

# PRESIDENTIAL INSTRUCTION ON PALM OIL MORATORIUM:

# WHAT IS UNDER THE MORATORIUM?

Jakarta, October 9, 2018 — Jikalahari and TuK INDONESIA considered the Presidential Instruction No. 8 of 2018 on Moratorium and Evaluation of Licensing for Oil Palm Plantations and The Improvement of Productivity of Oil Palm Plantations, published on September 19, 2018, is not strictly regulating law enforcement, is retroactive, and that its scope should be expanded to wider relevant authorities.

## IN COLLABORATION WITH



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Oil palm plantations concessions are burning in Riau.  
Source: Jikalahari



## IS LAW ENFORCEMENT ALSO UNDER MORATORIUM?

President Jokowi specifically gave instructions to the Coordinating Minister for Economy and the Minister of Environment and Forestry to take measures on legal procedures and/or demands for compensation for the use of forest areas for oil palm plantations, based on data verification and evaluation of forest release or forest swap for oil palm plantations.

*“Is there a time-bound process for data verification and data evaluation? In the Presidential Instruction, it is not stated how many days, months or years data verification and evaluation shall be completed. The Coordinating Minister was assigned to form a Task Force and report to President every six months, but when will he form the Task Force”, asked Made Ali, Coordinator of Jikalahari.*

*“If data verification and evaluation are underway, or when the Task Force is on the process of conducting data verification and evaluation while at the same time it was proven that corporations and the middlemen are doing their business in the forest without permits from the Minister, can law enforcement still be done? Or is it also under moratorium and postponed until data verification and evaluation is finalized?” urged Made Ali.*

As a matter of fact, The People’s Representative Council (DPRD) of Riau<sup>1</sup> in 2015 found more than 2 million ha of oil palm plantation operating without permit, specifically the forest release permit from the Minister of Forestry. Only 132

out of 513 oil palm plantation companies owned forest release permit (25.89%). The remaining 378 companies or 74.12% did not. If this figure is referred to a statement from the previous Forestry Minister, Zulkifli Hasan, this means there were 2,494,484 hectares of oil palm plantations illegally operating in the forest.

513 corporations sold FFB to Wilmar group, Surya Dumai (First Resources), Salim, Darmex Agro, Gandaerah, Sinarmas, Golden Asian Agri, Panca Eka, Musim Mas, Jardine Matheson, Astra, as well as to Malaysian companies: KLK and Batu Kawan, Sime Darby. In Riau, a Malaysian company controls about 136,535 ha of land affiliated with Sime Darby-Minamas group, Kuala Lumpur Kepong and Batu Kawan, Anglo Eastern and Wilmar<sup>2</sup>.

A Special Committee formed by DPRD Riau found that 1.8 million ha of forest having been converted into oil palm plantation but without permit had caused the State loss of IDR 34 trillion per year. *“This corporations clearly commits criminal acts on forestry, plantation and taxation, what more is needed for verification and evaluation?”* demanded Made Ali.

## ***Is the evaluation retroactive?***

For Riau, Zulkifli Hasan, Minister of Forestry of 2009-2014 issued Decree Number 673/Menhut-II/2014 on August 8, 2014 regarding the changes in the allocation of forest, covering an area of 1,638,249 ha, two months before his term ended.

Special Committee of Monitoring and Evaluation of Permits formed by DPRD Riau found that this decree or “SK 673” has legally converted forest areas into non-forest areas in favor of 104 oil palm corporations, covering the area of 77,000 ha which was previously illegal. After the issuance of this decree, these corporations become legal because their functions have changed to Other Utilization Land (APL).

