why it is not those who produce, but (by) those five biggest producers (private companies)…* (Interview with KPA).

The concept of food sovereignty, while beyond the concept of food security is still proving elusive to achieve. FDI, however, should not sacrifice domestic food security objectives:

> *My thought is, if a foreign investor wants to invest here but (only) to address their own needs, we sometimes are (already) happy because our farmers have access to the (international) market, but at the same time, our own country is struggling to address our own food security. Our domestic market should also be developed as early as possible* (Interview with IFAD offical).

This position was further emphasized by an official in the MoA who highlighted the size of the domestic market as the most important factor in attracting foreign investors to Indonesia. Given this advantage, food production and agriculture investments should not be export oriented but could be oriented to the domestic market.

3.1.4 Land Conflicts

Land tenure is one of the most important sources of conflict encountered by investors. As with other policies, the overlap in laws and regulations and lack of clarity in policies concerning the role of institutions, the division of authorities between the various levels of government, land use policy, spatial mapping and social fragmentation are often barriers to cost effective and efficient production. This often means both investors and communities incur losses due to heightened social tensions.

From the perspective of civil society organizations and poor farmers, land issues often arise due to the unjust practices and marginalization of the poor farmers in the food production process. They are being sidelined by the big food producing companies, facilitated by the government's policy. In terms of power relations, this power asymmetry results in conflicts:

> *The problem in our agriculture that is (relatively) not been touched is the problem of land. Our farmers only have small size of land, we heard that the government wants to distribute 9 million hectares to the farmers, but the realization is zero. There is no significant change …in agriculture especially plantations, … there is a trend that farmers' land is being converted and taken over by large food producing companies, such as what happened in Merauke, the MIFFEE program…* (Interview with KPA staff).

Land conflicts are often triggered by land grabbing by a company of local peoples' land. The situation is further complicated by the lack of a mechanism to prove local people's ownership of customary lands. Conflicts over land ownership between local people and state owned companies like Perhutani for instance in Java and Sumatera islands are often the source of conflicts.

Not to be neglected is the impact of corruption in government institutions which is impeding solutions that are fair and just. Land conflicts are rarel settled through the courts, or if it does occur, it takes too long time to settle:

> *… It means there are some people who had double (land) certificates, right? How come? Before….I experience this, so the land was farm land, then suddenly there is fake land certificate for housing but the original farm land certificates had not been changed, suddenly there was a collective certificate for housing, who issued it? They were from the same institution, which was BPN…* (Interview with FAO offical).

In land conflicts where there is violence means that the National Human Rights Commission (Komnas HAM), parliament, governor or even the president get involved. Other than the local government, CSOs are frequently asked to help arbitrate the land conflict. Another factor which is contributing to land conflicts is that the government has not been respecting the rights of communal land holders, hence making them vulnerable to land grabbing.

In the eyes of the business community, land conflicts are due to a weak state and the lack of capacity in the government to develop an inventory of its lands as state's asset. Communities at times appropriate the lands, hence triggering conflicts with the investors, who initially do not have anything to do with the administrative and legal issues:

> *Oh… land conflict. Yes that happens. Actually it is regulated too, if we were given land concession, in the process (some are) owned by the community. We have to negotiate with them, if they can't be negotiated with then it has to be enclaved, so we don't own the land. There is such a process, but it takes a long time. It is one of the problems. Actually, this happened because of the inability of the government to secure its assets, its land assets, it supposed to be state land but it was appropriated by the community so when it is allotted for investors, it is the investor that has to deal with it* (Interview with GAPKI official).

There is another type of land grabbing known as 'green grabbing', where environmental protection is used as an excuse for controlling the land. Sometimes an investor justifies their actions based on plans for carbon trading without clear investments or production. There is no real profit, but the investors might rent or purchase thousands of hectares of land. In the end, local people are marginalized because they have lost their access and control over their land. Most rural farmers are becoming poor because they lack land to cultivate; meanwhile, where there is land, it is more likely prioritized for big plantations rather for small farmers.

> *… so what would happen if all the land has been appropriated, rented or purchased? How about the community, (there will be) conflict, right? Spatial conflict will take place, right? If there remains no regulation about limiting the size (that can be purchased or rented).* (Interview with Ministry of Environment and Forestry official).

3.1.5 Social and Environmental Issues

For social issues such as labour, there is increasing concern about the influx of foreign workers together with the open-door policy for foreign investment. This is an especially sensitive issue in the context of Chinese investors, which are known to import low skilled workers from China to the countries where they invest, including Indonesia. Media reports about the issue have been contested by the government, especially the Ministry of Manpower and Transmigration which argue that the data is exaggerated as Indonesian regulations are strict regarding the import of low-skilled workers. Nevertheless, an official from the MoA cited an example of FDI by a Chinese state owned company that was rejected by the Aceh provincial government because the company planned to import Chinese labourers. A similar case occurred in another Sumatran province as well.

Another issue is the employment of child labour in agriculture sub-sectors such as fisheries even though it is prohibited by law. This is often due to family traditions where children help their parents or due to poverty:

> *From the perspective of safety, from age, I hope there are no child workers, it is not allowed, (but) there are a lot of child workers in fisheries because the culture to assist parents and so on, but that is actually prohibited by law* (Interview with FAO offical).

The minimum wage was not seen as a serious problem based on interviews, due to the fact that in the primary sector, the labourers are often casual workers with low education and skills and are not aware about the policy and how it could benefit them.

While often being associated with conflicts and poor social outcomes, there are cases where investors are seen as a 'good friend' by the local community. For example, a sugarcane company in Sumatera contributed to upward social mobility of its employees. A number of blue collar employees were trained and promoted to managerial level positions, thus contributing to social change.

In the ever expanding palm oil sector, there are numerous examples of its negative impacts on the environment such as the large amounts of water that are needed for the plantations. Since clearing the forest using heavy machinery is expensive, many companies simply set fires to accelerate land clearing:

> *…natural forest fires means it was burned by accident, (but) there is no such thing, most of forest fires in Indonesia are purposively burned, the most concrete examples are the forest fire last year, we have never heard forest fires took place in Papua before, but after many investors came to Papua, haze and fires are everywhere up to Timika and everywhere, that wasn't natural, that was ignited intentionally, the easiest way to clear and open a piece of land is by burning it, right? Quick,*

> *inexpensive and the soil becomes more fertile, profitable for them, but not for everybody else… land clearing in Indonesia is indeed done by slash and burn, but the indigenous people don't burn as much areas as companies, how strong they are to cut the trees during the dry season? (I think) two to three trees, using cleavers, using axes, (while) for companies, they are able to burn as much areas as they have…* (Interview with KPA).

There are now efforts by the government to shift the focus of agriculture investment from palm oil, which in recent years has caused the haze and forest fires that threatened people's health and lives not just in Indonesia but also in the ASEAN region. To date, the palm oil sector has been enjoying high profits due to fiscal and monetary incentives. Given the shifting policy stance of the government and the objective of food security, the sector will now have to compete with other sectors such as sugarcane and maize which are now more economically competitive.

3.1.6 Legal and Contract Violations

Rampant problems due to overlapping roles of institutions and policies have created a number of gaps in the FDI licensing and permit processes. The lack of law enforcement and oversight from government agencies have resulted in poor implementation of the laws and regulations. Domestic and foreign companies know that there is little enforcement, let alone penalties, even if they are found out to be breaking the law. Indeed, the Ministry of Environment and Forestry (MoEF) took a number of palm oil companies in Sumatra to court for setting forest fires in late 2015-2016 only to lose the cases. This raised questions about the quality and the neutrality of the judicial branch, as well as the quality of the responsible offices to argue in court:

> *…for example in the case of forest fires… there are (companies) names that are recorded there, including 240 companies, and maybe 17 of them are old companies that are being investigated... during the previous president's era, I don't think the law enforcer would have been brave enough to investigate them, nowadays they had been brought to courts, although we don't know what is the final decision, it was indeed failure in litigation process, we indeed lost in Sumatera, because of some illogical reasons, but it was the judge that decided it, based on rationale that forest fire does not destroy the environment because the forest can be replanted, so that's why we lost, the (office of) forestry's arguments' are weak, so there is a problem here too…* (Interview with Ministry of Environment and Forestry official).

Often problems occur because investors failed to submit proper Environmental Impact Assessment (AMDAL) documents as required for their business operation; or even if they do submit it, there is no guarantee that it is environmentally sound or that there was consultation with local people. To further complicate the situation, the document is not assessed to ensure compliance with environmental regulations. On the other hand, a businessmen pointed out that Indonesian laws are complicated, because along with the national legal system, Indonesia also recognizes customary law:

> *… for foreign and domestic (companies) alike. Also there is a Customary Law, for instance if you have HGU, and your HGU is expired before you extend it, if it is a customary land, you have to ask for customary land procedure using customary law, who are the indigenous people? We don't really know who. After that, after they agree, then you can extend it using national law… that's how it is, right*? (Interview with GAPKI official).

In contrast, it is argued that Basic Agrarian Law of 1962, protects the rights of poor farmers and contains provisions for preventing land conversion:

> The Basic *Agrarian Law of 1960 actually already clearly regulates land use. It is just that since 1960 it had never been implemented. ... Indonesia even once became the most progressive country in its Agrarian Law. ... Many people say 'we had better implement the Basic Agrarian law of 1960 first consistently than making a (new) law on land distribution, on preventing land conversion. In Bali for instance, most lands are used for hotels. That violates the Basic Agrarian law of 196*0 (Interview with TT, academic).

Finally, concerning the plasma-nucleus contract, companies often do not implement it due to difficulties with the poor quality of agricultural products that do not meet the agreed upon standards. Companies also argue that farmers often violate the contract by selling their products to other buyers than to the company that has provided production tools, capital and seeds.

3.2 Findings from Local Case Studies

The case studies are based on observations, interviews and focus group discussions held in three locations; East Ogan Komering Ulu (OKU) district in South Sumatera province, Bulungan district in North Kalimantan province and West Sumbawa district in West Nusa Tenggara (NTB) province. As Table 4 below indicates, these three research sites examine the impact of FDI that originates from 3 countries for three different agricultural commodities.

Table 4. General Information on Study Sites

Study Sites	East Ogan Komering Ulu (OKU), South Sumatera	Bulungan, North Kalimantan (Kaltara)	West Sumbawa, West Nusa Tenggara (NTB)
Region	Western Indonesia	Central Indonesia	Eastern Indonesia
Commodity	Sugarcane	Palm Oil	Sisal (Agave sisalana)
FDI country of origin	Singapore	Malaysia	People's Republic of China
Company name	PT Laju Perdana Indah	PT Tunas Borneo Plantation	PT Guangken Dongfang Sisal Indonesia
Investments value	IDR 2 trillion (± USD 150 million)	USD 2.92 million	IDR 163 billion (± USD 12.16 million)
Land acquired	21,500 ha	20,000 ha	3000 ha

The case studies illustrate how FDI in the agricultural sector operates and the issues arising from their investments at the local level. These locations were chosen based on the latest data from the Investment Coordination Board (BKPM) which is publicly available.

Only one of the three companies, that is PT Guangken Dongfang Sisal Indonesia, responded to a request for interviews. PT Laju Perdana Indah did not respond to a request and PT Tunas Borneo Plantation formally rejected the interview request stating that they were busy preparing the year-end financial report. The geography, demographic and socio-economic conditions of the three study areas are described in Table 5.

Table 5. Selected Socio-Economic Indicators in the Study Sites

	East Ogan Komering Ulu (OKU), South Sumatera	Bulungan, North Kalimantan (Kaltara)	West Sumbawa, West Nusa Tenggara (NTB)
Population	642,206	162,563	129,724
Size	3,370 km^2	13,181.92 km^2	1,849.02 km^2
Population density	186/ km^2	12.33 /km^2	132/ km^2
Number of sub-districts/villages	20/321	10/81	8/64
Unemployment rate	4.32%	5.74%	5.71%
GDRP (constant price)	IDR 7.82 trillion (± USD 585 million)	IDR 12.77 trillion (± USD 955 million)	IDR 200.18 billion (± USD 15 million)
Largest economic sector	Agriculture	Mining and quarrying	Mining and quarrying
Contribution of agriculture	44.63%	20.34%	6.92%
Pop. working in agriculture	62.32%	38%	39.34%
GDRP growth	5.19%	4.94%	-0,64%
Expenditure per capita	IDR 15.20 million (USD 1,137)	101.26 IDR million (USD 7,575)	IDR 10.23 million (USD 765)
Poverty headcount	13.54%	8.89%	16.71%
Human Development Index	66.74	76.31	68.38
Gini Ratio	0.307	0.303	n.a.

The data available for the plantation sub-sector is divided into two types; large plantation and smallholder plantation. Large plantations are owned by a business entities, while smallholder plantations are owned by an individual and are not registered as a legal entity using a PT or CV. The following section briefly describes the plantation sector and the main agricultural commodities in each of the study sites.

3.2.1 South Sumatera

Area and Production

Large Plantations

Large plantations in South Sumatera are dominated by palm oil, rubber and sugar cane. Palm oil plantations cover approximately 454,592 ha which are located in Musi Banyuasin (27.3%), Banyuasin (15.58%), and Rawas Musi (15.28%). Rubber plantations are in second position with nearly 73,379 ha and are located in Rawas Musi (30.36%), Ogan Komering Ilir (23.50%) and Banyuasin (15.99%). Sugar cane plantations cover approximately 29,441 ha and are found in Ogan Ilir (85.59%) and East OKU (10.41%).

Table 6. Number of Hectares of Large Plantation by District in Sumatera Selatan, 2013

No	District	Rubber	Palm Oil	Tea	Sugar Cane
1	Ogan Komering Ulu	1,935	9,619	-	-
2	Ogan Komering Ilir	8,655	67,538	-	-
3	Muara Enim	7,715	49,178	-	-
4	Lahat Musi	4,072	33,253	-	-
5	Rawas Musi	24,100	69,454	-	-
6	Musi Banyuasin	4,148	24,106	-	-
7	Banyuasin	12,694	70,832	-	-
8	OKU Selatan	-	-	-	-
9	OKU Timur	-	3,949	-	3,065
10	Ogan Ilir	6,060	6,500	-	26,376
11	Empat lawang	-	163	-	-
12	Palembang	-	-	-	-
13	Prabumulih	-	-	-	-
14	Pagar Alam	-	-	1,429	-
15	Lubuk Linggau	-	-	-	-

Given the dominance of palm oil plantations in terms of hectares, it is no surprise that they are the number one commodity producer with 1.2 million tonnes, the majority of which is produced in Musi Banyuasin (26.4%), followed by Musi Rawas (18.7%) and Banyuasin (16.2%) (Table 7). Sugar cane is the second largest producer, approximately 77,670 tonnes led by Ogan Ilir and East OKU. Finally, rubber production is about 137,790 tonnes and is dominated by South OKU (23.73%), Empat Lawang (18.60%) and Muara Enim (18.04%).

