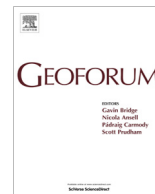


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## Towards 'hybrid accountability' in EU biofuels policy? Community grievances and competing water claims in the Central Kalimantan oil palm sector

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### ABSTRACT

The EU biofuels market is stimulating expansion of oil palm plantations in Indonesia. Little research has yet examined the impacts on water resources arising from this large-scale land use conversion to cultivation of biofuel feedstock or positioned contextual water resource governance in Indonesian locales in a wider political ecology of European climate politics. Through the concept of 'hybrid accountability', we examine primary evidence from an extensive action research process in Central Kalimantan Province, Indonesian Borneo, to assess whether the EU's Renewable Energy Directive and existing certification schemes offer a way to improve the accountability of market actors and promote sustainable water resource management. We conclude that these initiatives have had no bearing on safeguarding local livelihoods and the water resources they depend on, with governance mechanisms largely failing to address people's grievances. Rather, the EU's policies on biofuels have supported a de-politicisation of what needs to be seen as 'distributional water politics'. Furthermore, certification schemes such as the Roundtable for Sustainable Palm Oil offer, at present, only cosmetic tools and are insufficient to address deep structural governance issues. We argue that further hybridisation of market-based certification and governmental regulation should be designed with the purpose of providing new transnational recourse mechanisms and remedies for affected communities.

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### 1. Introduction

The European Union (EU) biofuels market is stimulating global demands for vegetable oil, contributing to the rapid expansion of oil palm plantations in Indonesia, the world's largest producer. Palm oil, generally traded as crude palm oil (CPO), is one of the main inputs for the production of biodiesel, which accounts for over three-quarters of total biofuel consumption in the EU. Biodiesel imports into the Union rose from 1.8 million tons of oil equivalent (mtoe) in 2009 to 2.5 mtoe in 2010 (EurObserv'ER, 2010). While there is a lack of consolidated data, the USDA (2012) estimated that palm oil in 2010 comprised close to 10% of total European feedstock use for biodiesel, thus representing a minor but still tangible complement to soy biodiesel imports from Argentina and

the US (European Commission, 2012a). Furthermore, the demand for liquid biofuels requires palm oil to replace other food oils diverted for energy consumption (e.g. Fitzherbert et al., 2008). Imports of palm oil to Europe doubled from 2000 to 2006, and taking into account the interchangeability of major oils for edible and biofuel uses and associated substitution effects, Corley (2009) has predicted that global demand for palm oil will likely double by 2050.

Although the palm oil sector plays a pivotal role in the national economy of Indonesia and has contributed to poverty alleviation in some areas, it has a well documented traumatic legacy – recently attracting new attention with July 2013 forest fires in oil palm dense Borneo causing transcontinental smog in neighbouring countries. The sector has fuelled resource degradation, marginalized indigenous groups, and had adverse impacts on communities that have not benefited from the industry (e.g. Colchester et al., 2006; Danielsen et al., 2008; McCarthy et al., 2012). A substantial body of research has documented how formal institutional structures in developing countries typically suffer from severe

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implementability constraints – thus preventing purposeful environmental governance (e.g. [Ravnborg et al., 2013](#)). This impediment is well documented for the Indonesian oil palm sector (e.g. [Casson and Obidzinski, 2002](#); [Obidzinski et al., 2012](#)).

The incorporation of sustainability standards into government legislation in importing countries and regions (such as the EU) aims to improve the accountability of market actors. Indeed, the emergence of voluntary multi-stakeholder sustainability standards to complement weak public sector regimes (e.g. [van Dam et al., 2010](#)) has been said to hold a promise of improving accountability in the international market on bioenergy products. In recent years, arguments have been made to move beyond existing divides between non-coercive stakeholder negotiated market standards and coercive state based regulation, and explore ‘hybrid’ public-private arrangements in novel co-evolutionary institutions (e.g. [Schouten and Glasbergen, 2011](#); [German et al., 2010](#); [McCarthy et al., 2012](#)). Most of these calls for hybrid accountability arrangements focus on the need to bolster host country governmental regulation. Meanwhile, an equally important avenue exists to integrate certification schemes into the political and legislative structures of import regions such as the EU, and so-called home states (i.e. the countries in which many of the largest internationally operating market actors are domiciled).

