



## Goal of the study

- The objective of the scoping study was to identify the extent of issues on FFB Legality and Traceability in Malaysia, Thailand & Rest of the World. Indonesia is not included, as studies are done separately by other parties.
- More specifically, the study was to:

1

Identify any issues in the studied countries due to use by mills of the **Mass Balance system**

2

Carry out **scoping and baseline assessment** of the challenges to FFB legality & traceability

3

Analyse **whether current national laws, regulation and enforcement are sufficient** to address issues of legality and traceability

4

For Malaysia and Thailand, include **field research** as well as desktop study

5

Provide informed **recommendations** on potential methods to reduce the risk of the entry of illegal FFBs into the supply chain via Mass Balance mills

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## Countries with Mass Balance certified mills

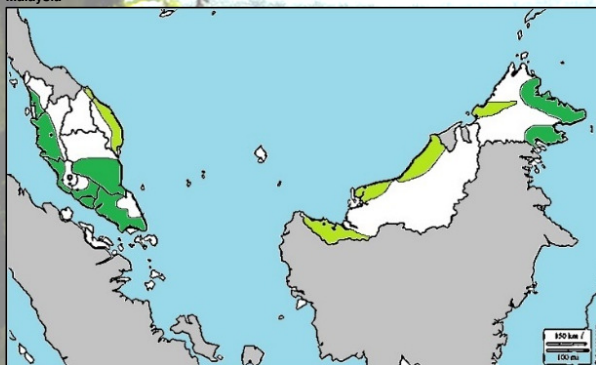


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## Big difference in scale of production

Malaysia



Thailand



Colombia



Honduras



Ghana



CPO produced per year (tonnes)

Malaysia	19,217,000
Thailand	1,970,000
Colombia	1,041,000
Honduras	425,000
Ghana	130,000

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## Research methodology

**Countries with Mass Balance certified mills:**  
Colombia, Ghana, Honduras, Malaysia, Thailand

### Desktop studies

- Legal requirements
- Upstream supply chain model
- Macro risk factors

### Interviews & field study

- Local interpretation of legal requirements
- Level of enforcement
- Local knowledge of illegal FFB
- Supply chain model and role of players
- Level of traceability
- Cultural factors

### Hypotheses & analysis

- Areas of risk for focused study
- Causes and sources of illegal FFBs
- Precautionary actions which mitigate risk
- Supply chain and operational models which minimise the entry of illegal FFB

**Conclusion**

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## Attribution, and thanks!

### Colombia

- Aceites Manuelita
- Agrobiz
- Daabon
- Fedepalma
- Hacienda La Cabaña
- Indupalma
- Solidaridad Colombia

### Honduras

- Ayesdesa
- Coapalma
- CORAPSA
- Grupo Jaremar
- Hondupalma
- Solidaridad Honduras

### Thailand

- Chumporn Palm Oil Industry
- GTZ
- Office of Agricultural Economics
- Patum Oil
- Univanich Palm Oil PCL
- University of Kasetsart

### Ghana

- Benso Oil Palm
- Ministry of Food & Agriculture
- Nature and Development Foundation
- Oil Palm Research Institute
- Proforest Ghana
- Solidaridad Ghana

### Malaysia

- Borneo Rhino Alliance
- Borneo Sun Bear Conservation Center
- Kuala Lumpur Kepong Berhad
- MPOB
- POMA
- PPB Oil Palms Berhad
- Procter & Gamble
- Sime Darby Plantation
- Wild Asia
- WWF Malaysia

### Others

- 2016 Trafficking in Persons Report – US Department of State
- Food and Agriculture Organization of the United Nations
- Global Forest Watch
- USAID
- World Resources Institute
- ...etc

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## Research findings: legal context

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## Key factors that determine FFB legality

### Land usage

- Land title
- Permitted land use

### Operations

- Environmental law compliance
- Social law compliance

### Theft

- Stolen FFB

### Permit controls

- Control of growing and trading via permits

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## Land issues: legal requirements to grow palm oil

- Land title: All countries studied have systems of land title, and all growers have to demonstrate that they have title to land or they have permission from the land title holder
  - Of the areas studied, only East Malaysia has conflicting views of land ownership due to issues arising from customary tribal rights
- Permitted land use: There are few requirements on smallholders