Table 7. Large Plantation Production (tonnage) in Sumatera Selatan, 2013

No	District	Rubber	Palm Oil	Tea	Sugar Cane
1	Ogan Komering Ulu	1,374	42,004	-	-
2	Ogan Komering Ilir	26,117	141,527	-	-
3	Muara Enim	-	117,658	-	-
4	L a h a t	1,978	107,369	-	-
5	Musi Rawas	-	223,450	-	-
6	Musi Banyuasin	4,166	315,724	-	-
7	Banyuasin	-	193,783	-	-
8	OKU Selatan	-	-	-	-
9	OKU Timur	-	32,250	-	15,325
10	Ogan Ilir	5,940	22,126	-	62,345
11	Empat lawang	-	-	-	-

No	District	Rubber	Palm Oil	Tea	Sugar Cane
12	Palembang	-	-	-	-
13	Prabumulih	-	-	-	-
14	Pagar Alam	-	-	1,393	-
15	Lubuk Linggau	-	1	-	-

Smallholder Plantations

Different from large plantations where palm oil is the number one commodity, smallholder plantations are dominated by rubber, followed by palm oil and coffee (Table 8). Rubber covers an area of approximately 1,220,928 hectares and most of it is in Musi Rawas (27.3%), Muara Enim (18.04%) and Musi Banyuasin (13.72%). Palm Oil covers an area of approximately 257,236 hectares located in Banyuasin (54.87%), Musi Rawas (13.14%) and Muara Enim (9.76%). Coffee covers an area of approximately 249,418 hectares and most of it is found in 3 districts: South OKU (28.39%), Empat Lawang (24.85%) and Lahat (20.51%).

Table 8. Smallholder Plantations (Ha) by District in Sumatera Selatan, 2013

No	District	Rubber	Coconut	Palm Oil	Coffee	Pepper	Cacao	Other
1	Ogan Komering Ulu	71,027	1,111	1,166	21,943	495	98	423
2	Ogan Komering Ilir	153,237	3,895	12,845	1,115	45	178	705
3	Muara Enim	220,256	1,590	25,107	23,444	686	571	454
4	Lahat	31,966	654	7,714	51,148	672	4,117	741
5	Musi Rawas	333,282	2,499	33,802	3,935	-	214	609
6	Musi Banyuasin	167,565	3,349	23,396	315	25	82	572
7	Banyuasin	89,959	47,351	141,156	2,632	-	414	-
8	OKU Selatan	4,995	1,387	389	70,799	4,493	1,482	1,496
9	OKU Timur	79,098	3,359	6,839	2,318	2,296	836	706
10	Ogan Ilir	30,182	486	3,536	-	-	-	593
11	Empat lawang	4,679	748	177	61,978	2,593	979	9,628
12	PALI							
13	Musi Rawas Utara							
14	Palembang							
15	Prabumulih	19,081	99	874	5	-	-	20
16	Pagar Alam	1,680	39		8,323	338	1,179	97
17	Lubuk Linggau	13,921	221	235	1,463	-	68	122

Smallholder plantation production in Sumatera Selatan is dominated by rubber, palm oil and coffee. Rubber production reached 264,178 tonnes in 2014, with the majority of it located in three districts: Musi Rawas (24.64%), Muara Enim (22.62%) and Ogan Komering (17.20%). Palm oil production reached 395,558 tonnes with 3 districts accounting for most of the output: Musi Rawas (24.44%), Muara Enim (19.18%) and Banyuasin (18.24%). Finally, 139,790 tonnes of coffee was produced with most of it in 3 districts: South OKU (23.73%), Empat Lawang (18.60%) and Muara Enim (18.04%).

Table 9. Smallholder Plantation Production (tonnage) in Sumatera Selatan, 2013

No	District	Rubber	Coconut	Palm Oil	Coffee	Pepper	Cacao
1	Ogan Komering Ulu	67,468	295	3,142	19,941	371	35
2	Ogan Komering Ilir	184,377	4,099	37,831	735	14	90
3	Muara Enim	242,446	1,443	76,061	25,213	547	94
4	Lahat	22,710	372	17,934	19,692	143	1,908
5	Musi Rawas	264,178	2,169	96,906	2,281	-	62
6	Musi Banyuasin	107,340	2,251	67,732	121	8	30
7	Banyuasin	95,200	44,334	72,336	770	-	36
8	OKU Selatan	2,228	1,238	136	33,175	3,763	704
9	OKU Timur	37,724	3,310	10,877	2,397	2,938	421
10	Ogan Ilir	21,639	268	4,070	-	-	-
11	Empat lawang	2,899	613	73	26,005	1,210	249
12	PALI						
13	Musi Rawas Utara						
14	Palembang						
15	Prabumulih	13,969	2,775	-	-	-	-
16	Pagar Alam	310	-	9,183	9,183	224	112
17	Lubuk Linggau	9,504	547	277	277	-	-

3.2.2 West Nusa Tenggara (NTB)

Based on the province's official publication, *NTB in Charts*, there are only smallholder plantations in this region; there are no large scale plantations.

Area and Production of Smallholder Plantations

As indicated in Table 10, coconut, tobacco and cashew are the 3 principal commodities produced by small holders in NTB. Coconut plantations account for 70,521 ha located in East Lombok (30.7%), West Lombok (203.8%) and Central Lombok (20.3%). Tobacco covers 28,764 ha and is found in East Lombok (60.2%), Central Lombok (38.5%) and North Lombok (0.9%). Finally, cashew covers 11,856 ha with the majority located in Bima (22.06%), followed by Sumbawa (17.73%) and Dompu (8.26%).

Table 10. Number of Hectares of Smallholder Plantations by District in NTB, 2013

No.	District	Coconut	Coffee	Cashew	Clove	Cacao	Areca Nut	Kapok	Tamarind	Vanilla
1	West Lombok	11,712	626	8990	657.6	517.3	116.3	84	27.7	125.5
2	Central Lombok	16,143	1,176	5210	173.2	1010.9	396.4	808.2	163.5	0
3	East Lombok	12,731	2,017	4653.2	390.3	2233.5	224.3	514.9	231	159.4
4	Sumbawa	5,211	4,569	6341.9	0	109.1	106.2	439.6	718	3.6
5	Dompu	2,233	1,267	10641.9	0	209	27.4	202.8	411.4	0
6	Bima	3,772	1,120	10398.6	0	308.8	20	180.8	758.2	2.7
7	Sumbawa Barat	1,212	317	1152	0	166	35	126	130	3
8	Lombok Utara	10,880	1,353	7361.6	1425.1	3498.4	36.1	57	11.7	0
9	Kota Mataram	46	-	0	0	0	3.4	2.9	2.5	0
10	Kota Bima	163	4	1402.5	0	0	52.9	54.8	90.7	0

Table 11. Number of Hectares of Smallholder Plantations by District in NTB, 2013

No.	District	Pepper	Candlenut	Palmyra Palm	Sugar Palm	Cotton	Sugar Cane	Folk Tobacco	Virginia Tobacco	Sesame
1	West Lombok	0	0	0	210.3	10	0	311.6	64.8	0
2	Central Lombok	13.2	36.2	0	125.4	50	0	208	7780.5	0
3	East Lombok	11.7	115.5	17	359.8	0	0	2645.5	11264.3	0
4	Sumbawa	0	969.5	43.3	0	26	3	108.3	0	8.5
5	Dompu	0	242.5	0	0	0	2437.6	548.5	0	15
6	Bima	0	2332.3	55	0	0	0	47.5	0	754
7	Sumbawa Barat	24	46	0	143	0	24	23	1	0
8	Lombok Utara	0	82.5	0	125.7	50	0	0	139.8	0
9	Kota Mataram	0	0	0	2.2	0	0	0	0	0
10	Kota Bima	0	45	12.7	0	0	0	0	0	0

Coconut production reached 70,521 tonnes in 2013 with most of it coming from East Lombok (30.7%), West Lombok (20.8%) and Central Lombok (20.3%) (Table 12). Tobacco production had an output of 28,764 tonnes with the majority of it in East Lombok (60.2%), Central Lombok (38.5%) and in a distant third, North Lombok (0.9%). Cashews output reached 11,856 tonnes led by Bima (22.06%), Dompu (18.26%) and Sumbawa (17.73%).

Table 12. Smallholder Plantation Production (tonnage) in NTB, 2013 1/2

No	District	Coconut	Coffee	Cashew	Clove	Cacao	Areca Nut	Kapok	Tamarin	Vanilla
1	West Lombok	14,635	343	1317.1	40	134.8	24.8	12.4	20.2	11.7
2	Central Lombok	14,340	458	903	0.7	129.5	45.4	172.1	0	0
3	East Lombok	21,643	391	759.9	24.3	394.7	14.1	72.1	21.3	18.4
4	Sumbawa	4,024	1,696	2102.5	0	0.3	46.4	160.7	515.5	6
5	Dompu	578	550	2165.2	0	11.2	4.4	63.1	144.1	0
6	Bima	1,709	442	2615.3	0	61.2	0	63	780.2	0
7	Sumbawa Barat	1,257	139	176.1	0	1.3	8.7	42	95.5	0
8	Lombok Utara	12,299	799	1659.6	64.2	1061	6.8	5.1	0	0
9	Kota Mataram	11	0	0	0	0	0.9	0.3	4.4	0
10	Kota Bima	26	0	157.4	0	0	0.7	3.6	78.7	0

Table 13. Smallholder Plantation Production (tonnage) in NTB, 2013

No	District	Pepper	Candlenut	Palmyra Plam	Sugar Palm	Cotton	Sugar Cane	Folk Tobbacco	Virginia Tobbaco	Sesame
1	Lombok Barat	0	0	0	39.1	12	0	408.4	97.2	0
2	Lombok Tengah	0	10.4	0	4.7	4.5	0	266.4	11088.2	0
3	Lombok Timur	0.4	48.3	0	50.2	0	0	2086.5	17312.3	0
4	Sumbawa	0	451.1	29.5	6	0	190	46.9	0	3.2
5	Dompu	0	28.3	0	0	0	25	745.6	0	3.5
6	Bima	0	2024.4	0	0	0	0	78.3	0	281.3
7	Sumbawa Barat	2.6	47.4	0	86.8	0	93.8	18.8	0.9	0
8	Lombok Utara	0	0	0	12.2	4	0	0	265	0
9	Kota Mataram	0	0	0	12.3	0	0	0	0	0
10	Kota Bima	0	0	1.5	0	0	0	0	0	0

3.2.3 North Kalimantan

Area and Production

Large Plantations

In North Kalimantan palm oil is the number one commodity covering 128,793 hectares with the majority found in 3 districts: Nunukan (51.49%), Bulungan (45.26%) and Tana Tidung (3.25%). Palm oil production in 2013 was 35,513 tonnes (Table 9) with Nunukan (96.73%) leading the way, followed by Bulungan (3.23%) and Tana Tidung (0.04%) (Table 14).

Table 14. Number of Hectares of Large Plantation by District in North Kalimantan, 2013

No.	District	Cacao	Palm Oil	Jatropha	Other
1	Malinau	-	-	-	-
2	Bulungan	-	58,290	-	-
3	Tana Tidung	-	4,190	-	-
4	Nunukan	-	66,313	-	-
5	Tarakan	-	-	-	-

Table 15. Large Plantation Production (tonnage) in North Kalimantan, 2013

No.	Regency/City	Cacao	Palm Oil	Jatropha	Other
1	Malinau	-	-	-	-
2	Bulungan	-	172,762	-	-
3	Tana Tidung	-	-	-	-
4	Nunukan	-	378,330	-	-
5	Tarakan	-	-	-	-

Smallholder Plantation

Smallholder plantations in North Kalimantan are dominated by palm oil, cacao and coffee. Palm oil covers 21,056 ha, with the majority of it in Nunukan (87.35%), followed by Bulungan (7.28%) and Malinau (4.99%). There is only 1,459 ha of cacao located in 3 districts: Nunukan (56.85%), Musi Rawas (36.10%) and Bulungan (7.09%). Meanwhile, there are 3,009 ha of coffee located in Malinau (68.39%), Nunukan (15.92%) and Bulungan (10.04%) (Table 16)

Table 16. Number of Hectares of Smallholder Plantations by District in North Kalimantan, 2013

No	District	Rubber	Coconut	Coffee	Pepper	Palm Sugar	Cacao	Palm Oil	Other
1	Malinau	1,626	6	2,058	3	-	4,126	1,050	33
2	Bulungan	212	844	302	102	-	812	1,533	25
3	Tana Tidung	15	34	168	18	-	5	81	-
4	Nunukan	110	1,135	479	27	-	6,514	18,392	14
5	Tarakan	-	659	2	-	-	2	-	-

Nunukan district is the largest smallholder palm oil producer (72.04%), out of total 3,437 tonnes followed by Malinau (23.67%) and Bulungan (4.29%) Districts. Coconut production is only 484 tonnes with most of it located in Bulungan (40.50%), Nunukan (34.71%) and Tarakan (22.73%) (Table 17).

Table 17. Smallholder Plantation Production (tonnage) in North Kalimantan, 2013

No	Regency/City	Rubber	Coconut	Coffee	Pepper	Palm Sugar	Cacao	Palm Oil	Other
1	Malinau	-	2	154	1	-	822	-	-
2	Bulungan	-	196	29	18	-	149	1,148	14
3	Tana Tidung	-	8	3	4	-	-	13	-
4	Nunukan	-	168	61	4	-	2,502	34,352	-
5	Tarakan	-	110	-	-	-	-	-	-

3.3 Issues Arising from Interviews with Local Stakeholders

3.3.1 Regulations and Institution

In compliance with the investment law, the three regions have all adopted One Stop Services OSS) in the provincial and district BKPM office. Most licenses and permits for investment are processed through the OSS. Exclusively for FDI, some licenses and permits still have to be processed first at the BKPM in Jakarta, particularly for the principal license. This indicates that different levels of government are sharing the management FDI as the result of decentralization. However, the application for the principal license usually takes place after prospective investors conduct site visits and consult with the local government. After the location is selected, the foreign company and the local government draw up a Memorandum of Understanding (MoU) or Article of Association (AoA). Foreign investors usually know about investment opportunities in a particular location as a result of the local government's promotion efforts, as was in the case for South Sumatera:

> *So actually, the process of how they (investor) got here…., is because we have done promotion…we also have a representative who is responsible for promotion activities. If they are serious, they usually follow up with a MoU or later upgrade it to an AoA and then proceed with the licensing process with support from BKPM Jakarta. At least they know investment opportunities from us* (Interview with HH, provincial BKPM, South Sumatera)

Based on interviews with stakeholders at the district BKPM, investors must apply for other permits, in addition to Principal License that is issued by National BKPM in its One-Door Integrated Services (PTSP). Those permits, which previously were handled by different local authorities, are now under the local BKPM. In South Sumatera, about 80 permits have already been delegated to the provincial BKPM, while in West Nusa Tenggara about 200 permits are now managed by the provincial BKPM:

> *There were many delegated permits from the governor…there were 163 permits in the process stage, right now 200 permits have already been delegated to us. So this means, there are permits here and there…there is permit from the trade office, there is a permit also from public works office. It is not easy, (all) should be processed right?...to prepare the means and human resources* (Interview at Provincial BKPM, West Nusa Tenggara).

