

Hybrid governance in agricultural commodity chains: Insights from implementation of 'No Deforestation, No Peat, No Exploitation' (NDPE) policies in the oil palm industry

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Abstract

In agricultural commodity chains, companies with sizeable market shares are stepping up sustainability commitments through so-called ‘No Deforestation, No Peat, No Exploitation’ (NDPE) policies – yet the delivery is fraught with difficulties. Drawing on theories of hybrid public-private governance this paper explores how commodity chain actors themselves view the limitations of private regulation and the prospects for more effective supply-chain governance. As a case study, we present interview data from the palm oil commodity chains linking growers in Riau Province, Sumatra, Indonesia, with retailers in Europe. The findings demonstrate awareness of shortcomings in existing arrangements and the need for a stronger presence of both the Indonesian state and European governments. We discuss potential hybrid governance measures, highlighting the need for a pluralistic strategy that mobilizes the combined positive forces of civil society, business and government(s). We argue that, to advance such an agenda, hybrid governance must be conceptualized not simply as a matter of blending (and hence reifying) pre-existing and often highly problematic private and public institutions but as a question of how *all* such institutions may themselves be more thoroughly democratized in the process.

Keywords: agriculture; palm oil; Indonesia; Europe; supply chain; governance

1. Introduction

In the last few years, corporate self-regulation in the production and trade of agricultural products has seen an increase in ambition level, including a move from certification of single production units (e.g. plantations) to ambitions of whole commodity chain governance. Hundreds of major multinational companies have made ambitious pledges in recognition of their responsibilities to reduce impacts on forests and the rights of local communities, with many committing to eliminate deforestation from their supply chains entirely (Climate Focus, 2016). These commitments were showcased in the 2014 New York Declaration on Forests (NYDF) where companies, governments and other groups committed to end deforestation by 2030 and to cut natural forest loss in half by 2020. In the oil palm sector in particular, a number of leading buyer companies, in response to growing pressure from campaigning organizations and consumer groups, have spearheaded a package of commitments in the form of ‘No Deforestation, No Peat, No Exploitation’ (NDPE) policies (Chain Reaction Research, 2017).

Yet, despite widespread publicity, the practical consequences of these commitments are less clear. Most importantly, they do not represent any radical departure from the power-balance between private and public regulation that has characterized large-scale transnational agro-industries to date. As a case in point, the 2016 Amsterdam Declaration, the only specific policy commitment of a small number of European Union (EU) member states on palm oil, declared no intention of substantial government regulation; the undersigning member states only ‘take note and declare [themselves] supportive’ of the private sector-driven commitments. The European Parliament reiterated this view in its April 2017 resolution (European Parliament Report 2016/2222(INI)), calling for a ‘binding regulatory framework’ for palm oil entry into the EU that nonetheless appear to remain reliant on privately regulated certification systems. In other words, the public sector is, and seems intent to remain, heavily dependent on private sector initiatives to deliver on own stated ambitions.¹

Overall, these developments are symptomatic of how private regulation (i.e. governance through corporate self-regulation, multi-stakeholder platforms and/or certification and standard setting – without the direct involvement of governments) has become shrouded in increasing paradox. On the one hand standards and commitments rest on the premise of achieving collective action in commodity chains to enact a liberal democratic ideal that direct negotiation of responsibilities is possible among competing stakeholders (e.g. Giovannucci and Ponte, 2005; Schouten et al., 2012; Köhne, 2014). On the other, there is no shortage of research testifying to the considerable challenges of achieving this very ambition – contingent on, among other, unequal power relations and protracted contestation over

¹ After completion of this study, the European Parliament (The environment committee, ENVI) also decided 23 Oct. 2017 to phase out the support for biodiesel from vegetable oils in 2030 and terminate the use of palm oil biodiesel as early as 2021. This implies further regulatory measures, however aimed at excluding palm oil altogether.

land tenure rooted in legacies of colonialism and elite capture (Nikoloyuk et al., 2010; Cramb and Curry, 2012; Larsen et al., 2014).

One way to make sense of these developments is, as articulated by McCarthy (2012:564), to view the paradoxical efforts of private regulation as reflective of a temporary and pragmatic political settlement between states, corporations, and social movements, unable to achieve more fundamental political reforms. While the situation certainly also represents a high degree of general decision paralysis, this theoretical argument is helpful in making sense of governance as a negotiated outcome in the intersection of diverse agendas of individual actors. Moreover, it supports a broader sociology of knowledge perspective, positing private standard setting and implementation as socially constructed ‘symbolic universes’ (Berger and Luckman, 1966:110). They thus function to promote what is, at any point in time, cast as ‘sustainable’ business practices and legitimize a certain power-balance between actors, who have their own particular agendas.

Much previous work supports this view that engagement of commodity chain actors in private regulation is largely pragmatic: In absence of better alternatives, it offers firms a means of mitigating reputational risk. At the same time, it provides non-governmental organizations (NGOs) a forum to exert pressure, and both private and civil society actors a place at an important agenda setting table with ramifications outside the standard itself, including potentially in government policies and development strategies more broadly (McCarthy et al., 2012; Ponte and Cheyns, 2013). In this regard, actors are expected to use standards, like the Roundtable on Sustainable Palm Oil (RSPO), to drive wider governance changes in both production and consumption contexts *through* their supply chain actions (Bush et al., 2015) and at times even, as Köhne (2014:471) puts it, ‘as a resource independent of certification’. If this reading is correct, then it is not so much the deepening of voluntary private regulatory initiatives themselves, including the new turn to whole commodity chain governance, which is of interest. Rather, we must probe what commodity chain actors actually perceive as more effective and desirable governance options, should the political will and resources be possible to mobilize.

To organize our inquiry, we mobilize the concept of hybrid governance, which is increasingly used to signify attraction to visions of more appropriate (albeit rarely clearly defined) blends of government regulatory structures and private incentives (e.g. Lambin et al., 2014; Larsen et al., 2014). The concept is employed with varied connotations, both to encourage stronger mandates to private actors and in conjunction with arguments to (re)assert the regulatory role of the state in market governance. As such, we suggest that hybrid governance has become a ‘boundary object’ much akin to other popularized quasi-scientific concepts that are ‘used in diverse ways by different interests to justify different kinds of interventions that at times might be totally opposed’ (Kull et al., 2015:132). In this paper, we aim to shed some light on how commodity chain actors themselves imbue meaning into the ambitions of

blending private and public regulation – with the intention of supporting more robust theorizing on hybrid governance as well as more informed policy decisions.

Thus motivated, in this paper we ask two interlinked questions:

- 1) How do commodity chain actors view the limitations of (their own) private regulation?
- 2) What are the implications of such perspectives for efforts to improve the governance of commodity chains through hybrid governance?