Eyes on the Forest (EoF) found 55 of these 104 companies were affiliated with Wilmar, Panca Eka, Sarimas, Peputra Masterindo, First Resources, Panca Eka, Indofood, Bumitama Gunajaya

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***Annas Maamun was caught red handed by the Corruption Eradication Committee (KPK) in Jakarta for receiving bribes.***  
***Source: news.okezone.com***

***“ Will the Minister of Environment and Forestry get what it takes to revert the permit back to forest area? The Presidential Instruction on Moratorium can be interpreted as Retroactive, which means it also includes the conversion of forest areas done by the previous administration. Will President Jokowi take the stance to go against Zulkifli Hasan, Susilo Bambang Yudhoyono and the palm oil corporations? ”***

Agro groups, Aek Natio, Adi Mulya, Provident Agro, Darmex, and Borneo Pacific to PTPN. These 55 corporations’ areas were located in forest areas with functions of production forest (HP), limited production forest (HPT) and protected forest (HL) covering an area of 19,308 ha, most of which have been planted with oil palm trees for more than 10 years.

“SK 673” which was published as a birthday present for Riau Province on August 9, 2016 was handed over directly by Zulkifli Hasan to Annas Maamun, Governor of Riau at the time. During the speech, Zulkifli Hasan stated, a revision of this Decree can be made possible for communal land, which has not been accommodated by the Decree, and that the revision shall be submitted through Riau Provincial Government. However, this window of opportunity was immediately made use by Darmex Agro’s Gulat Manurung and Edison Marudut by bribing Annas Maamun to write-off their palm oil plantations, which was previously located in the forest area.

On September 25, 2014 Annas Maamun was caught red handed by the Corruption Eradication Committee (KPK) in Jakarta for receiving bribes amounted to IDR 500 million and US\$156,000 for the conversion of forest area to non-forest area on Riau’s Spatial Planning. This bribe came from Gulat Manurung, the Chairman of the Indonesian Palm Oil Growers Association





**Will Siti Nurbaya Bakar, the Minister of Environment and Forestry do what it takes to revert the permit back to forest area?**




(Apkasindo) Riau, who is also an academician at the University of Riau - and Edison Marudut Marsadauli Siahaan, the President Director of PT Citra Hokiana Triutama and Deputy Treasurer of Riau’s Regional Representative Council (DPD) from Democratic Party. Annas also received a bribe of IDR 3 billion from Surya Darmadi, the owner of Darmex/Duta Palma Grup group. Under the term of Minister Zulkifli Hasan, forest conversion for oil palm plantation reached the number of 2.2 million hectares.

“Will the Minister of Environment and Forestry do what it takes to revert the permit back to forest area? The Presidential Instruction on Moratorium can be interpreted as retroactive, which means it also includes the conversion of forest areas done by the previous administration. Will President Jokowi take the stance to go against Zulkifli Hasan, Susilo Bambang Yudhoyono and the palm oil corporations?” Pleaded Made Ali.