Local governments follow the Ministry of Agriculture guidelines for the implementation of the plasma-nucleus scheme. Based on the regulations, the company is required to submit a report to the district agriculture office on a regular basis. There are some concerns regarding the viability of the reporting, however, since companies do not submit reports on time or they are lacking in information. On the other hand, the oversight of plantation operations is supposed to be done by the district agriculture office, but a limited budget impedes the implementation of regular field oversight. There are two stages in supervising plantation operations:

> *We requested the company to submit a report. Field oversight depends on budget availability. We have a limited budget, so we cannot do supervision all the time. There is a grading system for plantations. There are two (stages); the plantation establishment and operations. At the establishment stage, the grading is done every year. At the operations stage, every 3 years. The grading is done by a certified official from the agriculture office….we usually supervise by examining the company's report and follow up with field visits. But the report could easily be manipulated. We do monthly supervision if*

we can, but usually we do it every 3 months if there is a budget (Interview at Provincial Agriculture Office, South Sumatera).

In all three areas, the Environmental Impact Assessment (AMDAL) is based on the MoEF's regulations and is monitored by local environmental agency[12]. As explained by stakeholders from the District Environment Agency (BLH), the AMDAL requirement depends on sector classification and the type of investment. For agricultural plantations, AMDAL requirements are subject to the type commodity and size of the plantation. When AMDAL is not required, the company still has to submit an Environmental Management Effort and Environmental Monitoring Effort (UKL-UPL) or Statement of Environmental Management and Monitoring Undertaking (SPPL). The company is also required to submit a report every 6 months and the BLH conducts field monitoring twice a year. The most severe punishment for AMDAL violations is revoking the license and taking the company to court. However, there are cases when the company escapes without a fine or jail time.

3.3.2 Investment Climate

Investments in the agricultural sector is perceived as less attractive for foreign investors, except for the plantation sub-sector, based on interviews from the three case study sites. Other sub-sectors are less attractive because foreign investors are more interested in export-oriented commodities. In South Sumatra, the plantation sector is the 'primadona' of the government's investment promotion. It competes only with the mining sector, both of which are primary commodities. In the district of Eastern Ogan Komering Ulu, the majority of foreign investment is in palm oil plantations. Although the current investment in sugarcane plantation is classified as FDI, it is in fact only the acquisition of a local company. The company went bankrupt and was subsequently taken over by a Singaporean-based company which is part of the Indofood Business Group. Rubber is also in abundance but it is dominated by small holders. Foreign investors seems reluctant to invest in this commodity:

> *We have offered them rubber. But they calculated (the plus and minuses). If it is in Palembang then maybe it is okay because the distance from the plantation to the factory is not too far. Maybe calculating the availability of raw materials. In eastern OKU then the commodity just come from eastern OKU alone. If it is in Palembang all districts are accessible, maybe that is their consideration.* (Interview with Forestry and Plantation Office official, East OKU).

Although the South Sumatra government has provided incentives for investment in plantations, especially in sugar cane, only a few investors are interested. Fiscal incentives such as tax relief are not able to attract foreign investors:

> *Sugar cane is 50-50, it's interesting because of the tax facility .... tax relief eases the burden so if the commercial production can last five to ten tons, there is tax relief, there is tax relief for the trade activities, that is for the sugar industry sector, because we indeed want to be self-sufficient in sugar* (Interview with PTSP BP3MD, BKPM Sumatra official).

In West Sumbawa district, investment in agriculture, particularly from foreign investors, remains low. Currently, investments in other commodities, including food crops has also been encouraged by the local government through promotion and exhibition events. Cashews in West Sumbawa region are currently in high demand by investors. However, the scope is still small. Investor interest in the agricultural sector remains very low compared to the tourism and mining sectors:

> *…less interested. They are only interested in two sectors Sir, mining and tourism. That is all. For agriculture there is less interest. What would they build here if they were interested in farming, the processing plants? Processing what? Agricultural outputs?* (Interview with BKPMPT NTB official).

North Kalimantan province was established just three years ago, and now there are many interested investors. Nevertheless, interest to invest in the agricultural sector remains low. Currently, most of the foreign capital is in palm oil plantations. Bulungan district is no exception, where most of the foreign investors are from Malaysia. As for other commodities, such as soybean and corn, they are still dominated by domestic investors:

> *Actually there are plenty, there is a plan to plant soybean, to plant corn, to plant cereal, there are three investors if I'm not mistaken, but they are domestic investors. There is Solaria, PT Miwon, Sanyang, but to be more certain you can check in the agriculture office because we have plotted the*

12 The names of each local government agencies (SKPD) are different from one district to another due to decentralization each region is free to create its own nomenclature.

> *names (of the area)... particularly for agriculture there are 50,000 hectares available* (Interview with BPMDPT Bulungan District official).

In addition to palm oil, other agriculture commodities are also being promoted by local governments such as seaweed, but even with promotion, there is little investor interest. According to one government official only certain commodities such as palm oil are suitable to the climate and soil characteristics of North Kalimantan:

> Well actually we promote those as well *but it seems like they are not interested, nobody wants them. Paddy for instance, one hectare of land in Java you can produce tonnes of rice, while in here, in one hectare, we are lucky enough if it can produce less than a hectare. Even if the soil has been plowed with a tractor, and fertilized. Indeed, palm oil is the most suitable commodity (Interview with BPMDPT North Kalimantan official).*

3.3.3 Land Issues and Conflicts

Land conflicts in the three study areas are due to first, the conflicting interests of the company and community, with the former using national law and the latter using customary land rights as the basis for their claims. Often the size of the plantation has been determined without prior agreement or consultation with the surrounding community. Second, information given to investors regarding the amount of land available and its feasibility for farming does not fit with the reality on the ground. As a result, investors search for additional land which only exacerbates tensions.

Indonesia has a long history of customary law where the *adat* community was the land owner. After Indonesia gained its independence in 1945, however, all lands were appropriated by the state, but the *adat* communities never relinquished their rights to the land. In the West Sumbawa site the company considers the sisal plantation land as state-owned land. While the interviewees in this study did not raise the issue because they are mostly local people and transmigrants, the indigenous people who live on the other side of the region, have been involved in the prolonged conflict with the company and the local government, as widely reported in the media[13]. Similarly, in Ogan Komering Ulu, South Sumatera, although none of the interviewees mentioned land conflicts, there is extensive media coverage about disputes between the companies and local people, mainly over the issue of land ownership[14]. Not surprisingly, both corporate owned or state owned plantation companies were the largest cause of land conflict in 2015, according to KPA – an NGO that is active in agrarian reform issues[15].

In Dompu, West Nusa Tenggara, for instance, land conflicts occurred due to poor quality maps that do not reflect the reality on the ground. Most of the lands, which are based on maps provided by the government to the investor, are not feasible for production. Of the thousands of hectares of land promised by the government, most of it is sloping land, not worth planting, or already owned by the community. To meet the company's economy of scale as well as meet the minimum requirement of a nucleus-plasma plantation scheme, the company approached the farmers and transmigrants to make up the shortfall:

> *…(It) cannot be done optimally through participation because of this imperfect information. This is plasma-nucleus, right? The company as the nucleus and community as the plasma. Eventually there is a land issue, -in which initially the land is large because we identified and reserved around 900 ha. But after a review, the agro-ecosystem is only effective, the slope, the elevation is only about 100 ha. Changes occurred. The 900 ha of land is scrub land although it is not forest….Sisal is a non-wood plant, right? It needs certain slopes, sub-soil, depths. Technically, only about 100 ha are viable* (Interview with AR, West Sumbawa Bappeda, NTB).

The absence of guarantees that the land available to investors is cultivable is also found in Bulungan, North Borneo. Information about land given by the government to investors is inadequate, in some cases, most of the land is community owned or public space:

> *… actually, for us, East and/or North Kalimantan, we don't need to promote that we are like this, or like that… Investors come themselves and almost everyday there are investors coming and wanting to invest here. But we cannot guarantee whether the land is clear or not. On paper maybe it is clear,*

13 See: http://www.mongabay.co.id/2016/05/10/ketika-masyarakat-adat-talonang-terusir-dari-tanah-sendiri/

14 See: http://www.rmolsumsel.com/read/2015/10/25/38963/Begini-Awal-Mula-Kemelut-Warga-Mulya-Jaya-dengan-PT-LPI-, http://sumsel.tribunnews.com/2016/02/04/bahas-konflik-pt-laju-perdana-indah-mangkir-tanpa-alasan, Sriwijaya Post 17 March 2014, Bisnis.com 12 July 2014

15 http://www.kpa.or.id/news/blog/melawan-kriminalisasi-pejuang-agraria/

but if we go visit to the field, apparently the land belongs to the community, but if they have a permit to use the land (HGU), it will be difficult, right? Just like PT Prima, one village is included as HGU… (Interview with AI, Head of BPMDPT Bulungan District).

In the field, land conflicts also occur because the company (such as oil palm plantations) demarcate land as plantation land to meet their target. Field staff manipulate the land size and ownership, so that they have a map of larger land size than the reality, and claim to have given compensation to the land owners, as illustrated by one of the members of the palm oil farmer cooperative in Bulungan:

… initially why the problem occurred was because when the Malaysian company started here, they must meet the demand -'you have to open this much land' and they were always monitored, monitored by the company, now that created an evil idea by their field staff. (For instance) I initially had land here, I already worked on it, I logged and cleared it, and suddenly I was forced to leave. I went to the company to ask why I was forced to leave, they said I was already compensated (while it was not like that)… apparently there was a problem, they changed it from 2 to 3 hectares and changed it on their head, on computer… When I checked they said 'your land remains unchanged' and secured –but the fact wasn't like that in the field, it's gone in reality, (I thought) 'Ooh…so that was what happened to my land', I was furious… (Interview with Robin, Head of Cooperative of PT Prima, Bulungan District, North Kalimantan).

3.3.4 Implementation of Plasma-Nucleus Scheme

Although Ministry of Agriculture Regulation No. 98/2013 and the 2016 negative investment list (DNI) states that all plantation companies should implement the plasma – nucleus scheme, in the three research sites, only one plantation company implemented this business model. In practice, there are many problems. For the two other companies, it is unclear what kind of cooperation they have with the surrounding communities.

A number of informants from government institutions confirmed that plasma-nucleus model is the business model that should be applied by companies if they want to open a business in a region. In the three research sites, the sugar cane plantation in East OKU district does not have a partnership with farmers. Farmers that were interviewed do not understand what kind of cooperation they have with the company. They do have any assistance from the company:

In my opinion (the relationships between farmer and company) is no relationships at all, no working relationships or anything at all … (Also) no assistance or support at all (Interview with farmer).

The statement is also underscored by the local government official who mentioned that the only type of cooperation he knows between company and farmer is land leasing:

...the (existing) business cooperation is only that of land leasing system, more than that I think there is nothing else yet, I can say there is nothing more. Yes, I think it is only the leasing, something like the plasma system or profit sharing … like that, I think there is nothing like that yet..." (Interview with S, Staff of SS III Sub-District Office, East OKU)

In West Sumbawa, the plasma-nucleus business model has encountered many problems. First, the plasma land is not a priority for the transmigrants to cultivate. The advantages they might gain are not obvious compared to their other piece of land which they depend on for their livelihoods.

...They have one or two pieces of land. The transmigrants have (one piece of) land and the other one, the second one. The first piece consists of their farm land of 0.25 ha which is mainly for cultivating rice. There is the second piece of land of about 0.75 ha which is still mainly shrub land. It is this land which they planted with sisal, but it must be cleared first. No sisal plants in farm land or paddy field. When they work in rice field, planting rice, harvesting, fertilizing, managing the water. They don't have time to maintain their sisal. The sisal has been eaten by cows, finally it just didn't work (Interview with AR, West Sumbawa Bappeda).

The second factor contributing to the poor relationship between the company and the community is due to unresolved disputes. Initially, the cooperation was welcomed by the local community because they felt it was advantageous for them since they could make use of their unused lands to support their livelihoods and income. Nevertheless, the sisal company's poor management and the miscommunication with the farmers have not been resolved:

> *It was all good and normal in the beginning, the company fulfilled its obligation by facilitating land clearing, planting and maintenance up to when the first harvest approached in 2013. Initially we agreed on the price of sisal per kilo gram as much as Rp. 380/kg but during the harvest season, the company bought the sisal for Rp360/kg, a discrepancy of Rp.20/kg from the price agreed in the contract. In addition to the company's arbitrary behavior to farmers by breaching all the contents of the agreed contract, we can't accept that and we no longer want to maintain the sisal plants because yields are poor and now we just ignore the plants and we let them grow into scrub land as you can see.''* (Interview with LMBK, Sisal farmer, West Sumbawa).

The village government has attempted to mediate the conflict between the company and farmers. The company, however, does not seem interested in negotiation. As a result, the land that they planted with sisal has not been maintained. If they want to clear the land again, they will need to spend a lot of money. Therefore, they did not continue sisal cultivation and left the land idle.

In Bulungan North Kalimantan, the company also planned the plasma-nucleus business model. Nevertheless, in the end, it has never been applied because the farmers felt that they did not obtain any benefits from that business model. The farmers then attempted to change the cooperation scheme in the form of partnerships. Yet, it failed again, so the the farmers took the initiative to establish a cooperative which they consider more beneficial:

> *Initially it was plasma-nucleus but because it failed, it was changed to partnership, but it was also not allowed because the location is prohibited. (We) planned to establish a cooperative* (Interview with AS, Head of Tanjungagung Village, Bulungan).

> *Yes. To calm the community at that time. Eventually in late 2014, it was dismissed and we founded one ourselves. We met again with the farmers that have these lands and established our own cooperative.*(Interview with TW, palm oil farmers, Menara Desa Foundation member, Bulungan)

3.3.5 Social and environmental issues

Generally, the social problems are due to land conflicts involving the investor, local government and the community. However, some social problems also occur because of different perspectives between the three stakeholders. The company often assumes that legal and formal permits are sufficient, but that is not the case. Due to the heterogeneity of local communities, there are many other social factors that need to be considered, in addition to legal formal requirements:

> *Indeed there are many factors, sometimes the companies think that if they have permits it means that they are already powerful. I mean, in addition to the formal permits, they need to also seek social permits from community. Even if they have formal permits, but they do not behave well towards the community, that is (the cause of) the conflict. But if they have a good approach, accepted, that's what I meant by social permits, acceptability of the company by the surrounding community, there will be no conflicts. But if they had a bad approach, the conflict is drawn out and it is costly* (Interview with Lalu BW, Kepala Bakesbangpoldagri NTB Province).