In this paper, we examine whether the EU biofuels policy, principally the EU Renewable Energy Directive (EU-RED), offers an effective, fledgling, attempt by an importing region to move towards a hybrid accountability arrangement. We first introduce the central policy measures in the EU-RED. We then frame our analysis with an emphasis on the political ecology of water resource governance, before we explain our research methodology, including a case study of palm oil cultivation in Central Kalimantan, Indonesian Borneo. We offer a brief discussion of the legacy of the Indonesian palm oil sector and the historical and social context of the field sites. The results are divided in two parts; first, we provide a synthesis of local grievances regarding impacts on water resources; second, we report a stakeholder appraisal of the (limited) efficacy of the existing governance system in addressing these grievances. The evidence shows that, while there are positive aspects of EU-RED, its design and implementation has had no bearing on safeguarding local livelihoods and water resources in Central Kalimantan Province. Similarly, market certification has so far been largely unable to address the grievances from affected communities or to transparently and robustly mediate between the competing water claims of stakeholders. On this basis, we mobilise the concept of ‘hybrid accountability’ to provide a theoretical critique of the co-evolution of market based certification and governmental regulation. We argue that despite considerable weaknesses, the EU-RED and recent developments in market certification contain important seeds for rethinking the governance of the palm oil and biodiesel value chains, in particular the provision of functioning remedies to affected communities and water users.

## 2. The central measures in the EU biofuels policy

The EU-RED sets a target that 10% of the energy used in the transport sector across the EU should be generated from renewable sources by 2020. Member states have generally chosen to prioritize liquid biofuels, which are thought to represent the most cost-competitive option in the short term. To be eligible for government support or to count towards mandatory national renewable energy targets, biofuels used in the EU – whether produced locally or imported – have to comply with the so-called sustainability criteria set out in articles 17, 18 and 19 of the EU-RED. The same criteria are applied in the Fuel Quality Directive (2009/30/EC) (EU-FQD), as amended in 2009, which establishes environmental criteria for

the fossil fuel components of petrol and diesel. The sustainability criteria, in effect since December 2010, stipulate a minimum level of direct greenhouse gas (GHG) emission savings (35% in 2009, rising to 50% in 2017), and impose restrictions on cultivating land with high biodiversity and high carbon stocks (such as peatland and wetlands). The criteria prohibit conversion of such areas from the baseline date of January 2008 (Art. 17).

The European Parliament and the Commission have faced great uncertainties associated with accounting for indirect land use change (ILUC), that is, the displacement of other agricultural activities by the cultivation of biofuel feedstock. Early statistical analyses demonstrated that emissions from land use change linked to biofuel feedstock production significantly reduce the environmental benefits of the policy framework (e.g. [Laborde, 2011](#)). However, political disagreement led to a seven-year delay in setting out concrete actions on ILUC ([Dunmore, 2011](#)). In October 2012 the Commission launched its long-awaited proposal with amendments that favor so-called advanced (‘low-ILUC’) biofuels ([European Commission, 2012a](#)). This is done principally by limiting the contribution from food crops to 5%, increasing the reward for non-land based biofuels (e.g. from waste products), and requiring providers to report on ‘ILUC factors’ associated with their feedstock. This proposal is currently in a co-decision procedure in the European Council and Parliament.

Unrelatedly, In June 2010, the European Commission announced its scheme for certifying sustainable biofuels. Member states were obliged to transpose the EU-RED into national legislation by December 2010, although many delayed. National authorities, companies and non-governmental organizations (NGOs) are encouraged to implement voluntary biofuel sustainability certification schemes, and the Commission indicates which criteria these schemes must meet in order to achieve EU-wide recognition. In July 2011, seven certification schemes were approved as complying with the sustainability criteria and by 2013 13 schemes were accredited ([European Commission, 2011a, 2012b](#)). Schemes differ markedly in the scope of their standards, modes of implementation and compliance costs. This has caused confusion among regulators, economic providers and civil society observers, thus lowering the regulatory quality of the schemes (e.g. [van Dam et al., 2010](#); [Johnson et al., 2012](#)).

The Roundtable for Sustainable Palm Oil (RSPO) provides the leading voluntary sustainability standard for palm oil products, covering both food and fuel uses. This multi-stakeholder organization was founded in 2004 and by 2011 close to 5 million tonnes of SPO was being produced annually by 26 certified growers, representing close to 10% of global CPO production ([RSPO, 2012](#)). Under the RSPO, the palm oil mill and its supply base comprise the unit of certification and audit, where all relevant subsidiaries must be certified. Beyond demanding full compliance with national law, a number of the RSPO Principles and Criteria have even stricter requirements for water resource management, including the management of riparian zones and high conservation value areas (HCVA) to protect endangered ecosystems and ecosystem services ([RSPO, 2006](#)).

The RSPO proper has not yet been accredited under the EU-RED, as it lacks an accepted technical method for calculating GHG emissions from palm oil cultivation. This means that palm oil imported for the EU biodiesel market initially had to be certified through other standards such as the International Sustainability & Carbon Certification System (ISCC). However, in November 2012 the European Commission accredited a scheme comprising a voluntary add-on to the generic RSPO Principle and Criteria, the so-called RSPO-RED, which guarantees compliance with the sustainability criteria by using methane capture to meet the 35% GHG reduction requirement. The sustainability requirements of the RSPO that go beyond the EU-RED are not of interest to the Commission.

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