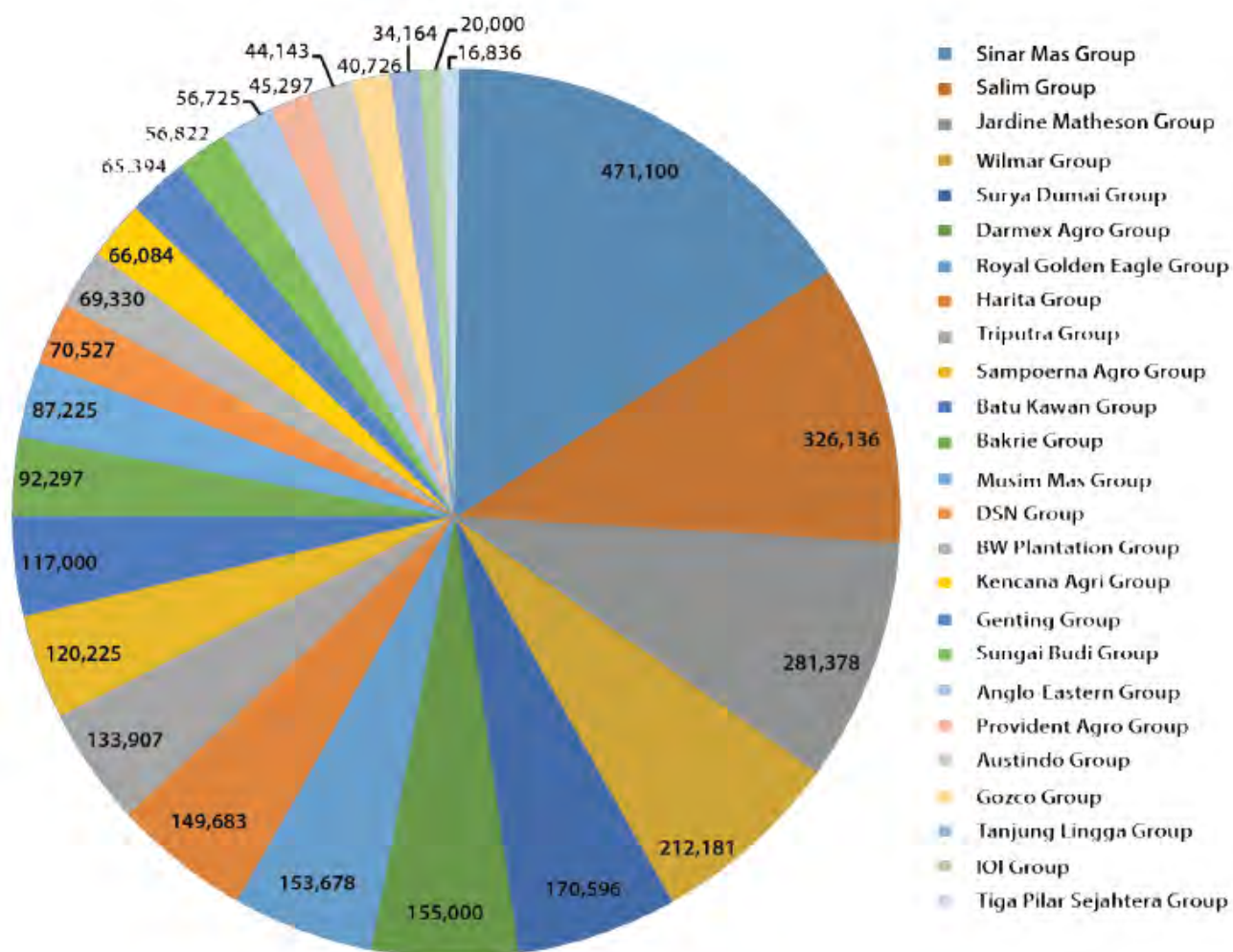
**Moratorium on Oil Palm Plantation Expansion Financing**

The Presidential Instruction has not targeted financial service institutions, especially banks, in the form of moratorium on financing facilities, such as provision of loans and underwritings of shares and bond emission for corporations to expand its oil palm plantations. “The moratorium on financing for oil palm expansion shall apply for national and international financing institutions,” said Rahmawati Retno Winarni, Executive Director of TuK INDONESIA. TuK INDONESIA’s tycoon research found that 25 of 29 palm oil group companies - 4 of them state-owned enterprises - are controlled by 29 tycoons, who owned at least 5.1 million hectares of oil palm land bank.

**Tycoons controlling the 25 oil palm groups**

			
1	Anglo-Eastern Group	Lim Siew Kim	Malaysia
2	Austindo Group	George Santosa Tahija	Indonesia
3	Bakrie Group	Aburizal Bakrie	Indonesia
4	Batu Kawan Group	Lee Oi Hian & Lee Hau Hian	Malaysia
5	BW Plantation Group	Budiono Widodo	Indonesia
6	Darmex Agro Group	Surya Darmadi	Indonesia
7	DSN Group	Theodore Rachmat & Benny Subianto	Indonesia
8	Genting Group	Lim Kok Thay	Malaysia
9	Gozoo Group	Tjandra Mindharta Gosali	Indonesia
10	Harita Group	Lim Hariyanto Wijaya Sarwono	Indonesia
11	IOI Group	Lee Shin Cheng	Malaysia
12	Jardine Matheson Group	Henry Keswiok	Scotland
13	Kencana Agri Group	Henry Maknawi	Indonesia
14	Musim Mas Group	Bachtiar Karim	Indonesia
15	Provident Agro Group	Edwin Soeryadjaya & Sandiaga Uno	Indonesia
16	Raja Garuda Mas Group	Sukanto Tanoto	Indonesia
17	Salim Group	Anthoni Salim	Indonesia
18	Sampoerna Group	Putera Sampoerna	Indonesia
19	Sinar Mas Group	Eka Tjipta Widjaja	Indonesia
20	Surya Dumai Group	Martias & Ciliandra Fangiono	Indonesia
21	Sungai Budi Group	Widarto & Santoso Winata	Indonesia
22	Tanjung Lingga Group	Abdul Rasyid	Indonesia
23	Tiga Pilar Sejahtera Group	Priyo Hadi Sutanto, Stefanus Joko Moga-ginta & Budhi Istanto	Indonesia
24	Triputra Group	Theodore Rachmat & Benny Subianto	Indonesia
25	Wilmar Group	Robert & Khoon Hong Kuok, Martua Sitorus	Malaysia & Indonesia