The use of violence by the company in collaboration with security forces to enforce their will, is detrimental to all parties. In fact, the conflicts can still be mediated and managed by civilians:

> *Lucky if there are just demonstrations, if it (escalates) to physical clash in the field? That's why I said … these companies, conglomerates, why are they using security forces? Use civilians, there are experts in that. Conflict experts, yes they can (solve it). We once also managed a conflict in BKPM too, we managed to solve the conflicts* (Interview with Lalu BW, Head of Bakesbangpoldagri NTB Province).

In Dompu, West Nusa Tenggara, the conflict between farmers and the company occurred because of a breach of contract by the company when it reneged on the agreed price for the farmers' commodities, the quality of commodities and the agreement to pay daily wages for farmers to cultivate the sisal plants.

In contrast, according to the company, it is the work ethos of the farmers that needs to be altered; they are lazy because the natural resources are abundant and it is easy to be rich (without working). The contract was breached because the farmers are lazy and were not maintaining the sisal plants as agreed:

> *…the farmers are lazy. And here, people are used to laziness. Try to go there and (throw) the nets to the water, you don't need to work hard, you can (eat and) live (well). (Just using) the net. If you go*

> *there, there is acoastal area. I went there and dug the sand. Clams are there. Plenty of them, I washed and boiled them, added some salt, that kind of thing, if we buy in seafood restaurants in Jakarta is expensive* (Interview with ES&J, Sisal Company PT PSA).

This prolongs the problem because the farmers see the company as not being open to compromise nor providing space for dialogue. With channels of communication closed between the two sides the situation becomes even more aggravated:

> *Now we don't communicate at all with the company because they don't want to sit at the same table with us anymore. Also, they have breached all the clauses on the initial contract for reasons we don't know. The company has ignored our interests* (Interview with Lalu Sukamta, a sisal farmer).

As for environmental problems caused by agricultural investments, the most serious problem is forest fires due to land clearing, which is common in palm oil plantations. Although there were a lot of forest fires in Kalimantan in 2015, none of the interviewees recall any forest fires or environmental destruction related to PT Tunas Borneo. Nevertheless, some interview results indicate that land clearing for palm oil plantations, particularly in the peat lands is the major cause of forest fires. However, according to the local authorities, the government has recently prohibited new plantations on peat lands and conducts tight supervision so that forest fires are now rare in this area.

> *We tend to just develop the existing palm oil plantations (not to add new ones)…since this is a new province, we are still making an inventory of all palm oil company licenses…if they are not operating, we will terminate the license* (Interview with FG, Regional Development Planning Agency).

In South Sumatera, the local community complained that after the sugarcane plantation began operations, flooding is now more frequent along with fires that spread to the community's farm land.

> *….there is no forest any longer because of the presence of the company….so flooding is (more) frequent now, especially in the rainy season. Usually the forest can retain the water, but there is no forest anymore. The fire is caused by the company when they harvesting…but then the fire spreads to the local peoples' plantations…to this day there is no compensation from them…* (Interview with M, Sub-District Head of Cempaka).

However, the government official pointed out that the burning is actually allowed by the company's AMDAL.

> *They (PT Laju Perdana Indah) also had some issue with land burning. We were called as an expert witness….technically, there are two methods of harvesting, and the first is by burning. After the company's Environment Impact Assessment (AMDAL) was checked, the burning method is (indeed) included in the AMDAL. So they actually did not do anything wrong…but next we will recommend them not to use burning method for harvesting…* (Interview with RS, South Sumatera Agriculture Agency).

Many media reports however, reported that the excessive burning by the sugarcane company during harvest as unnecessary and destructive, albeit it is allowed by the AMDAL report.

In West Sumbawa, West Nusa Tenggara, there were no complaints about the sisal plantation's environmental impacts. Sisal is durable, weather resistant and requires little water and maintenance. Also sisal does not require lots of fertilizer which can cause negative environmental impacts. Based on the interview results with various stakeholders environmental problems are not a concern in the operation of a sisal plantation.

Chapter 4
Analysis of Key Policies Stakeholders

4.1 General FDI Policy and Institution: a Historical Review

Indonesia's foreign investment policies were first established during the Sukarno era (1945-1966). They were continually updated through the Suharto era (1966-1998) and the reform era (1998-present) to reflect the changing domestic and international context. Foreign direct investment (FDI) in the agriculture sector continues to be one of the important sectors regulated by the government.

In 1953 the government took the first steps to formulating foreign investment policies. But it was not until 1958, when **Law 78/1958** on Foreign Direct Investment was passed to regulate basic necessities for foreign investments. Not long after, this law was replaced with **Law 15/1960**. Although nationalistic in content, the law allowed foreign investors to be majority shareholders in companies. In the agriculture sector, the law allowed foreign investment, but following disputes with some countries, the government eventually banned foreign investment and issued **Law 16/1965 on FDIs**, thus revoking Law 78/1958.

In 1966, the national economy stagnated due to a severe shortage of capital and after the September 1965 coup which led to the fall of Soekarno, Indonesia's first president. In order to attract foreign investment, the new government under Soeharto's more liberal New Order regime enacted **Law 1/1967 on Foreign Investment** to stimulate the inflow of foreign capital by offering incentives such as a 5-year tax holiday, import duty exemption for equipment, and an opportunity for 100% foreign ownership in some sectors specified in the Priority List (*Daftar Skala Prioritas*). The government replaced Law 1/1967 with **Law 11/1970** which included more tax incentives.

In the agriculture sector, foreign investors were more interested in forest cultivation than any of the agriculture sub-sectors. Until 1974, the FDI in mining, manufacturing, and forestry comprised 84% of the total FDI (Bappenas). The agriculture sector, in contrast, was promoted by the government for domestic investment, as legislated in **Law 6/1968 on Domestic Investment**.

After almost 40 years since it passed the first law on foreign investment, the government passed **Law 25/2007** to be in compliance with the Trade-Related Investment Measures (TRIMs) agreement under the World Trade Organization (WTO). Previously, foreign investment had more restriction than domestic investment. The new law sought to eliminate differences in rules between foreign investment and domestic investment (Gammeltoft and Tarmidi, 2013). Table 5 below summarizes the major differences between Law 1/1967 and Law 27/2007.

Table 18. Differences between Law 1/1967 and Law 25/2007

Law 1/1967	Law 25/2007
• The central government determines the region for foreign investment • Business sectors that are open to foreign investment are listed in the Priority Scale List (Daftar Skala Prioritas) • Allowed to hired foreign workers for management and experts level position • Required to provide training to local workers	• Regional governments have some authority to facilitate foreign investment in accordance with regional autonomy • Business sectors that are closed to foreign investment are listed in the Negative Investment List (Daftar Negatif Investasi) • Priority is given to hiring local workers; foreign workers are allowed only for certain position and skills • Required to provide training to local workers, if hiring foreign workers

As mandated by Law27/2007, the government published the first **Hak Guna Usaha)** by **Presidential Decree 77/2007**. Previously, the DNI was revised several times with the latest being in May 2016 by **Presidential Decree 44/2016**. There are a number of fundamental changes between the two decrees:

1. Partnership is defined as 20% plasma.
2. 35 sectors were removed from the new list such as: the crumb rubber industry; cold storage; tourism (restaurant, bar; cafe; recreation, art, leisure; sports), film industry, e-trade above IRD 100 billion, telecommunications testing institutes, management of toll roads, waste management raw materials production for the pharmaceutical sector.

1 sector was closed for environmental sustainability reasons, the utilization (removal) of coral/ coral from for construction materials/lime / calcium, aquarium, and souvenirs/ jewelry, as well as coral live or dead coral.

As was the case with previous DNI list, there is only one sub-sector in the agricultural sector that is closed. In the new list, there is also a change in the classification of 3 agricultural sub-sectors where the output is below capacity; 1) Stripping, Cleaning and Sorting Coffee; b) Stripping, Cleaning and Drying of cocao; 3) Stripping and cleaning of beans beside coffee and cacao all become one sub-sector - Stripping, Cleaning, Drying and Sorting of plantation crops.

Table 19. Changes in the Negative Investment List (DNI)

	Presidential Decree 392014	Presidential Decree 44 2016
Total	168	164
Open (with conditions)	167	163
Closed	1	1
Total	168	164

An important innovation was the establishment of One Stop Service (PTSP) at the BKPM to simplify the application process for investment as regulated by **Presidential Decree 27/2009**. Based on Law 27, the BKPM must have a representative from each of the relevant sectors and regions to support PTSP functions in order to speed up the investment process.

In terms of the institution that is in-charge for foreign investments, the Indonesian government formed the Foreign Investment Consultative Board (*Badan Pertimbangan* PMA), which then evolved over the years. It was composed of the relevant ministries to coordinate and implement investment policies based on Law 1/1967 on Foreign Investments and was later replaced by the Investment Technical Committee (*Panitia Teknis Penanaman Modal*) as the government wanted to restructure the ministries within the board. The Investment Coordinating Board (BKPM**)** was formed in 1973, replacing the Investment Technical Committee, to strengthen the investment-licensing process and to promote investment (Table 20).

Table 20. Transformation of Foreign Investment Coordinating Board

Year	Institution	Legal Basis
1967	Foreign Investment Consultative Board (Badan Pertimbangan PMA)	Keputusan Presidium Kabinet No 17 Tahun 1967 *Cabinet Presidium Decree*
1968	Investment Technical Committee (Panitia Teknis Penanaman Modal)	Keputusan Presiden No 286 Tahun 1968 *Presidential Decree*
1973	Investment Coordination Board (BKPM)	Keputusan Presiden No. 20 Tahun 1973 *Presidential Decree*

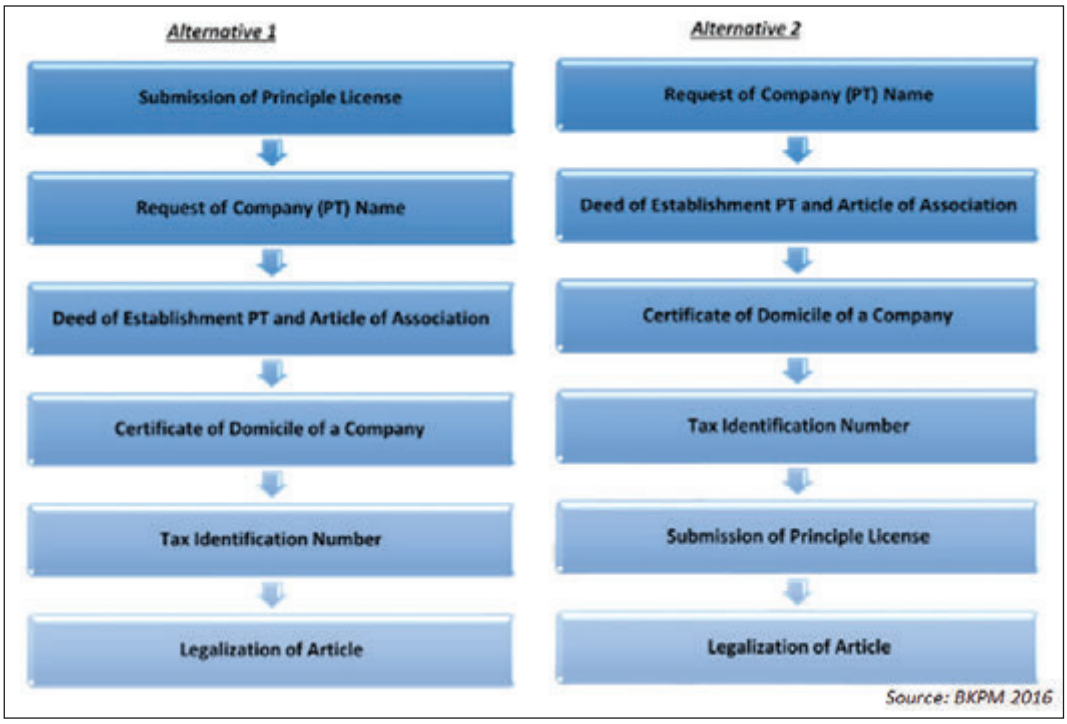
Beginning in the 1980s the government began deregulating a number of economic sectors, including agriculture. But it was not until 1994-95, however, that the impact of the deregulation of FDI in the agriculture sector was felt with massive capital inflows. In 1995, the total FDI in agriculture doubled compared to the previous year. As the OECD report on Indonesia noted, the liberalization of investment regulations is always followed by an increased inflow of foreign investment (OECD, 2011)[16]. Nevertheless, the deregulation of the banking sector, was

16 Improving Indonesia's Investment Climate, OECD, 2011

one the principal causes of economic crisis of 1997. The economic and political crisis that brought an end to the Suharto era in 1998 and the ensuing political uncertainty resulted in a decline in FDI.

BKPM was reorganized and revitalized, and made a government institution to increase its authority as the investment coordinator. BKPM regulates the FDI licensing process based on **BKPM Regulation 6/2016**. Foreign investors must have a **Principal License** which is required to a start new investment or any change in the capital structure of the investment (from domestic-owned to partially/fully foreign owned). The license can be applied for before the legal entity of the company is established. The **Business License** is also required before starting operations. The Business License can be applied for after obtaining the Principle License and signing the Deed of Establishment (DoE). The DoE is required to be recognized as a legal entity in Indonesia. Both licenses can be obtained from the BKPM by following one of the two application processes as set out in Chart 16.

Chart 16. FDI Registration Procedures



The principle license for FDI is processed at BKPM Jakarta. Although there are calls for a One Stop Service, this might not be possible since there are other licenses and permits to be processed at the local/regional level. With decentralization, the business permit, building permits and environment related permits are managed by the local government. The central government is mainly responsible for FDI management but shares responsibilities with the provincial and district governments (K. Kuswanto et al., 2016). In those zones set aside for FDI such as the Special Economic Zone (KEK), all permits are managed on site, especially with the Easy Investment Direct Construction (KLIK) program.

Government efforts are emphasizing the need to speed up the process for approving investments rather than putting a limit on the number of permits and licenses. As of 2015, the time period to process investment licenses for plantations was reduced from 751 days to 182 days[17]. By early 2016, the FDI approval process was reduced to only 3 hours to obtain an investment license. . In just 3 hours, the the investor can now obtain the following:

1. Investment License
2. Deed of Establishment and Approval
3. Tax Registration Number
4. Certificate of Company Registration
5. Foreign Workers Recruitment Plan (RPTKA)
6. Foreign Workers Recruitment Permit (IMTA)

17 BKPM Yearly Report 2015

7. Importer Identification Number (API-P)
8. Customs Registration Number
9. Letter on Land Availability Information

However, this service is exclusively for investors with a minimum investment of IDR 100 billion with plans to employ at least 1,000 local workers.