We focus on the palm oil commodity chain as a case study and present novel empirical material from the views of a cross-section of key actors in commodity chains linking growers in Riau Province, Sumatra, Indonesia, with retailers in the European Union (EU), focusing on Sweden as one Member State. Beyond contributing to the scholarly literature, we also seek to provide some constructive feedback to the industry, NGOs and policy makers. We are concerned with what their perspectives tell us about the more fundamental requirements for making commodity chain more governable, and thus with the potential to be more sustainable and fair.

The paper contributes to the literature in several ways. First and foremost, it adds to the nascent but growing literature on hybrid governance, examining – to our knowledge for the first time – how commodity chain actors themselves view what constitutes a desirable blend between private and public regulation. In so doing, we also add a new perspective to the understanding of how commodity chain actors negotiate competing interests in conjunction with private standards: whereas considerable work has explore negotiation over commitments and standard-setting, including for oil palm (e.g. Boons and Mendoza, 2010; Levidow, 2013; Marin-Burgos et al., 2015) less work has attended to the contestation associated with actual implementation of these standards and what these insights tell us about the need for larger, structural reforms. In this regard, we also see this paper as contributing a new perspective to the body of research that has explored the diversity of corporate motivations for the adoption of corporate sustainability standards. Such work has tended to focus on the individual corporate actor and less on the interdependence of actors in operationalizing their commitments (e.g. Orsato et al., 2015; Giannakis and Papadopoulos, 2015). Finally, this paper complements previous work on corporate self-regulation and sustainability standards (such as the RSPO) that has focused on a limited subset of commodity chain actors (e.g. locally, nationally or internationally) – adding new understanding on the interdependencies of actors along the entire global commodity chain.

Below, we first provide a review of theory regarding commodity chain governance, the structural barriers to private regulation rooted in the political economy of commodity chains, and the concept of so-called hybrid governance (section 2). We then introduce the case study and our methodology (section 3). In the results section (section 4) we present and analyze the insights from commodity chain actors, giving answers to our first research question. In the discussion (section 5), we then return

to our second research question, i.e. what this inquiry tells us about the possibilities for transcending the existing paradoxical order through novel policy measures; that is, to unsettle the current political settlement and decision paralysis, such as through more substantive hybrid governance of the oil palm sector. In the conclusion (section 6), we provide some final thoughts on the prospects for more robust theorizing on the concept of hybrid governance.

2. Background: The political economy of commodity chains and the prospects for (re)asserting the regulatory role of the state through hybrid governance

Private regulation, including through corporate self-regulation, multi-stakeholder platforms and/or certification and standard setting, has emerged in large part due to failures of states to properly regulate and hold corporate actors to account for environmental and social harm. Such initiatives are rooted in the aspiration that private parties can collectively foster substantial authority on their own. In so doing, it is assumed, they align interests in the realization of a common goal, and directly negotiate effective outcomes in a competitive process with the state remaining in the background (e.g. Giovannucci and Ponte, 2005; Cheyns, 2014; Marin-Burgos et al., 2015).

Admittedly, a range of positive outcomes from private regulation have been documented, leading to sustainability improvements in the face of the absence of government interventions, such as increasing the general awareness within companies and among consumers of environmental and social issues. Private regulation has been found to enable new forms of stakeholder dialogue and learning that have supported uptake of good practices, monitoring and reporting within supply chains (Utting 2002). Under some conditions, supply chain certification has also resulted in more efficient management systems (Bush et al., 2015), interlinked economic benefits for involved actors (Narasimhan et al., 2015) and brought about new market opportunities (Nadvi, 2008). For entities in developing countries, private regulation of supply chains can in this way provide opportunities through knowledge and technology transfer, and incentives for upgrading that companies may otherwise not be exposed to. For the palm oil industry specifically, companies may use commodity chain certification, such as RSPO, as a total management system to standardise sustainability actions and operating more profitable and efficient plantations (Winters et al., 2015).

However, the ambitions of private collective action unavoidably work against core tenets of the political economy of commodity chains, circumscribing their delivery potential. Larger companies are prone to employ standards to further their own corporate goals (Bitzer, 2012) and use bargaining power to capture the benefits from producer surplus within supply chains (Dedrick et al., 2010). Power imbalances favoring the downstream consumption side of the supply chain have also been critiqued as a locking in of ‘global injustice’, reflected by the inequitable distribution of value (e.g. Utting, 2008). This may lead to strongly hierarchical governance arrangements, which disempower upstream supply chain actors and producers obliged to conform to standards set by consumer facing companies (Gereffi

et al., 2015). Small scale suppliers are often dependent on one or a few buyers that wield a great deal of power (Dedrick et al., 2010). The unequal distribution of value and costs along the supply chain can thus result in the exclusion of producers from standard setting processes, relegating them to the receiving end of decision making (Giovannucci and Ponte 2005).

In recognition of the problems of private regulation to deliver the intended sustainability outcomes, arguments are, as noted, made for achieving more appropriate (albeit rarely clearly defined) blends of government regulatory structures and private incentives through hybrid governance arrangements (e.g. Lambin et al., 2014; Larsen et al., 2014). In jurisdictions with traditions of ‘strong states’ (e.g. parts of the EU) the purpose may be to *re-assert* state authority, i.e. to ‘claw back some power from private authority and ... deliver common welfare gains for all players in global value chains’ (Ponte, 2014:270). However, in oil palm producer countries agricultural frontiers have never seen any strong state and thus the challenge may rather be one of how to assert a functional state presence in the first place. Irrespectively, it is often hoped that the combining of private and public regulations can take place through some process of co-evolution, i.e. synergy between corporate and state strategies (e.g. Schouten and Glasbergen, 2011; McCarthy et al., 2012).

One notable source of inspiration is the heterodox approach to combining ‘hard’ and ‘soft’ law embodied in the United Nations Guiding Principles on Business and Human Right (UNGPs) (Ruggie 2013:172). Governments are here expected to adopt a ‘smart mix’ of state regulation and business-driven measures, including placing an expectation on parent and core companies to use their particular leverage. In so doing companies must account, through corporate standards of care and due diligence, not only for their own actions but also for the actions of their suppliers, sub-suppliers, subsidiaries and contractors. These general expectations are, albeit without any enforcement mechanisms, also manifest in the OECD Due Diligence Guidance for Responsible Business Conduct.

So far EU member states have – except for the French landmark duty of vigilance law (text no. 924 adopted by the French Parliament Feb. 2017) – hesitated to legislate on corporate due diligence requirements. The most substantial examples of the EU and member states stepping up to their role as public regulators to demand due diligence are found in the Timber Regulation (995/2010) and the draft Minerals Regulation. With the Timber Regulation, bilaterally negotiated agreements such as the voluntary partnership agreement Forest Law Enforcement, Governance and Trade (FLEGT) depend on the setting up of legality assurance and licensing systems for which the producer country receives EU assistance and legality is based on producer country legal definitions which are negotiated in a stakeholder process.