## Oil palm areas planted by the 25 groups, end of 2013 (ha)



These tycoon controlled corporations are Bakrie Group (Abu Rizal Bakri), Darmex Agro Group (Surya Darmadi), Harita Group (Lim Haryanyo Wijaya Sarwono), Jardine Matheson (Henry Keswick, Scotland), Musim Mas (Bachtiar Karim), Provident Agro (Edwin Soeryajaya and Sandiaga Uno), Raja Garuda Mas (Sukanto Tanoto). And in addition, the Sinar Mas group (Eka Tjipta Widjaya), Surya Dumai Group / First Resources (Martias and Ciliandra Fangiano), Wilmar Group (Rebert Kuok, Khoon Hong Kuok and Martua Sitorus), Anglo-Eastern (Lim Siew Kim, Malaysia), Austindo Group (George Santosa Tahija), Batu Kawan (Lee Oi Hian and Lee Hau Hian, Malaysia), BW Plantation (Budiono Widodo), DSN Group (Theodore Rachmat, Benny Subianto), Gozco Group (Tjandra Mindharta Gozali), IOI group (Lee Shin Cheng, Malaysia), Kencana group (Henry Maknawi), Sampoerna (Putera Sampoerna), Tanjung Lingga Group (Abdul Rasyid), Three Pilar Sejahtera (Priyo Hadi Sutanto, Stefanus Joko Mogoginta and Budhi Istanto), Triputra Grup (Theodore Rachmat and Benny Subianto).

Banks that provided loans to the tycoons were HSBC, OCBC, CIMB, Mitsubishi UFJ Financial Group, DBS, Sumitomo Group, Bank Mandiri, United Overseas Bank, Mizuho Financial Group, Commonwealth Bank Of Australia, Rabobank, BNI, BRI and Citi Bank. They came from Indonesia, America, Singapore, Malaysia, Japan, Australia, the Netherlands and France.

TuK INDONESIA and Profundo's reports in November 2017, entitled 'Maybank: Single Largest Financiers' revealed that in the period 2010-2016, Maybank provided approximately US \$ 3.9 billion in loans and underwriting for palm oil companies. It is equivalent to approximately 11% of all funding provided to selected palm oil companies. In fact, in 2016 alone, Maybank provided 60% of all loans and underwriting for selected palm oil companies.

In 2016, the total number of Maybank assets were US \$ 164 billion and it generated a profit of US \$ 1.6 billion. 69% of Maybank's revenue in 2016 was generated in Malaysia, 12% in Singapore and 11% in Indonesia. Maybank operations in Indonesia received



# Maybank

the largest net profit in 2016, with a year-on-year increase of 71%.

Through the provision of loans, bonds, underwritings, as well as investments in the form of bonds and shares; 20 banks from America, Singapore, Britain, China, Norway and Japan; Maybank is enabled to provide credit to palm oil sector. In addition to that, Maybank also finances Wilmar, Harita, Salim, Sinarmas, Sime Darby, KLK, Batu Kawa groups, and Jadine Mattheson who have subsidiaries in Riau.