Box 4.1
President Widodo's Economic Policy Package

Package 1
Boost industrial competitiveness. Easing bureaucracy through deregulation

Package 2
Promotion of investment and foreign exchange. Shorten investment licensing to 3 hours and incentivize export proceeds.

Package 3
Expand access to financing and reduce production costs. Expanding micro business credit (KUR) coverage, financial services facilities, export financing, land facilities, and incentives for industrial energy

Package 4
Assuring wage system and safeguards for the laid off workers. Reasonable, simple, and protected wage system and cheaper micro business credit (KUR)

Package 5
Reevaluate assets and access to Syariah financing. Tax incentives for companies whose revalue their assets, investment fund incentives for real estate, and easing Syariah financing

Package 6
Driving suburban economy and continuity of medicinal raw materials. Incentives for special economic zones (KEK), irrigation and electronic systems (INSW) for procurement of medicinal raw materials

Package 7
Tax incentives for labor-intensive industry and land certification. Boost the competitiveness of labor-intensive industries through tax income incentives under Article 21 and easiness for land certification.

Package 8
Business certainty and investment for aircraft maintenance and increase oil production. One Map Policy which facilitate the resolve of land conflict.

Package 9
Electricity and logistics infrastructure. Increasing electricity development for public use, stabilizing the supply of meat, and SMEs export aggregator for the development of logistics from village to the global market.

Package 10
Investment openness. Changes in policy in the Investment Negative List that ensure the effectiveness of the investment implementation, improve the protection and development of SMEs and cooperatives, as well as encouraging investment in high technology, capital intensive and tourism.

Package 11
Access to financing, dwelling time, and the pharmaceutical industry. Micro business credit (KUR) export oriented, Fees for Acquisition of Rights to Lands and Buildings (BPHTB) incentives for real estate investment funds (DIRE), risk management for the smooth flow of goods, and development of pharmaceutical industries /medical devices.

Package 12
Increases 'Ease of Doing Business' rankings. Reducing permits, procedures, time and cost for ease of doing business in Indonesia

Source: Tempo, 11-17 July 2015

4.2 Key Policies & Stakeholders Related to FDI in Plantation Sub-sector

4.2.1 Mapping of National Legislation

Foreign investment policies in the agricultural sector involves many sectoral and cross-sectoral policies in Indonesia since potential investors must take into account land, environment, social and labour issues.

Given that there many sectoral issues that must be taken into account, there is a myriad of laws and supporting regulations (government regulations, presidential regulations, ministerial regulations) along with the need to obtain letters of recommendation, licenses, land use permits and environmental permits that the investor must review before investing in the plantation sector. Table 21 below presents some of the most importan legislation relevant to investment in the plantation sub-sector.

For example, investors must have a listed company (PT) with legal status and pay corporate income tax, as mandated by Law 36/2008 on income taxes and Law 40/2007 on listed companies. In addition, in order to establish an plantation with an area of more than 5 hectares on state land, the PT must have a 'right to use' permit (Hak Guna Usaha) issued by the regional land office (BPN Provincial office) if it is under 200 ha. If it is above 200 ha the Ministry of Agrarian Affairs and Spatial Planning/Head of BPN must refer Agarian Law 5/1960 Agrarian when deciding to approve the investment or not. Operations of this size are required to carry out an EIA (AMDAL) to ensure negative environmental impacts are minimized as stipulated in Law No.32 / 2009 on the Environment.

Table 21. Selected Relevant National Policies for Investments in Plantation Sub-Sector

No	National Laws	Business/ Investments	Agriculture	Land	Environment	Social	Labor
1	Law No. 25 / 2007 on Investments	+++				+	+
2	Law No.40 / 2007 on Limited Liability Company (PT)	+++			+	+	+
3	Law No. 36 / 2008 on Income Tax	+++					
4	Law No. 7 / 1994 on Legalization of Agreement Establishing the World Trade Organization (WTO)	+++	++				
5	Law No. 18/ 2012 on Food		+++			+	
6	Law No. 41 / 2009 on Protection of Sustainable Agricultural Land		+++		+++		
7	Law No. 5 / 1990 on Conservation of Natural Biodiversity and its Ecosystem						
8	Law No. 39/2014 on Plantation	+++	+++	+++	+++	+++	+++
9	Law No. 13/2010 on Horticulture	+++	+++	+++			
10	Law No. 2 /1960 on Revenue Sharing (in Agriculture)	+	+++	++		+++	+++
11	Law No.19 / 2013 on Protection and Empowerment of Farmers		+++	++		+++	+++

No	National Laws	Business/ Investments	Agriculture	Land	Environment	Social	Labor
12	Law No. 13 / 2003 on Labour	++					+++
13	Law No. 5 / 1960 on Agrarian	++	+++	+++		++	
14	Law No. 56 PRP / 1960 on Limitation of Agricultural Land Size		+++	+++		++	
15	Law No.26 / 2007 on Spatial Planning	+++		+++	+		
15	Law No.2 / 2012 on Land Provision for Public	+++		+++			
16	Law No. 32/ 2009 on Environment				+++	++	
17	Law No.37 / 2014 on Land and Water Conservation		+	++	+++		
18	Law No.41 / 1999 on Forestry		++		+++		
19	Law No.18 /2013 on Prevention and Elimination of Deforestation		++	+	+++		
20	Law No.23 / 2014 on Local Government	++	++	++	++	++	++
21	Law No. 28 /2009 on Local Tax and Levies	++		++			

Notes

+++ Highly relevant

++ Relevant

+ Slightly relevant

It can be argued that the policies related to investments tends to provide incentives for foreign investors with regard to ease of opening a business or a tax deduction; while policies related to land, social factors and the environment are disincentives because they set restrictions and safeguards on prospective businesses. For example, companies are not allowed to use fire to clear the land or taking into account other users, there are limits on the extent of the land a company may own.

A good grasp of regional autonomy laws is also necessary because under Law 23/2014 central government authorities have been delegated to the provincial and district goverments. For investment and licensing, the provincial government has the authority if the operational area or the production of a company is located in a number of districts; whereas if the investment is only in one district, the authority is with the district.

Box 4.2.
Agricultural Development Policies

For the period 2015-2019, the government defined the main policies for the agriculture sector's development (Ministry of Agriculture, 2014):

1. Increase food security which will have a positive impact on the economy (rice, corn, soybeans, sugar cane, beef, peppers and onions)
2. Development of export commodities, import substitution, and commodities which provides bio-industries/ bio-energy raw material
3. Improve the competitiveness of agricultural products through products and processes standardization, increasing supply chain and value chain, quality and food safety
4. Development of infrastructure (land, water, infrastructure) and agro-industries in rural areas, as the foundation for sustainable development in bio-industry
5. Reorientation of production from one product to multiple products (main products, bioenergy, byproducts, products from waste, zero waste and others)
6. Regional/cluster development in certain areas that will support the achievement of national targets
7. Seed systems/nursery, farmers protection, farmers institutional economics, innovation and technology dissemination, outreach counseling, policy and agricultural quarantine system
8. Supporting thematic programs: MP3EI, MP3KI, Gender Mainstreaming (PUG), South-South Cooperation (SSC), employment, acceleration for under developed regions, special regions and border regions, development of Papua and West Papua
9. Adaptation and mitigation of climate change and post-disaster management
10. Seeds and fertilizer subsidies
11. Credit for food security
12. Mainstreaming biodiversity
13. Good governance and bureaucratic reform

Food security is an effort to achieve food self-sufficiency, particularly for rice (now also corn, soybeans) which has been the core of agriculture policy in Indonesia for many years. The legal basis for food security was first established in Law 7/1996 on Food. The law was replaced with Law 18/2012 that reflected the new national and international context. The law also introduced the term 'food sovereignty' which is defined as the rights of the nation and society to decide its policies to ensure the public right to food. Law 18/2012 also calls for national food planning to be included in the national and regional development planning. Each of the major agricultural sub-sectors; estate crops, horticulture, fisheries and forestry also have their own dedicated set of laws

Table 22 summarizes the main points of the national laws that are relevant for FDI in the agricultural sector, with a particular focus on plantations. Law 39/2014 about Plantations is the point of departure for all legal matters related to plantations. The law makes it clear that the plantation sector is open to FDI, that companies must consult with customary communities if their land is to be used (tanah ulayat), the company must partner with farmers and, companies must protect the environment.

Table 22. Relevant Points of National Laws

No.	National Laws	Relevant points
1	Law 25 / 2007 on Investments	• Regional government has some authorities to organize foreign investment in accordance with the regional autonomy • Business sectors that are prohibited to foreign investment are set in the Negative Investment List (*Daftar Negatif Investasi*) • Prioritizing hiring local workers; foreign workers are allowed only for certain positions and skills • The investor is required to provide training to local workers, if hiring foreign workers
2	Law 39 / 2009 On Special Economic Regions	• The sectors that are classified as (Special Economic Zones) KEK are those that are export oriented and are close to national and international trade routes. • Conditions and insentives for investors or companies in the KEK • The KEK may establish a joint venture company between the private sector or with a government cooperative.

No.	National Laws	Relevant points
3	Law 40 / 2007 on Limited Liability Company (PT)	• Establishment of a PT and good corporate governance • Social and environmental responsibilities, especially those in the natural resource sector as well as sanctions.
4	Law 36 / 2008 on Income Tax	• Tax matters for companies
5	Law 7 / 1994 on Legalization of Agreement Establishing the World Trade Organization (WTO)	• Legalizes Indonesia's membership in the WTO. Commits Indonesia to decreasing subsidies and liberalizing trade, including opening the domestic market to agricultural imports.
6	Law 18/ 2012 on Food	• Emphasis on food sovereignity and food self-sufficiency • Increase food production and national food stocks • Support to small farmers to becoming quality suppliers
7	Law 5 / 1990 on Conservation of Natural Biodiversity and its Ecosystem	• Regulates that all land owners as well as those with rights to exploit marine areas must protect the ecosystems
8	Law 41 / 2009 on Protection of Sustainable Agricultural Land	• Control of land conversion to prevent environmental degradation • Land and marine areas that are protected • Sanctions for individuals/businesses/companies that are conducting business in protected areas
9	Law 39/2014 on Plantation	• FDI in the Plantation sector, the investor must work with domestic plantation company to establish a PT • IUP for businesses that cross more than one province is issued by the Minister, crosses more than one district, by the Governor and in the district by the district head (Bupati) • Forbids clearing land by burning • Forbids businesses from forcing or taking over customary lands • Plantation companies are required to develop a partnership with staff and communities surrounding the plantation • Companies with a IUP or a IUP-B are required to allocate 20% of their plantation for community plantations • Companies are required to carry out a AMDAL, UPL and UKL
10	Law 13/2010 on Horticulture	• Horiculture permits including a HGU if the business is using state land • Horiculture ventures (micro, small and medium size) are only permitted by Indoneisan citizens or business fully owned by Indonesians • Large scale horticulture can be conducted by a domestic investor or in parternship with a foreign investor using a domestic company.
11	Law 2 / 1960 on Revenue Sharing Agreement (in Agriculture)	• Sharing of harvest between farmers (petani penggarap) and land owner or with the renters of the land with the land owner • Protection for farmers that have land less than 3 ha that enter into a harvest sharing agreement. The agreement must be signed in front of the village head. • Forbids a company or farmer with great than 3 ha to be a tenant farmer
12	Law 19 / 2013 on Protection and Empowerment of Farmers	• Subsides for farmers in the shap of agricultural inputs and training • Protection for farmers that have land less than 2 ha of land • Sets the limits on commodity imports to protect farmers.

No.	National Laws	Relevant points
13	Law 13 / 2003 on Labour	• Regulates labour relations beteen the employer and employee • Regulates the employment of foreign workers
14	Agrarian Basic Law 5/1960	• Recognition of land as mainly under state's control and used for public interests; • Recognition of statutory law and customary law in land ownership schemes; • Constraints on foreign entities to own lands (therefore they only able to lease for a maximum of 25 years, i.e. HGU and HGB).
15	Law 56 PRP / 1960 on Limitation of Agricultural Land Size	• Regulating maximum agriculture land size for a family, to avoid land monopoly • Not applicable for HGU and other type of land lease that are granted from the state, neither for agricultural land owned by a legal entity.
14	Law 26 / 2007 on Spatial Planning	• Division of authority and tasks between national, provincial and municipality governments in spatial planning including determination of strategic areas, conservation and preservation areas, and areas for investments; • Considering carrying capacity and environmental carrying capacity in spatial planning and zoning at all levels; • Incentives and disincentives for compliance and incompliance with the set spatial plans; • Specific article on village land use that aims to preserve agricultural land for food security purpose.
16	Law 2 / 2012 on Land Provision for Public Purposes	Defines public facilities: irrigation, protected area etc
17	Law 32/ 2009 on the Environment	• Prevention of pollution or environmental damage • Delegation of authorities for environmental management to the regional governments. • Instruments for environmental control such as Environmental Strategy (KLHS) spatial planning, AMDAL, UKL-UPL , risk analysis etc
18	Law 37 / 2014 on Land and Water Conservation	• Limits the amount of land that can be converted including protect areas • Land and water conservation in protected areas and sanctions if the regulations are violated
19	Law 41 / 1999 on Forestry	• State own companies and the private sector that have permits to cut wood, environmental services and NTFPs must work with the community cooperative • Permits for forest use including for timber NTFP and environmental services • Recognizes the rights of customary communities over customary forests • Permit holders must allocate funds for forest protection.
20	Law 18 /2013 on Prevention and Elimination of Deforestation	• Regulates illegal forest use and sanctions
21	Law 23 / 2014 on Local Government	• Devolution of authority to provincial and municipal levels to make their own policies and local laws; • Division of authority between the central and local governments, e.g. foreign policies; security and defense; justice; national monetary and fiscal policy, and religion remain at central government, and the rest are delegated to local governments.
22	Law 28 /2009 on Local Tax and Levies	Regulating types of tax and levees under the authority of local governments, including related to land or building.

Following the national legislation, there are a number of legal instruments such as government regulations, presidental decrees and ministerial decrees) that are issued by the government and define how the law is to be implemented. A number of the key regulations for the plantation sector are presented in Tables 21 and 22. The regulations in Table 23 are classifed based on thematic areas, but cannot be read as applying to only one regulation in one sector because the regulation may have been developed based on more than one law. For example,

government regulations or ministerial decrees concerning tax deductions for business entities may be a derivative of the foreign investment law, a law on special economic zones law, and the income tax law.