Law and Regulations Requirements	Smallholders					Estates				
	Colombia	Ghana	Honduras	Malaysia	Thailand	Colombia	Ghana	Honduras	Malaysia	Thailand
Demonstration of land-use rights	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Registration of land for agriculture usage	✓	X	X	✓	X	✓	✓	✓	✓	✓
Environmental impact assessment report	X	X	X	X	X	X	✓	✓	✓	✓
Water management permit	✓	X	X	X	X	✓	✓	✓	✓	✓

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## Operations: laws applying to palm oil operations

- All countries have similar laws applying to environmental issues and worker protection
- Riparian buffer zone legislation is unclear in many countries

Type of law	Law and Regulations Requirements	Colombia	Ghana	Honduras	Malaysia	Thailand
Environment	Open burning prohibited	✓	✓	✓	✓	✓
	Planting on riparian buffer zone prohibited	✓	✓	✓	✓	X
	Chemicals prohibited related to palm	✓	✓	✓	✓	✓
	Pollution & hazardous waste Law	✓	✓	✓	✓	✓
Social	Worker protection law	✓	✓	✓	✓	✓

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## Permit controls

- Malaysia stands out as having a comprehensive permit regime for palm oil

Type of law	Law and Regulations Requirements	Colombia	Ghana	Honduras	Malaysia	Thailand
Licensing	Permit to supply palm fruit (smallholder)	✓	X	X	✓	X
	Permit to supply palm fruit (estate)	✓	✓	✓	✓	✓
	Permit to sell or trade FFB (trader)	X	X	X	✓	X
	Permit to operate a mill	✓	✓	✓	✓	✓

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## Perception of legal enforcement, by country

- In Colombia and Honduras, there is a general perception of low enforcement.
- In all countries, there is low enforcement applied to smallholders

Type of law	Perception of legal enforcement	Colombia	Ghana	Honduras	Malaysia	Thailand
Land usage	Land use rights	✓	✓	✓	✓	✓
	Permitted land use	✓	✓	✓	✓	✓
Operations	Open burning prohibited	✓	✓	✓	✓	✓
	Planting on riparian buffer zone prohibited	X	X	X	X	N/A
	Chemicals prohibited related to palm	X	✓	X	✓	✓
	Pollution & hazardous waste Law	X	✓	X	✓	✓
	Worker protection law	X	X	X	X	X
Theft	Criminal law	X	X	X	X	X
Permit controls	Permit to supply palm fruit (smallholder)	X	N/A	N/A	X	N/A
	Permit to supply palm fruit (estate)	✓	✓	✓	✓	✓
	Permit to sell or trade FFB (trader)	N/A	N/A	N/A	✓	N/A
	Permit to operate a mill	✓	✓	✓	✓	✓

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## Research findings: observance of laws

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## Land issues in practice: mostly in the past

Country	Land issues	Resolution efforts
<b>Colombia</b>	In previous years, land grabbing was common due to civil war. Cases of estates using the lands of displaced communities.	Disputes are being settled by government and companies since 2014 with land "restitution program".
<b>Ghana</b>	Most land is owned by the community. Buyers have to seek consensus from community chief, then district chief and finally regional chief. Applicable to palm industry.	Dispute problems commonly happen when lands are acquired without consulting all the relevant parties.
<b>Honduras</b>	Land conflict is well known, especially in Aguan Valley, where companies have used violence to acquire land for palm plantations.	Many conflicts are resolved as companies return the land to the smallholders or buy it. However, some violence continues in Aguan Valley, at a smaller scale.
<b>Malaysia</b>	In Sarawak, many cases of land dispute with unclear ownership due to native customary land rights. Also a few cases in Sabah.	Court cases to resolve land dispute issues are slow, due to lack of documentation or to evidence of who is considered to be "native".
<b>Thailand</b>	Land title and land usage rights are well defined in Southern Thailand, with little to no land conflict issues found within palm industry..	No resolution required. All new palm plantations are established on land which has been in long-term use for other agriculture (mainly rubber plantations).

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## Operating practices: environment & workers

All countries	Compliance to environmental laws
<b>Estates</b>	Apparently high level of compliance
<b>Smallholders</b>	In general, low knowledge and low compliance.