TuK INDONESIA has noted, that unsustainable investments in other countries endanger the sustainability of Indonesia. It can be concluded that world

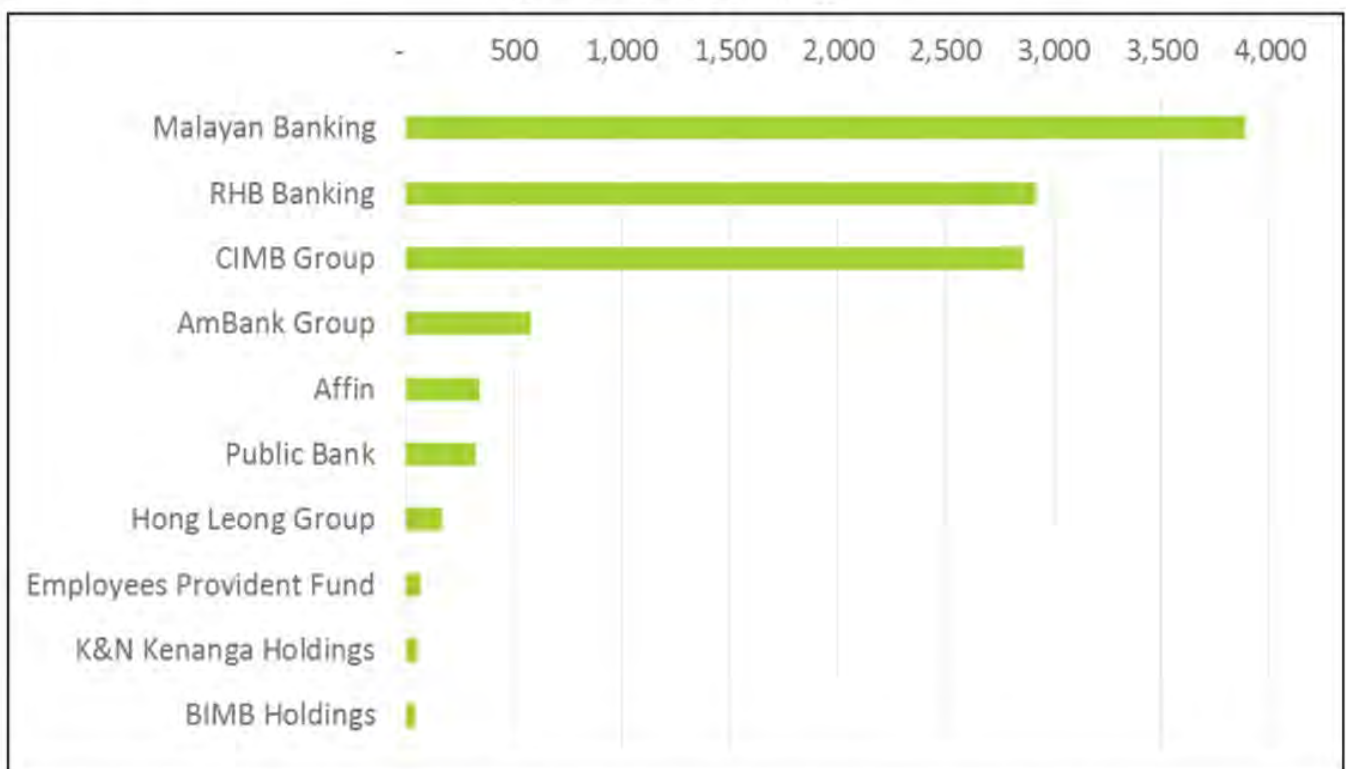
financial conditions continue to support non-sustainable conditions, by financing sectors that endanger and risk the forests, environment and people's welfare. This condition needs and must be changed immediately. Money can be seen as a bullet, it has destructive power, the power to kill, if it is channeled to finance activities that are not in favor of justice.

## Synergy with the Corruption Eradication Commission (KPK) and the Financial Services Authority (OJK)

In order to evaluate licenses, it is considered important that the Government of Indonesia to synergize with KPK, which so far has been intensely conducting efforts to prevent corruption in the natural resources sector through National Movement to Save Natural Resources (GNPSDA).