Table 23. Assorted Relevant National Regulations

No	National Regulations	Investment/ business	Agriculture	Land	Enviroment	Social	Labour
1	Presidential Decree 44/2016 concerning the DNI and List of Business Sectors Open with Conditions for Investment	V	V				V
2	Presidential Decree No. 72/2014 on the Use of Foreign Workers and Implementation Labor Education and Training interns						V
3	Government Regulation No. 9/2016 on the Amendment of Government Regulation No. 18/2015 regarding Income Tax Facilities for Investment in Certain Business Fields And / Or In Certain Areas (Tax Allowance)	V					
4	Minister of Finance Regulation No. 159 / PMK.010 / 2015 on Tax Holidays	V					
5	Head of BKPM Regulation No. 15/2015 on Guidelines and Procedures for Licensing and Non Licensing Investment	V					
6	BKPM Regulation No. 6/2016 on the Amendment of the Regulation of the BKPM Regulation No. 14/2015 on Guidelines and Procedures for Permit Investment	V					
7	Minister of Agrarian Affairs / Head of BPN No.3 / 1999 Regulaiton on Delegation of Authorities and Granting and Cancelling Rights to State land			V			
8	Government Regulation 40/1996 concerning Hak Guna Usaha (HGU), Hak Guna Bangunan (HGB)	V	V	V			
9	Minister of Agrarian Affairs / Head of BPN Regulation 15 / 2016 on Procedures for releasing or cancelling leasehold rights or Right to Use the Land that has been Burned	V	V	V	V		
10	Minister of Agriculture Decree No 17 /2015 on Guidelines for Food Barn	V	V				
11	Minister of Agriculture Decree 98/ 2013 on Guidelines for Estate Crops Licensing	V	V			V	V
12	Minister of Agriculture Decree 70 /2014 Horticulture Licensing	V	V				
13	Minister of Agriculture Regulation 50 / Permentan /OT.140 / 8/2012 on Guidelines for Development of Agricultural Region		V	V			
14	Regulation of the Minister of Agriculture Regulation 08 / Permentan /KB.400 / 2/2016 on Spatial Planning Guidelines for Plantations		V	V			
15	Government Regulation 24/2015 on Plantation Fund	V	V				
16	Government Regulation 25/2014 on the Provision of Facilities and Business Intensive Horticulture	V	V				
17	Government Regulation 68/2002 on Food Security		V				
18	Government Regulation 17 /2015 concerning Food Security and Nutrition		V			V	

No	National Regulations	Investment/ business	Agriculture	Land	Enviroment	Social	Labour
19	Government Regulation 24 / 1997 concerning land inventory			V			
20	Government Regulation 44 / 1997 concerning partnerships		V			V	V
21	Regulation of the Minister of Agriculture Regulation 117 / Permentan / HK.300 / 11/2013 on Online Agriculture Licensing Services	V	V				
22	79 / Permentan / OT.140 / 8/2013 Land Suitability Guidelines On Food Crops Commodities		V	V			
23	Regulation of the Minister of Agriculture Regulation 81 / Permentan / OT.140 / 8/2013 Technical Guideline and Procedures for Agricultural Land Sustainable Food		V	V			
24	Minister of Agriculture Regulation 14 / Permentan / OT.140 / 2/2013 on Guidelines for Purchasing from Palm Oil Growers	V	V				
25	Government Regulation 27 / 2012 regarding environmental permits	V	V		V		
26	Regulation of the Minister of Environment Regulation 16/ 2012 on Guidelines for Preparing Environmental Documents	V			V		
27	Regulation of the Minister of Environment 5/ 2012 on Types of Business Plan and / or Activities that must conduct an Environmental Impact Analysis	V			V		
28	Minister of Environment Regulation 17/2012 on Guidelines for Community Involvement Environmental Impact Assessment and Environmental Permit	V			V	V	
29	Government Regulation No. 4/2001 on Damage Control or Environmental Pollution Related to Forest Fires and or land	V	V		V		

- The regulations in Table 23 is not an complete list as there are many other types of regulations that are of a more technical nature such as a Circular Letter. There are many regulations that give incentives to investors whether in Indonesia or elsewhere in the form of tax breaks and are enshrined in law: Tax allowance: Government Regulation 9/2016 on the Amendment of Government Regulation No. 18/2015 regarding Income Tax Facilities for Investment in Certain Business Fields And/ or in certain areas
- Tax holiday: Minister of Finance Regulation 59 / PMK.010 / 2015 regulates the processing industry in agriculture, forestry, and fisheries

Meanwhile disincentives are found in the DNI and social and environmental regulations such as cancelling a license due to forest fires:

- Presidential Regulation 44/2016 concerning the Negative Business List and the and the List for Business Sectors Open for Investment with Conditions
- Government Regulation 27/2012 on Environmental Permits
- Regulation of the State Minister of Agrarian Affairs/ Head of BPN 15 / 2016 Regulation on Procedures for release or cancellation of leasehold rights or Right to Use on land that has been burned

Box 4.3

The Basic Agrarian Law 5/1960

Agrarian law in Indonesia is regulated by Law 5, 1960, or is often referred to as the Basic Agrarian Law (UUPA). This law was passed in September 1960 by President Sukarno. The law sought to establish a new framework for managing land and natural resources. It had two central objectives: (i) replace the legal framework for agrarian laws inherited from the colonial past and (ii) put into place a land reform framework by imposing ceilings on private land landholdings and nationalizing lands that exceeded the maximum size and/or redistributing these to the people based on need. The UUPA contains the objectives, concepts, principles, and legal institutions and outlines the basic provisions of the national Agrarian Law. The purpose of the UPPA is to achieve Article 33, paragraph 3 of the 1945 Constitution which reads, "the earth, water and natural resources contained in it are controlled by the state and used for the greatest prosperity of the people." The UUPA created a single structured national agrarian law based on customary law (hukum adat) as the original law of the majority of the Indonesian people.

In recent years, experts have been calling for a revision to the UUPA, especially the need to streamline the meaning of 'agrarian' in the law. The understanding of 'agrarian' is limited to land alone as can be seen in all the articles. In fact, the actual meaning of the agrarian also includes water and even space. Other experts claim that the revision of the UUPA is urgently needed to avoid conflicts. With a comprehensive Agrarian Law, it is expected conflicts over natural resources can be minimalized or even eliminated. Other reasons for revising the law include; it is more than 50 years old; it was designed as a basic or principal law, making it difficult to draw up other laws or revise its shortcomings; land related issues are undergoing rapid change and they cannot be anticipated by this law; and the scope of the law needs to be revised.

On the other hand there are many arguments in favour of keeping the law as it is. This is because it is still legally and politically relevant as it sides with the people and the national interest. Rather than replacing it, it is argued, it should be accompanied by a law on property. Meanwhile, there are laws that conflict with the UUPA such as the Forestry law, Mining Law, Local Government Law that should be revised, or undergo a judicial review.

In order to avoid a deadlock on how to move forward, a blueprint is needed that identifies the needs for a comprehensive agrarian policy. This will allow for a discussion of the vision, mission, goals, strategies, programs, and priorities for regulations. The preparation of this blueprint will require a strong commitment from all stakeholders.

Quoted from a number of sources

Although there are a number of permits that a foreign investor must have, beginning with the principal permit issued by the BKPM and the need to establish a PT, the most important permit is the Plantation Business Permit (IUP) that is regulated by Ministerial Regulation 98/2013 concerning the guidelines for IUP (See Box 4.4.)

Box 4.4
Agriculture Ministerial Regulation 98/2013 concerning Plantation Business Permit

In this Ministerial Regulation, Plantation Businesses includes businesses in the form of cultivation of plantation crops (B), plantation crops, plantation product manufacturing business production (P) of plantation. Thus, there are three types of permits: IUP-B, IUP-P and IUP. Those plantations with more than 25 ha will need an IUP-B.

Article 4, states that "a foreign legal entity or individual foreign nationals who conducts a Plantation Business will cooperate with a domestic plantation business by establishing an Indonesian company (PT) and domiciled in Indonesia". This means that foreign investment in the plantation sector must be in the form of a limited liability company (PT), which must go through the process of establishing a PT with reference to the Law 40 / 2007 regarding Companies.

Article 10 states that "palm oil plantation with an area of 1,000 hectares or more, tea with an area of 240 hectares or more, and a cane sugar with an area of 2,000 hectares or more, will be integrated with the crop processing, to encourage the downstream production and provide disincentive to primary products.

Another clause regulates the partnership between companies and farmers/local planters and other companies. In order to obtain an IUP-P, companies must obtain at least 20% of their raw materials from its own plantation and any shortfalls can be met from community plantations or other companies. The contract between the provider of the raw materials is made in writing for a 10 year period and is reviewed every two years. Especially for palm oil processing industry, the company that cooperates with a grower's cooperative, will undertake the sale of shares to the cooperative of at least 5% in year 5 increasing to 30% in the 15th year. Plantation companies with an IUP-B or IUP covering an area of 250 hectares or more are obliged to facilitate the development of community plantations that cover at least 20% of the total area of the IUP-B or IUP.

Article 21-23 deal with regarding the environmental permit requirements that must be obtain by the company to get an IUP. Article 24 deals with land rights; "In the case of land to be used for plantation from customary law communities, then the applicant must first conduct deliberations with the customary law communities. The agreement must be put in writing and submitted to the governor or district head/ mayor in accordance with their authority "

This regulation also limits the size of plantation that can be managed by one company or group of companies.

The district head has the authority to issue an IUP if the land is located in one district, and the governor, if the land crosses a number of districts. The following is a list of the requirements a company must meet to obtain a IUP:

- Company Profile includes registration in the Ministry of Justice and Human Rights, ownership composition, management structure and corporate business sectors;
- Tax Number
- Place of Business Permit letter
- Letter of Recommendation from governor or district head for the with Plantation Development Plan
- Location permit from the district head or mayor supported by a map to scale (1:100.000 or 1:50.000)
- Technicial report from Forestry Agency if the land in state forest land
- Work plan to develop the planation, including plans for working with local communities
- Appropriate environmental permits
- Commitment Statement
    1. Availabilty of human resources, facilities, infrastructure and systems for the control of plant pests (OPT):
    2. Availability of human resources, facilities, infrastructure and systems for clearing land without burning as well as fire control;
    3. Facilitate the development of community gardens pursuant to Article 15 which also calls for a work plan and a financing plan;
    4. Implement partnerships with planters, employees and the community around the plantation;
- Statement Letter from the investor that the Plantation company's or group's land holdings do not exceed the limit as stated in this regulation
- Based on these requirements, in order to obtain an IUP-B, IUP-P, or IUP, a company must deal with at leas the Environment Agency, the Forest Service and BPN. For those plantations larger than 25,000 ha, the investor must obtain the approval of the governor or the district head.

Source: Ministry of Agriculture n.d

4.2.2 Stakeholders Mapping and Power Analysis

The following table presents the stakeholders that are involved in the agriculture sector, especially the plantation sub-sector.

Table 24. The Roles of Key Stakeholders in Agriculture Investments

Stakeholder	Roles and relevance
Ministry of Agriculture	• Formulation of sectoral policies in agriculture • Monitoring and supervision of policy implementation • Provides technical guidance regarding agricultural business and products.
Ministry of Agrarian and Spatial Planning/ BPN	• Formulates policy and guidelines on the use of land for agriculture • Issues HGU (cultivation rights title) for production area of more than 200 ha.
Indonesian Investment Coordinating Board (BKPM)	• Coordinates the investment process for foreign investors • Promotes investments opportunities in Indonesia • Issues principal license for foreign investor • Together with the Coordinating Ministry of Economic Affairs review the Negative List of Investments (DNI)
Coordinating Ministry of Economic Affairs	• Coordinates relevant ministries such as: Ministry of Agriculture, Ministry of Trade, Ministry of Agrarian, Ministry of Forestry and Environment. • Regularly review the DNI to be enacted by the president.
Ministry of Environment and Forestry	• Establishes the status of protected forests, community forests and industrial forests • Regulates the use of conservation areas Environmental Standards and safeguards for investments
Ministry of Trade	• Determines export and import duties onagricultural commodities
Ministry of Industry (Directorate General of Agro Industry)	• Regulates the industrial sector and policy development, including regulating agro industry
Companies	• Investing capital in agriculture sector • Running day to day production process
Business associations	• Advocating business interests • Policy engagement on business interests • Representing business actors in labor disputes
Governor	• Promotes investment opportunities at the province • Investment approval and regulation (e.g. HGU , HGB, IUP-P) at the provincial level and cross district/city level
District Head (Bupati)	• Promotes investment opportunities at the district level. • Investment approval and regulation (e.g. HGU, HGB, IUP-B, environmental permit) at the district level
Coordinating Investment Board (One Stop Service) at province/ district level	• Coordinates the investment process at provincial/district level • Directs investor to each sectoral offices (SKPD) for relevant business permits.
Provincial/district Department of Agriculture	• Manages agriculture policies at the provincial/district level. • Monitoring of plantation activities.
Provincial Environmental Agency (BLH provinsi)	• Manages the environmental policy proess at the provincial level • Provides technical review for HGU permit process • Review and approve AMDAL documents from company at the provincial level or cross-district level.
District Environmental Agency (BLH Kabupaten)	• Manages the environmental policy process at the provincial level • Provides technical review for HGU permit process • Review and approve AMDAL documents from company at the provincial level or cross-district level.

Stakeholder	Roles and relevance
Provincial/district Office National Agrarian Board (*Kanwil* BPN province and district)	• Manages agrarian policies process at the regional level • Issues HGU (cultivation rights title) for production area of less than 200 ha.
International organizations in agriculture	• Agriculture data and statistics processing • Policy advocacy and engagement for agriculture policies • Community development programs in agriculture.
Civil Society Organizations	• Policy advocacy and engagement • Advocating community's rights • Community development in agriculture
Sub-district head	• Provides recommendation letter for individual/company to get HGU (cultivation rights title). • Involves in conflict resolution between community and companies, after village level. • Brings disputes at villages level to head of district
Village-head	• Provides recommendation letter for individual/company to get HGU (business permits). • Involves in conflict resolution between community and companies. • Deals with company on social assistance/community development programs for local communities.
Labor	Provides labor, skills and knowledge for agricultural production
Farmers	• Ownership of smallholding • Production of agriculture commodities

Stakeholder mapping was done based on their level of influence in the decision-making process. To ascertain the level of influence of each stakeholder, Table 25 below distinguishes between those who are decision makers (+++), those who can influence the decision-making process (++), and those who can provide feedback to decision-makers (+) ,

For example, the Ministry of Agrarian Affairs and Spatial Planning / Head of BPN has greater power than the Ministry of Agriculture. However, in terms of policy in the wider agricultural sector, where the allocation of land is just one issue, the Agriculture Ministry has greater power. But in some cross-sectoral issues, they still intersect, for example on environmental issues and land ownership restrictions to protect small farmers.