Country	Worker exploitation
<b>Colombia</b>	Does not appear to be an issue in the palm industry, although there are some cases in other parts of the agricultural industry.
<b>Ghana</b>	No reports of forced or child labour in palm oil production, although there are reported cases elsewhere in agriculture.
<b>Honduras</b>	The use of underage workers and paying workers below minimum salary are common and these issues may apply to palm. Elsewhere in agriculture, there are cases of forced labour, especially concerning indigenous and afro-descendant communities.
<b>Malaysia</b>	Cases of foreign and illegal workers exploited, with confiscated passports or debt bondage. Many stateless children reported to be working on palm oil plantations, especially in Sabah.
<b>Thailand</b>	Historic reports of foreign worker exploitation in the palm oil industry, but it does not appear to be a continuing problem. Cases of confiscated passports or debt bondage seem mainly to occur in regions of Thailand where oil palm is not grown.

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## Problems of stolen FFB

Country	FFB theft
<b>Colombia</b>	Common stealing of FFB in Tumaco & Puerto Wilches Regions. FFB are smuggled from Norte de Santander area in Colombia to be sold to Venezuela.
<b>Ghana</b>	Strong community bonding among villagers, and collectors who pick up from source, minimise stolen FFB. However, outgrowers who are bonded to sell their FFB to mill companies, due to loan agreements, often secretly sell their FFB to other parties to receive higher cash payment.
<b>Honduras</b>	Stolen FFB is common. Hence, estates put up tight security to prevent FFB from stolen.
<b>Malaysia</b>	Stolen FFB is high in Sarawak, with 200+ of cases reported per year. This is mainly due to unsatisfied natives, who felt that they were not treated fairly on land right and dividend issue.
<b>Thailand</b>	Strong community bonding among villagers makes stolen FFB extremely unlikely. Fruits and plantations owned by smallholders are not guarded, as there are no cases of stolen FFB.

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## Summary: laws, enforcement and culture

	Laws	Enforcement	Culture
<b>Land usage</b>	Land title law is generally mature, apart from some issues in Sarawak. In Ghana, land title is community based.	Well enforced, but residual problems in Honduras, and difficulty of resolving customary rights in Sarawak. Smallholders are excluded from permitted use controls.	Some civil law conflict in Ghana, when permissions are not obtained from all community chiefs. Cases of protected areas infringed in some areas.
<b>Operations</b>	General environment laws, not specific to palm oil. Worker rights laws in all countries, but laws are not always clear on issues such as of document 'safekeeping' and recruitment fees.	Patchy enforcement on environment laws and virtually no enforcement on smallholders. Abuse of worker rights seems most commonly associated with use of immigrant (perhaps illegal) workers, and enforcement is questionable.	In most areas, concern for environmental issues is not part of the culture. Community-based production units with local workers seems to minimise issues of worker abuse.
<b>Theft</b>	Similar laws apply everywhere.	Little enforcement by local police.	Thailand and Ghana stand out as examples of close communities eliminating stealing.
<b>Permit controls</b>	Only Malaysia attempts comprehensive permit scheme.	Little enforcement of permits on smallholders, where these exist.	Operators appear to turn a blind eye to permit abuse.

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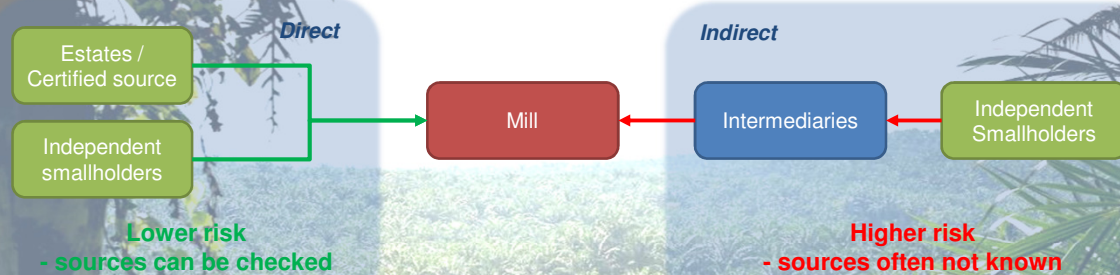
## Research findings: supply chains

### Direct vs indirect purchasing

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### Indirect supply brings higher risk of illegal FFB



Supply chain factors		Colombia	Ghana	Honduras	Malaysia	Thailand
Supply base % to mills	Direct via estates or certified source	87%	80%	60%	80%	30%
	Direct via independent smallholder	10%	10%	12%	10%	5%
	Indirect via intermediaries	3%	10%	28%	10%	65%

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## Indirect supply chains: problems of transparency