No substantive government interventions yet apply to the palm oil sector, but hybrid solutions have been proposed through introducing existing private standards into national legislation (Nikoloyuk et al., 2010:67). One argument goes that just as other forms of certification (e.g. on organics) have

become objects of regulation (Giovannucci and Ponte, 2005), this could be relevant for the RSPO or other standards for agricultural commodities. The EU's renewable energy policies represent one example of deploying sustainability standards such as the International Sustainability and Carbon Certification (ISSC), Roundtable on Sustainable Biofuels (RSB) and RSPO as a market entry requirement. As noted, the European Parliament's call for a regulatory framework for all palm oil import also presumes the deployment of such privately regulated sustainability standards (European Parliament Report 2016/2222(INI)). However, such reliance on certification systems must be viewed with a degree of skepticism: As a case in point, the EU Renewable Energy Directive (EU-RED) has not proved to be very effective, due, amongst other factors, to the limited scope of the sustainability criteria and the limited implementability of the adopted certification schemes on the ground (Larsen et al., 2014).

3. Methods

This study focused on the palm oil commodity chain linking growers in Riau Province, Sumatra, Indonesia, with retailers in Europe. Riau was selected as the study site for several reasons. First, it is the largest palm oil producing province in Indonesia, accounting for 24% of national production. Second, the province is a prime source for crude palm oil (CPO) and crude kernel oil (CKO) exports (derived from the harvested fresh fruit bunches, FFB) specifically to Europe. Thirdly, substantial environmental and social concerns can be traced to Riau: during 1982 – 2010, the expansion of oil palm plantations in Riau resulted in 44% loss in forest coverage (Susanti & Burgers, 2011) and according to Global Forest Watch, devastation from more than 10,000 fire alerts only between 2013 and 2015 resulted in trans-boundary smoke haze causing acute respiratory infections for millions of people.

Qualitative data collection methods were used, namely semi-structured interviews and focus group discussions (FGD). In total, 20 interviews and 3 FGDs were undertaken (Table 1). Interviews had a duration of 1-2 hours, dependent on the scope of the information that the interviewee wished to share and their availability. Meetings took place in person but a few via phone/skype, when we were unable (for logistical reasons) to organize a physical encounter. Interviewees were informed about the purpose of the research through an advance letter and gave prior informed consent via email or, if prior exchange was not possible (as in the case with smallholder farmers) when initiating the meeting. Each interview and FGD was recorded in meeting notes by the participating researcher(s) and the participants were offered the possibility to verify transcripts from the interview prior to our analysis (we were however unable to let local actors in Riau review their transcripts due to logistical constraints). Participants were also provided the possibility to request anonymity (most people, in fact, demanded this as a condition for their contribution). Data generation took place in the period Dec. 2015 until Oct.

2016 and we limit our analysis to this period, although in the discussion we consider earlier/later policy developments, when relevant.

Table 1. Summary of interviews and FGDs.

<i>Actor category</i>	<i>No. and type of data generating meetings (interviews/FGDs)</i>	<i>No. and types of participants</i>
Smallholder farmers	2 FGDs	15 (plasma farmers, independent farmers, village leaders) ²
Palm oil farmers' union	1 interview	1 (union chairperson)
Mill operator in Riau	1 interview	1 (public relations officer)
Large and medium sized growers/processors/traders head-quartered in Jakarta/Kuala Lumpur	5 interviews	8 (Chief Executive Officers, sustainability directors, and sustainability officers)
European consumer goods manufacturers	2 interviews	2 (environmental/sustainability managers)
European retailer	1 interview	1 (sustainability coordinator)
European finance institutions	2 interviews (phone/skype)	2 (directors of sustainability teams)
Indonesian government agencies (district and provincial levels) and Indonesian ministry	3 interviews	3 (director and officials)
Indonesian NGOs	2 interviews + 1 FGD	7 (directors, program managers)
Certification bodies	3 interviews	3 (secretariat managers / coordinators / directors)
National Swedish agency	1 interview	1 (senior state official)

² Contracted or plasma farmers are those who cultivate oil palm with technical and financial supports on a loan basis from mills or processors - who become the exclusive buyers of their produce. Independent smallholders are growers without direct support from mills, hence can sell their produce to anyone.

To support the identification of relevant commodity chain actors for interviews we employed the SEI PCS material flow model (Godar et al., 2015), which uses international trade data, including customs data and Bills of Lading to track palm oil production and movement from Indonesian ports, via exporters to first importers (focused on food and cosmetics) in Europe. Two districts in Riau were selected for field visit (Pelalawan and Rokan Hulu) because they, based on customs and production data and proximity to the port of Dumai, could be assumed to have highest exports to European markets (Fig. 1). Commodity chain actors were then identified based on their involvement along the entire supply chain. When possible, priority was given to actors with known direct involvement in palm oil cultivation in Pelalawan and Rokan Hulu (e.g. smallholders, growers with estates in the area). As we traced the commodity chain further downstream, direct biophysical and investment links became largely unknown. Here, we approached well-known actors in the sector (e.g. among consumer goods manufacturers, investors, Indonesian/Swedish government), using Riau Province as a concrete case to foreground the general discussion but allowing people to share their views more broadly.

[insert Fig. about here]

Fig 1. CPO trade Indonesia – Europe. Data included from the 16 Indonesian ports with CPO export to Europe. About 42 per cent (1578000 tons out of 3805000) go through the port of Dumai.

Interviews and FGDs were semi-structured in the sense that they were all guided by five open-ended questions, providing different entry points to explore the actors' perspectives on the performance of private regulation and the potential needs for improvement through hybrid governance: (i) Which sustainability concerns do you consider most important linked to your activities in the palm oil industry? (ii) Who are, in your view, the main other actors responsible for addressing these sustainability concerns? (iii) What sustainability commitments have you made and how do you currently implement, or plan to implement, these commitments? (iv) What are the factors that motivate you to make these commitments and take these actions, what factors, if any, are holding you back? (v) What changes, if any, do you consider necessary in order to further motivate and strengthen the implementation of your sustainability commitments and those of others in the supply chain?

In the analysis, we were guided by a so-called contextualist-contructionist case study approach (Larsen et al., 2012) wherein the objective was to offer our most robust multi-perspectival narrative explaining how interviewees articulated the underlying reasons for implementation failure in private regulation and what needs to be done (i.e. more effective hybrid governance options). Building on a qualitative and narrative social science view of construct validity (Polkinghorne, 2007), our analysis should be conceived as an argumentative (rather than technical or causal) practice. The purpose is to demonstrate the *likelihood* that evidence exists for our narrative and conclusions, transparently showing its

groundedness in interviews, meeting notes and secondary data (see also Kvale, 1995). Hence, our claim is to the robustness of *this particular narrative*, recognizing that other, alternative, narratives may co-exist and remain to be told in future studies.