In Table 25 below a distinction is made between policy and licensing, due to the nature of permits that may be cross sectoral. As explained previously, the prospective investor must establish a company (PT) for the plantation business, which intersects with the local community, permits the environmental permits, land use permits, and of course, permission to use the plantation itself.

Table 25. Stakeholders' Power Analysis

Stakeholder	Investment Policy	Permits- Central Government	Agricultural Sector Policy	Land policy and permits	Policy/ Enviroment Permits	Regional investment permits (cross sector)
Ministry of Agriculture	++	+	+++	+	+	+
Ministry of Agrarian and Spatial Planning	++	+	+	+++	+	+
Indonesian Investment Coordinating Board (BKPM)	++	+++	+	+	+	+++
Coordinating Ministry of Economic Affairs	++	+	++	+	+	+
Ministry of Forestry and Environment	+	++	+	+	+++	+

Stakeholder	Investment Policy	Permits- Central Government	Agricultural Sector Policy	Land policy and permits	Policy/ Enviroment Permits	Regional investment permits (cross sector)
Ministry of Trade	++	+	+	+	+	+
Ministry of Industry (Directorate General of Agro Industry)	++	+	+	+	+	+
Companies	-	-	+	+	+	+
Business associations	+	+	+	+	+	+
Governor	+	+	++	++	++	+++
District Head (Bupati)	+	+	++	++	++	+++
Coordinating Investment Board (One Stop Service) at province/district level	+	++	+	+	+	+++
Provincial/district Department of Agriculture	+	+	+	+	+	+
Provincial Environmental Agency (BLH provinsi)	+	+	+	+	+	+
District Environmental Agency (BLH Kabupaten)	+	+	+	+	+	+
Provincial/district Office National Agraria (*Kanwil* BPN province and district)	+	+	+	+	+	+
International organizations in agriculture	+	+	+	+	+	+
Civil Society Organizations	+	+	+	+	+	+
Sub-district head	+	+	+	+	+	+
Village-head	-	-	+	+	+	+
Labor	-	-	-	-	-	-
Farmers	-	-	+	+	+	+
Indigenous people	-	-	-	+	-	+

Note:

+++ Power to make final decision

++ Power to influence decision making process

+ Provide advice/recommendation/feedback for decision making

As the above table indicates every stakeholder has a role in the FDI process but their influence varies in terms of decision making and licensing. The central government sets national policy and has a role to play in investments that cut across provinces. Non-state actors such as business associations, CSOs, workers and farmers/growers can only provide advice or recommendations for decision makers, especially with regard licensing. Indigenous people must be consulted if their lands are included in investment schemes. Investors must also obtain a written agreement from local farmers as part of their application for an IUP. Business associations can influence policy by providing policy recommendations. Companies and lower-level government officials, peoples groups are stakeholders with the lowest amout of power. The company is able to compensate for the lack of power, however, with the strength of capital, while farmers or communities have almost no bargaining power at all.

At the central government level there are 4 principal institutions that determine FDI in the agriculture sector:

1. BKPM's main tasks include the coordination of investment policies and services, study and propose investment planning nationwide, coordinates the implementation of national investment policies and makes policy proposals on investment services.
2. The Agriculture Ministry is responsible for determining the direction of national agricultural policy, within the framework of national development as outlined in the Long Term Development Plan (RPJP) and medium term (RPJMN). It also makes the regulaations for agricultural business activities.
3. The Agrarian Affairs and Spatial Planning / Head of National Land Agency (BPN) Ministry authority covers land issues and the granting of land use permits, HGU which is required by any individual or business entity that plans to conduct agricultural business on land owned by the state. As this suggests, the Ministry plays an important role in FDI decision because companies cannot open a large estate without the proper land use permits.
4. The Ministry of Environment and Forests (KLHK) is responsible for monitoring the environment impact of the plantations, whether it is an AMDAL, UKL or UPL.

Investment decisions are made in government coordination meetings under the Coordinating Minister for the Economy. In addtion to the above 4 key institutions, the Trade Ministry and Industry Ministry also take part in these meetings.

The Agriculture Ministry is responsible for preparing a list of commodities that are open for investment, while the Agrarian Affairs Ministry can provide recommendations on the location of land a the most suitable type of investment. The BKPM provides input based on consultations with investors. The Coordinating Ministry for Economic Affairs monitors the DNI list that can change from time to time. The reference price and export/ import duties are specified by the Commerce Ministry and may influence investment policy. Finally, the Industry Ministry can specify the types of agro-industry that are suitable in each region.

At the provincial and district level, governors and district heads have a role in granting licenses such as the IUP and other permits. The regional BKPM offices verify whether the investor has followed the existing regulations. The provincial or district BPN Regional Office is responsible for designating the extent of the concession, which must be approved by the Ministry of ATR /Head of BPN. Meanwhile the the provincial and district environmental agences issue permits for the investment in coordination with the MoEF and with the district head or governor. Governors or district heads can also affect agriculture and environment policy in accordance with the principle of decentralization, for example, in providing input on the spatial plan or strategic commodities for the region.

Although the stakeholders in the region do not have a significant role in terms of policy-making, they have a very big role the license permitting process such as the permit to obtain land, the HGU and the IUP. Without these permits the company cannot operate.

In fact, the overlap between these permits is often a problem in practice, because there are cases where the central government has not issued a final decision, but the license has been issued as a result of bribes given by the company to various levels of government (central and local) to speed up the licensing process. There are cases of companies operating without all the permits[18], or have violated procedures by not consulting with local communities to acquire land as stipulated in government regulations[19].

4.3 Social and Environmental Responsibility Policy

Law 25/2007 requires every investor, foreign and domestic, to take into account the social impacts of their operations (Article 15) and to protect the environment (Article 16). Failure to comply with these requirements may result in administrative sanctions in the form of: a written warning, business restrictions, and suspension of business and/or investment facility or revocation of business license and/or investment facility. Other sanctions may also be applied in accordance with the applicable law (Article 34). Social and environmental responsibilities are also stressed in

18 http://www2.jawapos.com/baca/artikel/16374/permainan-izin-usaha-perkebunan-kelapa-sawit-picu-praktik-korupsi

19 See Rasad and Febismanto's report (2014) of National Commission of Human Rights regarding corruption and human rights issues in palm oil, a case study of PT Bulungan Hijau Perkasa in http://www.komnasham.go.id/.

Law 40/2007 concerning Limited Liability Companies, which states that the company should conduct socially and environmentally responsible activities as part of supporting sustainable development.

Following Law 40/2007, the government of Indonesia issued **Government Regulation 47/2012** on Social and Environmental Responsibility for Limited Liability Companies. This regulation states that companies operating in the field of and/or related to natural resources are obligated to conduct social and environmentally responsible activities and they must be included in the annual budget plan. Also, these activities must be published in the annual report and reported at the General Meeting of Shareholders.

In the years prior to the above laws and regulations, corporate social responsibility (CSR) was viewed as a voluntary program. In a company survey by Suprapto (2005) in the Jakarta area found that 44% of companies did not have any CSR activities. More than half had implemented CSR in the form of family events, donations to religious institutions/charity and community development. In the aftermath of environmental disasters and social conflicts, such as Lapindo in Porong, East Java and Freeport in Papua, the government made CSR mandatory for companies.

Some still consider CSR as a financial burden for company amid the increasing corporate tax (Apriatni, 2011) or even as a barrier to the investment climate in Indonesia (Sukami, 2010). However, with the enactment of Law 25 and Law 40/2007, the awareness of CSR standards and principles among companies has been increasing and Indonesia is ahead of many countries in making non-financial reporting compulsory (OECD, 2012).

In recent years, along with the increased awareness at the global level about sustainability in the agricultural sector, many of the palm oil producers and manufacturers have voluntarily subscribed to the Roundtable on Sustainable Palm Oil (RSPO). RSPO is a not-for-profit, established in 2004, that consists of stakeholders from the 7 sectors of the palm oil industry: oil palm producers, processors or traders, consumer goods manufacturers, retailers, banks/investors, and environmental and social non-governmental organizations (NGOs), to develop and implement global standards for sustainable palm oil[20] which are expected to minimize the negative impacts of palm oil cultivation on the environment and on the communities. In order to be recognized as Certified Sustainable Palm Oil (CSPO), companies must comply with a set of environmental and social criteria.

In Indonesia, the Ministry of Agriculture established the Indonesian Sustainable Palm Oil (ISPO), an indentical 'national version' of RSPO in 2011 in order to improve the competitiveness of the Indonesian palm oil in the global market. In addition, the ISPO contributes to President Jokowi's objective of reducing greenhouse gas emissions[21]. The legal basis for the ISPO is a Circulation Letter of the Directorate General of Plantations in (***Surat Edaran* No. 092/TU.200/E-ISPO/9/2012**), followed by a Minister of Agriculture Decree in 2015 regarding the Certification System of Sustainable Indonesian Palm Oil (***Peraturan Menteri Pertanian Nomor 11/2015 Tentang Sistem Sertifikasi Kelapa Sawit Berkelanjutan* Indonesia**).

Although the RSPO is voluntary the palm oil industry must adhere to its requirements if it is gain entry to the European market. In contrast, the ISPO is mandatory for the palm oil industry in Indonesia. The similarities and difference in principles and criteria are summarized in an RSPO publication[22]. One of the main differences is in the consultation process with local/indigenous communities or FPIC (*Free Prior and Informed Consent*). FPIC is mandatory for RSPO, but not for ISPO, because ISPO is based on national law and regulations such as the Agrarian Basic Law 5/1960 and the supporting regulations related to indigenous rights and customary law (e.g. Ministry of Agrarian and Spatial Planning/Head of BPN Regulation No. 5/1999). FPIC was adopted from the United Nations Declaration on the Rights of Indigenous People (UNDRIP) in 2007.

In addition, to encourage compliance by corporations and industry to a set of environmental criteria and standards, the Ministry of Environment and Forestry also has its own annual assessment to rate corporate compliance and publishes the results annually known as **PROPER** (*Program Penilaian Peringkat Kinerja Perusahaan* –or Assessment Program to Rate Companies Performance). A number of financial institutions such as banks have used the rating (Gold being the best category and black being noncompliance). PROPER can be seen as an incentive/disincentive instrument for corporations that will affect their reputations while promoting cleaner production.

20 http://www.rspo.org/about

21 http://ispo-org.or.id/index.php?lang=en

22 http://www.rspo.org/publications/download/255c19b8ae32d03

Chapter 5
Conclusions and Recommendations

5.1 Conclusions

1. For agricultural sector, foreign business entities are more interested to invest in large scale plantation sub-sector, high value and export oriented crops, plausibly due to economic scale of profits they incur. For instance, FDI in palm oil plantation alone accounts for 90% of total FDI in agriculture. Meanwhile, the production for food crops are still very low and much less attractive to foreign investors. This leads to food importation to meet the domestic food demand. The effectiveness of the shift of current government's macro agriculture policy to have more focus on meeting domestic demands have yet to be seen.
2. The palm oil plantation sub-sector is the largest recipient of FDI in the last decade and has contributed more than 85% of the FDI in the agricultural sector since 2008. This was driven by a skyrocketing global demand which has nearly doubled in the last two decades, soil and climate suitability, and fiscal incentives such as tax relief. In 2014 alone, the global consumption of oil palm reached 200 million metric tons which bodes well for attracting future FDI to Indonesia.
3. Law 25/2007 on foreign investment is the key policy that encourages and incentivizes foreign investments in the all sectors. This law and its predecessor, Law 1/1967 have changed the foreign investment climate in Indonesia because it offers a number of incentives for foreign investments such as tariff cuts and tax incentives. The key regulation for plantation sub-sector is Peraturan Meteri Pertanian No.98/2013 regarding plantation permits process. In contrast, the other key policy that has functioned as a 'brake' on foreign investments is the Negative Investment List (DNI), a Presidential Regulation issued and reviewed periodically by BKPM.
4. The Ministry of Agriculture sets policy on FDI in the agricultural sector. Other core institutions are BKPM, Ministry of Agrarian and Spatial Policy/National Land Agency (BPN), and local governments. The national BKPM's role as the central coordinator to attract foreign investment is not optimal because the BKPM's One Stop Service only issues the principle license and has no authority over all the other permits that a company needs to operate. There are still dozens of other permits that must be obtained by the company at the provincial and district levels.
5. Indonesia's decentralized system of government heavily influences the granting of other operating permits and licenses for investors such as location license, or IUP in addition to other environment permits. In instances where the FDI crosses provincial or district boundaries, governors and district heads need to have authorities devolved from the central government. A permit from the national BKPM has little meaning if the local governments do not allow the investment to take place in their administrative jurisdictions.
6. Although Indonesia's formal legal arrangement for FDI is often complicated, the social dimension of the permitting process must also be taken seriously. Indonesia is a heterogeneous society with a range of customs and traditions, population density and income levels. Failure to properly approach, consult and seeking consent from local community, as described in the FPIC (Free, Prior and Informed Consent) Principles, - often cause social conflicts and human rights abuses in the field.
7. The plasma-nucleus business model, which is an obligation for foreign companies in the agricultural sector based on the DNI and Agriculture Minister Regulation 98/2013 is causing problems in the field. This model is intended to protect the smallholders around the company site, but in reality, companies frequently do not adhere to the regulations. For example, in West Sumbawa and Bulungan, contracts with local farmers were not respected and companies met the requirements for the plasma-nucleus 'ratio', by manipulating land data and social conflicts.

8. Indonesia's land database needs to be synchronized amongst the national and sub-national institutions. Land conflicts are occurring in part because the BKPM, BPN, and Ministry of Agriculture and local government institutions do not have the same information about the condition of the land such as the elevation, slope, acidity and fertility. There is also a need to have more transparency on *adat* lands or community owned lands.
9. The lack of commitment by investors to comply with environmental regulations is exacerbated by local governments' inability to enforce regulations due to a lack of resources to monitor, or if necessary, take companies to court for violating the law. In addition, corruption aside, national government institutions and law enforcement agencies are perceived as having insufficient power to force companies to comply with the regulations.
10. The government does not have a specific strategy to address issues related to the plasma-nucleus business model. When conflicts occur, the government tends to take a hands-off approach. In the end, however, the government tends to decide in favor of companies that are politically and financially more powerful than the plasma farmers.