Country	Findings
<b>Colombia</b>	Dealers are not common in the upstream supply chain. Mills often buy 100% of their FFB directly from producers, where they maintain strong relationships. However, in Tumaco & Puerto Wilches areas, mills often buy from dealers with no transparency to the origin of FFB.
<b>Ghana</b>	Low transparency and traceability, with no systematic trading practices. Dynamic supply chains with no close relationship between producers and buyers.
<b>Honduras</b>	Low transparency and traceability, with no systematic trading practices. Dynamic supply chains with no close relationship between producers and buyers
<b>Malaysia</b>	License sharing among independent smallholders is common. It is estimated that 60% of the FFB produced from smallholders is without license. With the involvement of multilevel dealers, traceability is lost in the complex supply chain.
<b>Thailand</b>	Although mills do not generally require traceability to growers, collection centres manage a small fixed group of growers, keeping transaction records and knowing their suppliers very well.

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## Potential action by the RSPO and RSPO members

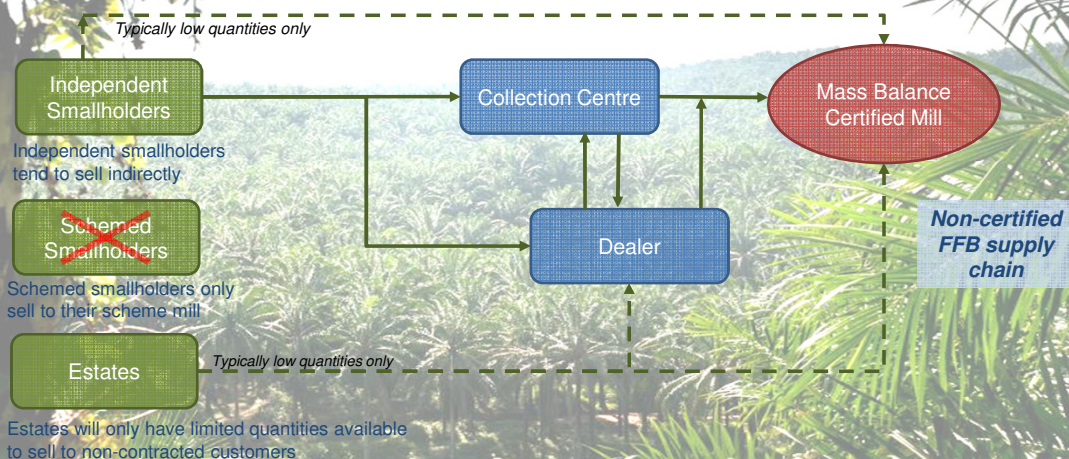
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## Non-certified FFB to certified mills, often indirect

A Mass Balance certified mill will have a tendency to buy non-certified FFB from *indirect* sources, to “top up” FFB supplied from direct contracted sources



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## Three approaches to supply chain

- The common factor in risk mitigation strategies is to obtain greater visibility over the supply chain
- There are three principal approaches:

### 1. Purchase direct from growers

- Some certified mills have made a conscious effort to buy even their non-certified FFB directly from growers

### 2. Work with supply chain intermediaries to obtain direct access to growers

- This approach is a major challenge for mills, due to:
  - Supply chain relationships between growers and intermediaries are often not very stable
  - Dealers are seldom cooperative in opening up information about their supply sources

### 3. Purchase from intermediaries who can be trusted to control their grower supply base

- Thailand provides the best example of devolving responsibility to trusted intermediaries – the collection centres

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## Conclusions

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## Overall conclusions

### Culture factor

- **Countries, and provinces, differ significantly** in whether local factors increase or decrease the probability of illegal FFBs in the market
  - These factors are cultural and may be difficult to change

### Indirect purchasing

- **Increases the risk** of illegal FFB
  - Loss of traceability means that original sources are unknown
  - In most cases, indirect channels do not assist efforts to ensure legality
- However, it is an **important source** of non-certified FFBs
  - Non-certified sourcing is often supplemental to the mill's stable supply base
- In some cases, high **transparency mitigates risk** of indirect purchasing
  - Examples of trusted intermediaries who can stop illegal FFBs

### Mass Balance Mill

- **Best practice mills have gone beyond minimum requirements** of the RSPO P&Cs in order to minimise the risk of purchasing illegal FFBs
  - Knowledge of supplier who delivers to the gate is insufficient, when purchasing indirectly

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