The result of our analysis is thus a storyline built on the transcripts from interviews and FGDs, supported by secondary data from the literature. We document what claims are attributable to what sources and perspectives among the contributors and indicate when we offer our own interpretations. Below, in section 4, we start with a brief overview of recent developments in NDPE policies in the oil palm sector and then synthesize the insights from commodity chain actors in the four key perspectives that we identified from the dataset. Throughout, we highlight different types of NDPE commitments, standards and certification schemes as examples to demonstrate the general arguments made. In section 5, we discuss the implications of these findings for potential policy measures toward hybrid governance in the oil palm sector.

4. Results: how do commodity chain actors view the limitations of (their own) private regulation?

The oil palm sector has, like other industries, seen the emergence of a multitude of co-existing standards. In addition to the RSPO, companies have invested considerable effort in standards that provide EU market access in biofuels. Moreover, collectives of more committed processors and traders have, aided by civil society campaigns and a combined push from manufacturers (exerting pressure through cancellations of contracts), sought to profile themselves as responsible pioneers with a willingness to make a positive impact in Indonesia through NDPE policies and industry-owned voluntary schemes, such as the Palm Oil Innovation Group (POIG) and the Sustainable Palm Oil Manifesto (SPOM). Underlying motivations may thus differ, but the general direction has been clear, as one grower commented: *‘our commitments on mill traceability are driven by global demand and customer requirements. It’s business to business; we need to comply with customers’ requirements.*³

In our reading, these industry-led efforts testify to what Ponte (2014: 261) have described as the ‘opening space for competing initiatives that are less democratic, quicker, and more aligned with industry interests’. The launch (and subsequent dissolving, during the period of this study) of the Indonesian Palm Oil Pledge (IPOP) by the five major producer groups Wilmar, Golden Agri-Resources, Asian Agri, Musim Mas and Cargill brought this to the fore. As one representative of a certification body commented: *‘one of the reasons why many groups jump into such initiatives like IPOP is to be able to [be] in control of the process ...’.*⁴ As a case in point, IPOP’s commitments quickly attracted considerable criticism from the Indonesian government. As aired in both national and international media (e.g. Reuters), the government was concerned that corporate initiatives, such as IPOP, served to exclude smallholders and work counter to economic development objectives. As one

³ Representative, grower/processor, Jakarta (February 18, 2016)

⁴ Representative, certification body, Jakarta (February 18, 2016)

provincial-level government official commented: *'IPOP is too strict and unreasonable by preventing smallholders from selling their produce and this will affect their livelihoods, especially communities living on peatland areas'*.⁵ According to media channels, it was government pressure that ultimately forced IPOP to disband on July 2016. Statements from one IPOP-member supported this conclusion:

'The central government has criticized us in media for going with higher standard than government regulation and the owner [of the company] has been summoned to the ministers. NGOs criticize [us] but we risk ... having licenses revoked. ... we know it's unwise to be on the wrong side of the government'.⁶

Arguably, such controversy associated with new private regulation is reflective of the ongoing contestation over what constitutes 'sustainable production' (see also Levidow, 2013). The government saw IPOP to represent a vehicle for importing countries (esp. the EU) to impose 'foreign' definitions of sustainability rather than supporting the government's own standard, Indonesian Sustainable Palm Oil System (ISPO). ISPO is the Indonesian government's own certification scheme (launched March 2011) to guarantee compliance with more than 137 pre-existing regulations related to palm oil. As a mandatory government-owned certification of compliance with what is already national law, ISPO may best be perceived as both a practical attempt at 'second order' enforcement and an effort at strategic marketing, rendering private/foreign standards superfluous and reducing reputational risks in the global market. The government's goal was to have all growers certified by 2014 but, as of August 2016, media reports highlighted that only 183 of 660 (28%) companies had had their operations certified.

4.1 Market failures: pushing the implementation burden around

Certification schemes like RSPO are built with the ambition that mainstreaming a product that meets certain environmental and social criteria i.e. some form of Certified Sustainable Palm Oil (CSPO) will help to minimize the negative impact of palm oil cultivation.⁷ As reviewed above (section 3), this approach assumes the possibility for collective bargaining among actors along a commodity chain to distribute value and costs (e.g. Giovannucci and Ponte, 2005; Cheyns, 2014). We here show how commodity chain actors themselves relate to this ambition, focusing on three main factors that interviewees found to hamper CSPO market growth: (1) a lack of consumer demand (demand-side); (2) a lack of coordination between actors in developing the CSPO product (supply-side); and (3) pricing failures.

⁵ Provincial government officer, Riau, (February 22, 2016)

⁶ Representative, grower/processor, Jakarta (February 15, 2016)

⁷ RSPO's mission, for instance, is to *'advance the production, procurement, finance and use of sustainable palm oil products'* and ultimately to support the movement towards a more sustainable palm oil industry.

First, a lack of consumer demand was noted by many interviewees across the supply chain. A representative of an EU consumer goods manufacturer described the difficulty in pitching CSPO to end customers: *‘Customers still write to us to ask us to ban palm oil completely from our products. They have a lack of confidence in palm oil to achieve sustainability’*.⁸ For this reason, some food processors simply do not use the RSPO label – a key marketing element for stimulating demand. Corporate preferences for making a quick exit from the CSPO market due to reputational concerns was brought to the fore by one CSPO trader lamenting: *‘Buyers are naughty. They say “please take the [CSPO] label off this barrel”... but it’s actually sustainable’*.⁹

Second, major issues are manifest in coordinating a large group of dispersed suppliers to make a new product that complies with a common standard. Even the largest groups of buyers and processors only directly control a smaller fraction of the suppliers. As one trader noted, *‘some NGOs claim that [the] large groups control [the bulk of] CSPO trade but this is not true – we, as one of the largest group, are responsible for [only a few per cent] from our own mills’*.¹⁰ Arguably, this raises fundamental questions about the widely held ‘choke point’ assumption (see e.g. WWF’s Market Transformation Programme, www.panda.org/markets WWF.org) – i.e. that targeting a limited number of focal companies (typically traders) can serve to coordinate and transform the market (see also Zhu et al., 2010).

Third, several growers explained that investment in CSPO production is not attractive and cost-effective, because of perceived unfair pricing structures and lack of adequate compensation. Growers and traders argued that the costs of investing in sustainable practices should be rewarded with a premium price. This concern was even more acute for smallholder farmers, with both independent and plasma farmers having limited bargaining position and the price being set by intermediaries/collectors.¹¹ However, RSPO does not take on to coordinate any premium; the compensation for additional investments or costs due to sustainable practices is expected to be negotiated in conjunction with individual contracts. Not surprisingly, this presents challenges to upstream actors due to the power differentials along the commodity chain (see also Dedrick et al. 2010).