5.2 Recommendations

1. The government needs to accelerate and clarify the 'one map policy' and update the land database periodically to provide transparent information about land availability for investors and community members alike. The Basic Agrarian Law 5 /1960 and its implementing regulations such as the Ministry of Agrarian and Spatial Planning Regulation 17/2015, which have not been optimally implemented contribute to poor investor confidence and conflicts in the field. The map should include geographical and technical information (e.g. slope, contour, acidity and fertility of land), as well as social information such as the presence of indigenous people, transmigrants, and population density.
2. The government needs to establish a tripartite or multi-stakeholder body at the local level that consists of government, corporate and citizens' representatives and/or farmers. This body should facilitate the resolution of issues that arise from company operations such as employment, breach of contract and environmental problems. In addition, the body should have the mandate to ensure compliance on the part of companies and recommend legal measures when necessary. At a minimum the institutions should include BKPM, the governor/mayor/head of district as well as other agencies related to licensing and permits for investors.
3. Strengthen the role of national BKPM beyond merely issuing the principal license, to oversee and advise on legal measures should there be a breach of contract or wrongdoing by investors. A specific division in BKPM should be dedicated to these functions. At the local level, the BKPMD should be under line management of the national BKPM, and not under the governor or district head. This would allow it to act as a facilitator and monitor investor practices in the field.
4. Synchronization of various laws and regulations in agricultural sector -- for food security and food sovereignty as contained in Food Law 18/ 2012. The government is on the right track by stipulating that the agriculture strategy must be reoriented to focus on agricultural production, hence channelling investment away from high value and export oriented crops to domestic food security and the food processing industry. However, many of the regions are still plagued by poor infrastructure and an inability to produce at an economic scale because of scattered production centres.
5. The government needs to update Law 25/2007 on foreign investment as well as its implementing regulations and local level regulations. It needs to incorporate responsible investment principles in terms of human rights, social and environmental practices that are internationally recognised. For instance, the UN Principles for Business and Human Rights that has been endorsed by the UN in 2011, four years after Law 25/2007 was enacted, has many relevant principles that can be incorporated into the law and other national and local policies. The FPIC Principles pertaining to consultation to local community prior to investment activities should also be incorporated in the law.

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Appendix A
List of interview guidelines

Investment Coordinating Board (BKPM) – Central & Regional

1. What policies should be considered by foreign investors when looking to invest in Indonesia?
2. How big is the interest of foreign investors to invest in the agricultural sector?
3. In the agricultural sector, what kind of commodities being promoted by BKPM to foreign investors?
4. How the conflicts that occur, such as land ownership, can affect the increase in foreign investment in the agriculture sector in Indonesia?
5. How does the business model (plasma nucleus, subcontract etc.) in the agricultural sector specified / agreed between the foreign investor with smallholders, especially the farmers?

Ministry of Agriculture / Provincial-Regional Agriculture Office / International NGOs/ Local CSOs

1. How does the current government policy could encourage the agricultural sector development?
2. From the stakeholder side, which one hold the most important role in agricultural development in Indonesia?
3. Does businesses (local and foreign) in the agricultural sector have a positive impact, such as increased food security, agricultural productivity or technology in Indonesia?
4. How can the conflicts that occur, such as land ownership could affect the development of agriculture sector in Indonesia?
5. So far, is the business models in the agricultural sector Indonesia has been effective in improving the welfare of smallholders, such as farmers?

Ministry of Environment / Provincial – Regional Environment Office

1. How does the current environmental policy could impact investment in agriculture sector?
2. For foreign investment, how is the Environment Impact Assessment (AMDAL) process work in general?
3. For foreign investment in the agricultural sector, how is the Environment Impact Assessment (AMDAL) process work in general?
4. How serious is the violation of AMDAL that occurred in your area? Can you give case example?
5. How often does the AMDAL violation happen, particularly by foreign investors in the agricultural sector, in your area?
6. What kind of punishment usually been given for the violation of AMDAL?

Farmers/workers

1. In your own view, how do you describe the relationship between investor and farmers/workers? Any different before?
2. What kind of business agreement (business model etc.) which currently exist between investor and farmers/workers? What was the process in reaching that agreement?
3. What kind of benefits does the investors provide to its farmers/workers and local community?
4. What kind of support does the local government currently give to local farmers/workers? Any different before?
5. Any particular issues/problems that were or still exist between investor and farmers/workers? What usually are the roles of local government in addressing those issues?

Company

1. How do you see the current investment climate in Indonesia? Any differences compare to the previous governments?
2. Are there any certain obstacles to invest in Indonesia? Any particular policies can be categorized as obstacles?
3. What do you think about the prospect of investing in Indonesia's agriculture sector? Which commodities are most prospectus?
4. What do you think about issues, such as land ownership, particularly in agriculture sector? How does those issues can significantly affect investment in agriculture sector?
5. In case of your company, how does the business model usually being specified/determined? Which parties are usually involved? Does the business model generally benefit both company and smallholders, such as farmers?

Appendix B
List of Interviewees

No	Name	Occupation	Interview Date
1	Ageng Herianto	Assistant FAO Representative, FAO	March 31, 2016
2	Agung Pambudhi	Executive Director, APINDO	April 28, 2016
3	Anissa Lucky Pratiwi	Country Presence Fasilitator, IFAD	March 23, 2016
4	Dedi Junadi	Nat'l Programme Officer - Vulnerability, Analysis & Mapping (VAM) - WFP	March 30, 2016
5	Iwan Nurdin	Secretary General, Konsorsium Pembaruan Agraria	April 1, 2016
6	Lukas Rumboko	Team Leader, Social Economic Forest Policy and Climate Change Center, Ministry of Environment & Forestry	April 16, 2016
7	Triyono	Member of Social Economic Forest Policy and Climate Change Center, Ministry of Environment & Forestry	April 16, 2016
8	Syukur Iwantoro	Expert Staff to the Minister of Agriculture in Agriculture Investment, Ministry of Agriculture	August 2, 2016
9	Tamba Hutapea	Deputy Head, Investment Planning Affairs, BKPM	April 14, 2016
10	Tulus Tambunan	Professor, Economic Faculty, Trisakti University	April 11, 2016
11	Fadhil Hasan	Executive Director, Gabungan Pengusaha Kelapa Sawit Indonesia (GAPKI)	May 13, 2016
12	Mesdin Kornelis Simarmata	Director, Trade, Investment & International Cooperation Directorate - BAPPENAS	June 14, 2016
13	Jarot Indarto (Senior Staff) & Noor Avianto (Staf)	Food & Agriculture Directorate - BAPPENAS	June 22, 2016
14	Hari Wibawa	Sub-section Head, SME & Agribusiness, BAPPEDA South Sumatera Province	April 20, 2016
15	Aksoni	Head of Economic Division, BAPPEDA South Sumatera Province	April 20, 2016
16	H. Hariyanto	Department Head, One Stop Service Department, BP3MD South Sumatera Province	April 19, 2016
17	Roslina Saleh	Sub-section Head, Plantation Business Institution, Provincial Plantation Office, South Sumatera Province	April 18, 2016
18	H. Adenan Zachri	Sub-section Head, Investment Facility Services, BP3MD South Sumatera Province	April 19, 2016
19	M Husin	Head of Office, Regional Forestry & Plantation Office, East Ogan Komering Ulu Regency	April 20, 2016
20	Sonfiani, SE	Head of Office, Regional BKPM Office, East Ogan Komering Ulu Regency	April 19, 2016
21	Dede Sineba	WALHI, South Sumatera	April 19, 2016
22	Hadenli Ugihan , M.Si,	Sub-section Head, Environmental Impact Assessment, Provincial Environmental Office, South Sumatera Province	June 29, 2016
23	Muhammad Ali Amin, M.Si	Sub-section Head, Conflict Management, National & Political Unity Agency, South Sumatera Province	June 28, 2016
24	Annas	Farmer, East Ogan Komering Ulu regency, South Sumatera Province	June 29, 2016
25	Marjani	Village Head, Cempaka Villange, East Ogan Komering Ulu Regency, South Sumatera Province	June 29, 2016
26	Mahmud	Farmer, East Ogan Komering Ulu regency, South Sumatera Province	June 29, 2016

No	Name	Occupation	Interview Date
27	Suharto, SE	Section Head, Government Administration of SS III District, East Ogan Komering Ulu regency, South Sumatera Province	June 30, 2016
28	Adi Irwansyah	Head of Regional BKPM, Bulungan Regency, North Kalimantan Province	May 2, 2016
29	Adi Satijono	Village Head, Tanjung Agung Village, Bulungan Regency, North Kalimantan Province	May 4, 2016
30	Fredrick Gugkang	Head of Provincial BAPPEDA & Head of Provincial Agriculture Office (ad interim), North Kalimantan Province	May 2, 2016
31	Heriyanto Siang	Village Head, Metun Sajau Village, Bulungan Regency, North Kalimantan Province	May 4, 2016
32	Ahel	Department Head, Development Dept., Provincial BKPM, North Kalimantan Province	May 3, 2016
33	Robin Ikin	Head of the co-operative, PT Prima Bahagia Permai, Tanah Kuning Village, Bulungan Regency, North Kalimantan	May 4, 2016
34	Sugeng Supriyanto & Tri Waluyo	Menara Desa Foundation (NGO), Bulungan Regency, North Kalimantan	May 3, 2016
35	Yafet Lenin	Sub-section Head, Environmental Impact Assessment, Provincial Environmental Office, North Kalimantan	May 5, 2016
36	H. Amry Rakhman	Head of Regional BAPPEDA, West Sumbawa Regency, West Nusa Tenggara Province	May 17, 2016
37	Erna Saptarini	General Manager, PT Guangken Dongfang Sisal Indonesia, West Sumbawa Regency, West Nusa Tenggara Province	May 17, 2016
38	Lalu Bayu Windiya	Agency Head, National & Political Unity Agency, West Nusa Tenggara Province	May 18, 2016
39	Farhan	Department Head, Licensing Dept., Regional BKPM Office, West Sumbawa Regency, West Nusa Tenggara Province	May 16, 2016
40	Ir. Budi Subagio, MM	Head of Office, Provincial Agriculture Office, West Nusa Tenggara Province	May 21, 2016
41	Mustofa	Head of Office, Regional Agriculture Office, West Sumbawa Regency	May 16, 2016
42	Sirajuddin	District Head, Sekongkang District, West Sumbawa Regency	June 27, 2016
43	Lalu Nawawi	Village Head, Tatar Village, West Sumbawa Regency	June 28, 2016
44	Lalu Sukamta	Farmer, Tatar Village, Sekongkang District, West Sumbawa Regency	June 28, 2016
45	Lalu M. Bakri Kahar	Farmer, Tatar Village, Sekongkang District, West Sumbawa Regency	June 28, 2016
46	Mastur	Farmer, Tatar Village, Sekongkang District, West Sumbawa Regency	June 28, 2016
47	Taqiuddin	Director, KONSEPSI (NGO), West Nusa Tenggara Province	May 20, 2016
48	Heru Haeruddin	Team Leader, Nusra Empowering Forum (NGO), West Sumbawa Regency	May 17, 2016

Appendix C
FDI Licenses / Permits Issuing Authority

Category	Permit/License	Investment Type	Authority
Business Establishment & Registration	Registration of Investment	FDI	One Stop Service (PTSP) BKPM
	Tax ID number (NPWP)	FDI / Domestic	Regional Tax Office
	Deed of Establishment of Company (PT)	FDI	Notarial Deed (Ministry of Justice and Human Rights)
	Ratification of business legal entity	FDI / Domestic	Legalization of Legal Entity
Facility Obtained	Investment Principles License	FDI / Domestic	One Stop Service (PTSP) BKPM
	Manufacturer-Importer Identification Number (API-P / APIU)	FDI / Domestic	One Stop Service (PTSP) BKPM
Employment of Foreign Workers	Foreign Worker Utilization Plan (RPTKA)	FDI / Domestic	Ministry of Manpower and Transmigration.
	Work Visa Recommendations(TA01)	FDI / Domestic	Ministry of Manpower and Transmigration.
	Foreign Workers Recruitment Permit (IMTA)	FDI / Domestic	Ministry of Manpower and Transmigration.
Land and Building Permits (Construction)	City Layout and Plan - *required in some area*	FDI / Domestic	Appointed authority at regional government
	Designated Land Use Permit (SIPPT)	FDI / Domestic	Regional government (permit name varies between regions)
	Building Permit	FDI / Domestic	Appointed authority at regional government or One Stop Service (PTSP) at Regional BKPM
Environmental permit	Disturbance Permit	FDI / Domestic	Appointed authority at regional government or One Stop Service (PTSP) at Regional BKPM
	Environmental Impact Assessment (EIA) Recommendations	FDI / Domestic	Appointed authority at regional government or One Stop Service (PTSP) at Regional BKPM
	Ground Water Utilization Permit	FDI / Domestic	Appointed authority at regional government
Line of Business (General)	Business permit	FDI	One Stop Service (PTSP) at Regional BKPM
	Corporate Domicile Certificate	FDI / Domestic	One Stop Service (PTSP) at Regional BKPM
	Certificate of Company Registration	FDI / Domestic	Appointed authority at regional government or One Stop Service (PTSP) at Regional BKPM

Source: BKPM, 2016

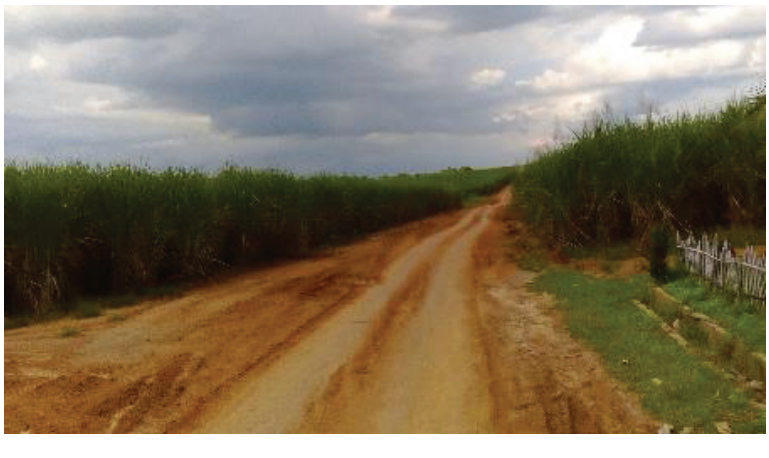
Appendix D
Field Documentation

1. Ogan Komering Ulu Timur Regency, South Sumatera

Picture 1. Establish of Research Location-PT Laju perdana Indah

Picture 2. Entrance Gate of PT Laju Perdana Indah

Picture 3. Environment of Sugarcane Plantation-PT Laju Perdana Indah



2. Bulungan Regency, North Kalimantan

Picture 4. Pile of Harvested Palm Oil

Picture 5. Anouncement of Land and Forest Burning Prohibition

Picture 6. Transportation of Palm Oil Yields

3. West Sumbawa Regency, NTB

Picture 7. Environment of Sisal Plantation-PT Pulau Sumbawa Agro

Picture 8. Machine for Processing Sisal

Picture 9. Drying of Processed Sisal

Supported by:

Perkumpulan Prakarsa
Jln. Rawa Bambu I Blok A No. 8E RT 010 RW 06 Kel/Kec. Pasar Minggu
Jakarta Selatan 12520 - Indonesia

Ph. +62 (21)7811-798 Fax. +62 (21)7811-897
E-mail to: perkumpulan@theprakarsa.org