In Riau, KPK together with the Governor of Riau in February 2015 compiled 19 Riau District Government Actions, one of which was the Procedure for Forestry and Plantation Licensing. KPK has also verified the findings of the Riau's Special Committee for Moni-

### Ranking of Malaysian loan & underwriting services providers to selected palm oil companies (2010-2016, US\$ mln)



Source: Forests & Finance (nd.), "Explore the data", online: <http://forestsandfinance.org/>, viewed in September 2017.

toring and Evaluation of Permits. Three years later, KPK together with the Riau Provincial Government compiled an Action Plan to Prevent Corruption in the Plantation Sector.

“When these four things are in place: do not put moratoriums on law enforcement, expand to moratoriums on oil palm expansion financing, expand the evaluation of permits to the era under the previous minister’s term and synergize with KPK and OJK - palm oil governance can be improved and State revenues from palm oil sector can be increased even further, when Indonesian palm oil can be produced by following the NDPE principles, the international market can better accept our products,” emphasized Rahmawati from TuK INDONESIA.

Jikalahari and TuK INDONESIA recommends



**Coordinating Minister for the Economy, Darmin Nasution**

Coordinating Minister for the Economy to:

1. Form a task force before October ends, and ensure that there is no moratorium on law enforcement for forestry and plantation crimes.
2. Set a six-month time-bound plan for data verification and evaluation to be finalized.
3. Synergize with the OJK and Banks, so that they put moratorium of financing for oil palm expansions, for companies who still buy FFB or palm oil from forest areas or those who violated the NDPE principles.



**Minister of Environment and Forestry, Siti Nurbaya**

Minister of Environment and Forestry to:

1. Immediately decide persons as suspects within the corporations as well as the middlemen who conduct the business in forest areas without permission from Minister of Environment and Forestry, as proof that law enforcement is not under moratorium.
2. Evaluate forest release permits for oil palm plantations issued by the previous Minister, Zulkifli Hasan.



Financial institutions - both national and international to:

1. Proactively relate to Coordinating Minister for Economic Affairs and all relevant ministries for the corporation that are funded, or will be financed, or have banking relations, in order to obtain up-to-date data on the companies’ compliance with laws and regulations; especially those related to the President Instruction

on Palm Moratorium.

2. Conduct a moratorium on the provision of financing facilities in the form of loan, underwritings of shares and bonds for corporations who wish to expand its oil palm plantations.
3. Conduct a review of financing facilities for corporations that are suspected of having legal compliance issues related to this moratorium, so as to avoid exposure to financial risk as a result of non-compliance of the financed companies.
4. Consider providing incentives for corporations that comply with regulations related to the moratorium in the form of a good credit rating assessment

For KPK to:

1. Report evaluation results of the GNPSDA Plantation sector to the public, and recommend the results to President Joko Widodo be synergized with President Instruction No. 8 year 2018.
2. Immediately examine the release of forest areas issued by former Forestry Minister, Zulkifli Hasan, in Riau Province, which involved the convicted Annas Maamun.



## Footnote

1. In 2014, The Riau Special Committee on Monitoring and Evaluation of Permits’ scope of work include: Business Utilization Right (HGU), Plantation Business Permit (IUP), Business License for the Utilization of Timber Forest Products in Plantation Forest (IUPHHK-HT), Business License for the Utilization of Timber Forest Products in Natural Forest (IUPHHK-HA), Business License for the Utilization of Timber Forest Products in Ecosystem Restoration Forest (IUPHHK-RE), Non-Timber Forest Product Utilization Business Permit (IUPHHBK), and Community Plantation Forest (HTR)
2. Robert Kuok from Malaysia joins with Martua Sitorus from Indonesia, Wilmar has 180 suppliers in Riau
3. Eyes on the Forest Report (EoF) <https://www.eyesonthe-forest.or.id/reports/perusahaan-hti-beroperasi-dalam-kawasan-hutan-melalui-legalisasi-perubahan-fungsi-kawasan-hutan-april-2018> and <https://www.eyesonthe-forest.or.id/reports/legalisasi-perusahaan-sawit-melalui-perubahan-peruntukan-kawasan-hutan-menjadi-bukan-kawasan-hutan-di-provinsi-riau-2-maret-2018>.