To be sure, premiums are rumored to exist in the value chain, but deals are veiled in secrecy. The claims above must thus be understood with an eye to the pricing politics between commodity chain actors and struggles over whom and what should be rewarded. However, as one representative of a consumer goods manufacturer noted, many downstream actors are against the idea of premium cost and differentiated treatment altogether:

⁸ Sustainable development manager, consumer goods manufacturer, conference call (April 26, 2016)

⁹ Representative, grower/processor/trader, Jakarta (February 18, 2016)

¹⁰ Representative, grower/processor/trader, Jakarta (February 15, 2016)

¹¹ Focus group discussion with Indonesian NGOs in Riau, February 22, 2016

‘It is not helpful if the “good guys” who are making efforts are suffering the most by paying the most... We recognize there is a cost associated with improvement, but we need to be very cautious with premium based solutions as they can create a “two tier” market rather than promoting and accelerating widespread change.’¹²

In our view, the problems of creating demand and, more fundamentally, legitimacy for CSPO in the global market can, at least in part, be traced to the fact that the RSPO has so far prioritized ‘quantity over quality’. Civil society has directed persistent criticism against the slow progress in traceability, enforcement of the RSPO standard, auditing of certified growers and an alleged inability to exclude even members that grossly underperform (e.g. EIA, 2015).¹³

4.2 Failures in producer country government: unresolved land rights and conflicting regulations

Most if not all actors identified fragmented and dysfunctional Indonesian government regulation in land use planning and permitting as a major barrier to the implementation of private regulatory initiatives. These, first and foremost, related to unresolved questions of land tenure and implementability failures *within* government regulation and conflicts *between* government regulation and private policies. The resulting persistence of ‘illegality’ in the sector has shaped how commodity chain actors view the implementability of certification; as one representative of a palm oil farmers’ union stated,

*‘[the majority] of companies are operating without [permits], but not being penalized ... I think there is no point in certification because even the crooked companies, who don’t feel their responsibility, still obtain RSPO certification’.*¹⁴

To be sure, these issues have well-known historical roots. When the Suharto era came to an end in Indonesia, a process of decentralization (e.g. with the decentralization Act of 1999) was initiated, including partial devolution of permitting authority and powers in relation to natural resources management to the regency (district) government (e.g. Powell and Osbeck 2010). Spatial plans were not agreed between the Ministry of Forestry and the regencies until 2012, which enabled the regencies to go beyond their legal powers and license plantations in forest and community lands, with large forest areas de-gazetted as ‘conversion forest’ (see also Suwarno et al., 2015). Coordination between ministries has remained poor (Hall, 2014) and licenses are still issued in forest areas. A recent estimate is that 53 per cent of Indonesia’s palm oil exports in 2012-2013 originated from illegally deforested land and that 80 per cent of oil palm deforestation up to 2012 was illegal (Lawson, 2014:135).

¹² Sustainable development manager, consumer goods manufacturer, conference call (April 26, 2016)

¹³ Some progress is being made; for instance, Accreditation Services International, the service provider commissioned by RSPO, has more recently suspended high-profile certifying bodies and RSPO’s General Assembly adopted a resolution (General Assembly Resolution 6h, 19 Nov. 2015), among other to strengthen supervision of certification bodies and assessors.

¹⁴ Head of a palm oil farmers union, Riau, (February, 16, 2016)

Ongoing government efforts, e.g. with the so-called ‘One Map Initiative’, aim to develop integrated spatial plans and databases and help reconcile conflicting spatial planning throughout government licensing (Daemeter Consulting 2015:33). Under President Yudhyono, the special Delivery Unit for Development, Monitoring, and Oversight (UKP4) worked to provide solid government maps instead of, as local NGOs in Riau explained, government agencies having to rely on corporate maps in their monitoring and licensing.¹⁵ Momentum waned shortly after President Widodo took office, but there are hopes that the Presidential Decree No. 9/2016 on the acceleration of the implementation of One Map may bolster implementation anew (Shahab, 2016). This will require addressing deep political struggles *within* government, as acknowledged by a senior government official: ‘*The problem is that one government gave the permits while another government wants to revoke the permits – which one is right?*’.¹⁶

Even in legally permitted cultivation areas, the implementation of private sustainability standards are obstructed when they conflict with government policy. For instance, RSPO’s Principles and Criteria require that areas identified as having high conservation value be conserved (see the RSPO National Interpretation Indonesia). However, to receive the final land use rights lease (concession permit/HGU) a company has to develop the land. Under these prevailing conditions, land set aside by companies, e.g. to honor their zero-deforestation commitments and to comply with the RSPO standard, is nonetheless seen by the authorities as equivalent to ‘abandoned land’. If growers do not pursue plantation developments they can have such lands taken back by the regency – to the detriment of the involved growers, including smallholders (on this anomaly, see also Colchester et al., 2009; Chain Reaction Research, 2017). The same experience was described for climate change mitigation measures under the new NDPE policies: ‘*If the land is set aside as high carbon stock then it may be given to others, the permit may be withdrawn, and the community loses the right to plasma*’.¹⁷

Most of the interviewed growers and processors, including smallholders, pointed to the need for government action to resolve the prevailing confusion around issues of land tenure and potential conflicts between public regulations and corporate sustainability policies. This brought to the fore how corporate NDPE actions do not have teeth without affirmative governmental intervention. According to a representative of a certification body, ‘*It doesn’t matter if you know who you source from if you can’t solve it: If smallholders are found to be illegal, then only the government can solve this*’.¹⁸ One sustainability director of a palm oil company similarly explained:

¹⁵ Focus group discussion with Indonesian NGOs in Riau, February 22, 2016

¹⁶ Representative, certification body, Jakarta (October 19, 2016)

¹⁷ Representative, grower/processor/trader, Jakarta (February 16, 2016)

¹⁸ Representative, certification body, conference call (March 04, 2016), somewhat supported by interview with representative, grower/processor/trader, Jakarta (February 18, 2016)

'Government likes win-win, but someone has to lose... If we stop buying FFB from illegal smallholders then people may protest by burning plantations... but if we buy the illegal FFBs then we are liable. ...we're sandwiched'.¹⁹

4.3 Supply base politics and constrained leverage among third party suppliers

All growers and processors interviewed in this study acknowledged that, despite good examples and some progress, they have limited leverage in implementing their sustainability policies among third parties in the supply base. This is a serious concern since even the largest processors have a substantial reliance on third party suppliers (for CPO supposedly most often in the range of 40-80 per cent). As one representative of a processor commented with a degree of resignation, when describing the work to convince suppliers to work towards compliance with their sustainability policies *'we have met some suppliers in Riau – some say yes and some say no'*.²⁰

A particular challenge is the inertia in implementation of sustainability standards among smallholders. Smallholders constitute close to 40 per cent of total CPO production in Indonesia, with growers being entitled to various loans and services/exemptions when promoting this mode of cultivation, e.g. under Government Regulation 13/1995 (Susanti and Burgers, 2012). RSPO defines smallholders as farmers who cultivate less than 50 ha of family-run plantations. However, under Indonesian law smallholders comprise of farmers that do not require a business license (Izin Usaha Perkebunan untuk Budidaya), i.e. with a holding of below 25 ha (see also Rainforest Alliance, 2016). But, as expressed by the sustainability director of one large grower, this group includes also *'a category of wealthy entrepreneurs cum land owners with substantial assets and acreages ... they do often not subscribe to sustainability norms...'*.²¹

These entrepreneurs were alleged to benefit from connections with local politicians and/or government officials, trading permits for informal payments or votes during election times. In our view, this is illustrative of how regency level permitting has been, and continues to be, driven in large part by the local *realpolitik* of natural resource control; for politicians to be (re)elected one needs cash and promising/handing out concessions is a vital source of campaign money (see also Gillespie, 2012). In consequence, government enforcement may be constrained, as one representative of an international NGO stated: *'cancellations really harm some people [in government] who have links to businesses...'*.²²

As articulated mainly by several NGOs, the implementability of standards and policies among third party suppliers is further compounded when the exchange in FFB and CPO is subject to 'shadow

¹⁹ Representative, grower/processor/trader, Jakarta (February 15, 2016)

²⁰ Representative, grower/processor/trader, Jakarta (February 16, 2016)

²¹ Representative, grower/processor/trader, Kuala Lumpur (March 8, 2016)

²² NGO representative, Jakarta (February 17, 2016)

trade' with producers outside of formally identified supply bases. Interviewees shared such observations of mills purchasing FFB from other concessions, refineries purchasing CPO and CPKO from other mills than their own, and traders purchasing oils from wherever they may access it. An Indonesian NGO representative commented:

'There is widespread illegal trading in palm oil on the main road between Medan and Dumai ... where "anonymous smallholders" sell to larger companies that then label the oil and trade it ... The truth is that big companies often don't know where the oil is from'.²³

Opaque and dynamic ownership structures in different types of 'shadow holdings' appear to complicate the matter further. NGOs representatives described a pattern of some corporate groups operating distinct sets of subsidiaries: one that demonstrates compliance with regulations and standards and one that aggressively builds the land bank, i.e. acquires new (green field) areas for cultivation even when in conflict with private standards and/or domestic regulation. This is reflective of general patterns in land use dynamics in the developing world (see e.g. Aldrich et al. 2012): land is opened, supposedly by and for smallholders whilst such land is then further exploited by plantation companies or (local) wealthy entrepreneurs. With time, acquired cultivation areas can then be transferred between subsidiaries and shifted into legal/legitimate operation. These dynamics may also affect the legitimacy of downstream companies purchasing from such groups: *'[We] have received criticism for being implicated in or contributing to deforestation ... since another subsidiary in the group we buy FFB/CPO from may be involved [in illegal activities]'*.²⁴

Farmers and villagers testified to how the above-mentioned dynamics allow unscrupulous growers to pursue practices of land grabbing, encroachment on protected forest areas, burning of forests and labor law transgressions.²⁵ The ability of local communities and farmers to use certification standards as (soft-law) instruments to assert rights and hold companies to account is then limited. These failures contribute to limited legitimacy of such standards locally.²⁶ As one international NGO representative explained,

²³ Indonesian NGO representative, Stockholm (December 14, 2015)

²⁴ Representative, grower/processor/trader, Jakarta (February 15, 2016). Note here that, in recognition, the RSPO has recently adopted requirements for Group Certification (endorsed by the Board of Governors March 2016), wherein certification depends on the performance of all subsidiaries.

²⁵ Focus group discussion with independent smallholders, (February 18, 2016)

²⁶ In recognition, the RSPO has recently adopted requirements for Group Certification (endorsed by the Board of Governors in March 2016), wherein certification depends on the performance of all subsidiaries.

‘Western NGOs ... have pushed for [sustainability] commitments... [and] when companies make commitments they ask local NGOs to help implement – but the local NGOs say “we didn't push for this, why is it our responsibility help you?”’²⁷

4.4. Absence of importing country government regulation

As noted, the EU does not yet have any substantive regulation or particular policy on palm oil and European member states do not provide any specific means of regulation. The Amsterdam Declaration does not come with regulatory teeth. While the recent resolution of the European Parliament suggests measures that would bolster the use of certification schemes, as in EU-RED, it does not go beyond reliance on private regulation. The national commitments that do exist on the consumption of CSPO mainly involve industry associations, private sector organizations, and NGOs (i.e. if the government is involved it is as consumer). While there may be several reasons for the hesitation to firmly regulate, it is well known how concerns with potential trade related conflicts with World Trade Organization (WTO) rules was an important reason why the EU in its 2009 EU-RED suffered from a ‘regulatory chill’ (Lydgate, 2013), i.e. unwillingness to regulate on sustainability impacts in feedstock.

The perspectives of commodity chain actors on European government involvement in regulation or other steering of the palm oil market were mixed and at times internally contradictory, i.e. the same actor could present arguments both for and against. Much criticism was directed against efforts perceived as protectionism but disguised as concerns for sustainability, such as the 2015 French proposal for tax regulation (requiring CPO traders to pay import tax): ‘*The aim is to protect the domestic market*’.²⁸ The risks of unintended impacts arising from reduced palm oil trade on smallholders and Indonesian economic development were also cited as a reason against European regulation.²⁹

Several of the arguments against European government regulation were rooted in recognition of the domestic and local complexities mentioned above but also a lack of trust in the foreign governments’ genuine will to respond to actual needs. As one representative of the retail industry commented, regarding public agencies in one particular Member State, ‘*they really don’t quite understand the priorities...*’.³⁰ This distrust presented a dilemma to commodity chain actors; while recognizing that such regulatory functions might be needed to drive the sustainability agenda forward they have, as yet,

²⁷ International NGO representative, conference call (December 10, 2015)

²⁸ Representative, grower/processor/trader, Jakarta (February 18, 2016). This policy proposal was subsequently scrapped (see e.g. Reuters).

²⁹ Regional head of sustainable business, international financial institution, conference call (April 13, 2016); Sustainable development manager, consumer goods manufacturer, conference call (April 26, 2016).

³⁰ Representative, retail industry, Conference call (April 15, 2016)

a lack of trust in the capacity of European governments: *'No one really wants more [European] government regulation, although it has the potential to encourage the right behavior'*.³¹

Companies' arguments in support of greater EU regulation were in response to recognition of the lack of 'level playing field' and inability of companies to implement standards and exert leverage. As one international finance institution representative commented: *'A level playing field is key between banks of all sizes'*³². Similarly, one European consumer goods manufacturer noted that they *'would love to see a shift [in European government support]'* to more substantially encouraging implementation of sustainability commitments.³³

A stronger European government role was also cautiously welcomed by the few government representatives (senior civil servants) from both Indonesia and Sweden that were interviewed, with e.g. FLEGT highlighted as a promising example since it is *'based on mutual trust'*.³⁴ Perhaps not surprisingly, NGOs who have for years been deeply involved in the campaigns that helped push growers to adopt RSPO and NPDE commitments focused more squarely on further standard improvement and did not mention EU regulation as an option. Meanwhile NGOs with a more independent stance emphasized how *'sustainability can only become a norm when legal compliance ensures implementation'*.³⁵

5. Discussion: implications for policy measures on hybrid governance of commodity chains?

Our analysis of the interview data has helped elicit four predominant problem framings among commodity chain actors, articulating the root problems in private regulation as being, respectively, about (i) market failure in CSPO, (ii) failures in domestic government regulation, (iii) constrained leverage in the supply base and among third party suppliers, and (iv) absence of import region (European) regulation of palm oil imports. Taken together, the findings offer support for the 'settlement theory' (McCarthy, 2012), i.e. that commodity chain actors are pertinently aware of the shortcomings of (their own) private collective action in the face of the underlying political economy of supply chains and politics of Indonesian resource governance.

As a sovereign nation the Indonesian government has both responsibilities and, at least in principle, legal powers to tackle the deep-rooted governance issues related to land tenure and property rights. Concrete measures include harmonization of the legal framework, including the position of customary law (enshrined in the Constitution), improved land use planning (including through bolstering of the One Map Initiative), and capacity building among local communities and permitting authorities

³¹ Regional head of sustainable business, international financial institution, conference call (April 13, 2016)

³² Head of sustainable business, international financial institution, conference call (April 13, 2016)

³³ Sustainable development manager, consumer goods manufacturer, conference call (April 26, 2016)

³⁴ Representative, Indonesian Ministry of Food and Agricultural Affairs, Jakarta (February 2, 2016);

Representative, Swedish government agency, Stockholm, SE (April 7, 2016).

³⁵ Indonesian NGO representative, Stockholm (December 14, 2015)

(Gillespie, 2012; McCarthy, 2012; Larsen et al., 2014). But what are the hybrid governance measures available for joint policy action between producer and import governments and/or host states in which core companies are domiciled, willing to assert their authority and more decisively support a transition in the oil palm industry?

As concerns the market failures associated with CSPO, import regions, such as the EU, may not be willing to challenge established interpretations of WTO rules with preferential treatment (e.g. Lydgate, 2013) but could, as a minimum, provide stronger governmental incentives in support of CSPO. Given the distribution of global trade, enhanced diplomacy vis-a-vis other (and larger) markets such as in China and India is also required. This is, indeed, acknowledged by the Amsterdam Declaration, which commits the signatories to ‘encourage engagement through development relations and dialogues on trade relations’. The recent European Parliament resolution (European Parliament Report 2016/2222(INI)) also pushes for policy developments in this direction.

More robust regulatory measures of relevance to import regions would follow the UNGPs (Ruggie, 2013). This could comprise of a general due diligence legislation backed by sanctions such as the freshly adopted French law on duty of vigilance, to help motivate European brands. However, specific sectoral import or due diligence legislation backed by detailed standards regarding how the importer and/or obliged company should carry out such due diligence might be the most effective. Earlier suggestions (Giovannucci and Ponte, 2005; Nikoloyuk et al., 2010) have focused on the possibility that legislation directly adopts existing certification schemes (such as the RSPO). However, given the weaknesses and legitimacy challenges exposed in this study, we contend that a legislative due diligence standard might best be conceived of as *building* on preexisting standards rather than directly adopting any such standard.

Fleshing out the content of a novel due diligence standard through bi/multilateral government negotiation could go some way in addressing the express desire of the Indonesian government to curb ‘foreign’ impositions of sustainability in its effort reclaim sovereign authority over natural resources (see also Levidow, 2013). The EU Timber Regulation and emerging Conflict Minerals Regulation ought, in principle, to provide good examples. While FLEGT admittedly has suffered from a rather weak standard and limited stakeholder involvement to date (Buhmann and Nathan, 2012), it has succeeded in drawing on the combined force of law and the market and stands to deliver at least some enforcement potential.

Much could similarly be done in free trade agreements (FTAs) and bilateral investment treaties (BITs), which today only offer ambiguous sustainability commitments without concrete enforcement mechanisms. Consumer and producer countries/regions could enter both FTAs and BITs whereby sustainability assurances offered by producer countries meet with rewarding import policies: preferential tariffs for CSPO and lower tariffs for processed palm oil products. Within the framework

of negotiations of the new bilateral EU-Indonesian trade agreement (launched July 2016), several EU member states, in fact, suggested the inclusion of such sustainability clauses.

However, in highly devolved government administrations, such as in Indonesia, little may be accomplished unless the individual provinces and regencies, who hold authorities in land use planning and permitting, are involved (e.g. Gillespie, 2012). In this regard, while still in their infancy, innovative examples of so-called 'jurisdictional approaches' may have interest. Here, certification (e.g. RSPO), is based on sustainability performance in sub-national government jurisdictions, offering the potential for the local state to supervise and regulate standard implementation (Daemeter Consulting, 2016). While there are few examples to date and these still lack adequate quality assurance and broader participation in land use planning, jurisdictional certification may harbor at least some promise.

While we acknowledge divergence in opinions on several matters, a good degree of support for these types of hybrid measures arguably existed among commodity chain actors interviewed in this study. At first glance, this may be somewhat surprising, since the CSR literature normally assumes that private regulation (notably self-regulation) is evoked by companies exactly to avoid the risk of government regulation (Graham and Woods, 2006). Yet, participants in this study acknowledged widespread experiences of unfair treatment when efforts are made to act more responsibly. They also articulated the need for a much stronger presence of the Indonesian state and a potential role for the EU and member state governments in providing supporting regulation of palm oil imports. However, we hasten to note that many of the growers, processors and finance institutions that welcomed the chance to be interviewed in this study likely were among so-called 'front-runners', i.e. those that have come far in sustainability and thus stand to gain from such practice becoming compulsory.

In establishing incipient hybrid governance arrangements, a lack of capacity in many government agencies means that it is invariably necessary for civil society actors to (continue to) play a vital catalyzing and mediating role (Brannstrom et al. 2012). As was indicated from this study, this dependency can, however, generate additional tensions, for example between international NGOs that are often the architects of such schemes and local NGOs who may have more legitimacy on the ground but are often brought in only in the implementation phase. Civil society thus has an important role to play but long-term dependence on powerful international civil society actors should clearly be avoided lest it undermines the likelihood that any hybrid governance initiative is effective and legitimate (see also Viana et al. 2016).

6. Conclusions: reflections on the theorizing of hybrid governance

A small vanguard of growers and buyers have recently stood behind deeper commitments, e.g. through NDPE policies. Admittedly, this new turn to whole commodity chain governance or governance

through supply chains (e.g. Bush et al. 2016) has yielded some positive results from hard work of smaller circles of committed companies (e.g. Chain Reaction Research, 2017). Yet, the question remains whether the majority of commodity chain actors in the oil palm sector, i.e. the other growers and buyers, are genuinely prepared to follow suit and accept their own share of responsibility. If they are not, as our assessment suggests, then it follows that improvements in the social and environmental conditions under which palm oil is produced and traded are only likely to be achieved through a strengthening of combined public and private governance in both producing and consuming countries. At present, private regulation allows for a continued unfair commercial advantage to be enjoyed by those willing to benefit from human rights violations and social and environmental harm. Being a ‘responsible’ firm may pay in a long run (Carroll and Shabana, 2010) but in the short-term those who benefit from externalizing costs through violations appear often-times to retain a competitive advantage, which in turn creates a disincentive for companies to invest in more responsible practices. Continuing to rely on privately regulated practice alone may be a precarious strategy at best.

It is this challenge that the hybrid governance agenda reacts to by aiming to (re)assert the presence of the state and seeking pluralistic strategies that mobilize the combined positive forces of civil society, business and government(s). This paper has brought out distinct yet interdependent and co-existing perspectives on how commodity chain actors themselves imbue meaning into such ambitions of hybrid governance. Arguably, this is beneficial primarily since it helps avoid what McCarthy (2011), in a parallel critique of the Indonesian forestry sector, terms ‘premature problem closure’. That is, conceptualizing the problem in only one way while excluding other equally relevant framings and the underlying politics that drive concrete outcomes on the ground. Several policy options for enacting hybrid governance have also been discussed, above. Now, in conclusion, what do the findings from this study tell us about the prospects for more robust theorizing of hybrid governance in the future?

In our view, the most significant theoretical feedback is that the relevance of hybrid governance hinges not on any blending, synergy or co-evolution between private and public institutions but on the degree to which all such (pre-existing or novel) institutions are more thoroughly democratized in the process. This involves giving more equal voice to the rights and interests of Indonesian smallholders and local and indigenous communities presently harmed by the industry. The limitations to private regulation (or any sustainability action, for that matter) exist not in any single sector or sphere of governance, but in situations of convergence between vested corporate interests and failed producer (Indonesian) and importer (EU) government regulation. Hence, an important theoretical insight is that of positing governments more directly as commodity chain actors in their own right, with their own stakes and agendas. In fact, the risk that governments themselves become compromised by big business points to a deeper ambiguity in the notion of hybrid governance and the very idea of governable commodity chains. It reminds us of how the distinction between state and corporations is convenient but frequently dysfunctional, since it disregards their politically ambivalent roles wherein the very idea of

a regulated market is nothing but a ‘liberal imaginary’ (Lawrence, 2007). This is the case whether it is expressed in terms of flagrant corruption cases in Indonesian regencies or subtler but equally problematic strategies by European governments supportive of domestic rapeseed and sunflower producers.

In this view, the present ambiguity in the notion of hybrid governance is far from accidental but, rather, a reflection of the multiple perspectives struggling to gain control (hegemony) over the ‘symbolic universe’ (Berger and Luckmann 1966) within which future sustainability actions should be interpreted and organized. Now, does a discourse on hybrid governance support a sufficiently critical dialogue among such perspectives to drive the necessary democratization of both public and private institutions? In our view, there is ground for tempered optimism as regards several of the potential policy measures discussed above (e.g. legislative due diligence, jurisdictional approaches etc.). For one, there is little doubt that deepened hybrid governance has some potential to promote critical junctures in resource governance, such as has been the case with the One Map Initiative (Muluyani and Jepson, 2017). The added value of private regulation (such as through NPDE commitments, corporate standards like ISPO and/or multi-stakeholder certification like RSPO) may here be exactly in offering alternative platforms for wider learning outcomes and synergies among public and private sectors (e.g. Ponte and Cheyns, 2013). Moreover, attending to the hybrid nature of commodity chain governance also helps, analytically, to pay attention to the growing multi-territoriality of such chains and the many, alternative and interacting sites of contestation that hold potential for reform (Ferrando, 2017).

However, we also see an evident risk that the discourse of hybrid governance reifies problematic corporate and state institutions rather than opening for more democratic recognition and contestation on underlying rights, interests, and perspectives. Put simply, there is no substitute for strengthening Indonesian government regulation, e.g. with measures to secure land tenure and harmonize government actions. If discourses of hybridization are controlled primarily by the most vocal and powerful (corporate or governmental) actors, no blend of private and public regulation will ever offer sufficient ‘resources’ (Köhne, 2014) to smallholders and local communities affected by the palm oil industry. Here, the very act of conceptualizing any mode of cooperation (through blending, co-evolution of similar) with private institutions as a primary solution to governmental failures has several important consequences. First, it redirects (at least a good part of) the locus of democratic contestation from public institutions to the market. Second, it diverts attention of communities, activists and scholars alike from alternative forms of protest and influence situated closer to government. Third, it plays into the hands of international elites (whether corporate, NGOs, foreign governments and/or international institutions), resulting in – somewhat paradoxically – removing agency both spatially and socially *away* from the affected localities. In so doing, there is a risk that

local actors' own agency and visions for their lands and societies is prone to be further ignored (Larsen et al., 2017 forthcoming).

In sum, there can be little doubt that producer countries (such as Indonesia) and importing regions (such as EU) urgently need to (re)gain power from private authority, if they wish to see a decisive improvement in sustainability performance. Hybrid governance initiatives are still in their relative infancy and their relative contribution remains to be seen. We posit that the relevance of hybrid governance arrangements will depend on striking a new balance in roles and responsibilities – including revamping of the underlying institutions themselves. Beyond a (re)asserted role of the state and its sub-national jurisdictions, achieving this balancing act requires a more fundamental debate on the biased role that governments thus far have tended to play, in Southeast Asia as well as in Europe. We suggest that the rich and complementary problem framings articulated by the participants in this study offer useful guidance on how more lasting progress could be achieved. They also help avoid that typically techno-centric discourses on private or public regulation – or any hybridized blend in between – diverts attention from the underlying breadth of interventions needed.

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