

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

**4. Oil palm expansion in the Philippines
Analysis of land rights, environment and food security issues⁵**

Jo Villanueva



Introduction

In recent years, the unprecedented and rapid expansion of oil palm plantations in Southeast Asia, particularly in Malaysia and Indonesia, has spurred considerable concern in the light of its adverse impact on the environment, biodiversity, global warming,

⁵ This study has also been published as a chapter in “Oil Palm Expansion in South East Asia: Trends and Implications for Local Communities and Indigenous Peoples. (FPP & SawitWatch 2011).

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

the displacement of local (and indigenous) communities, the erosion of traditional livelihoods, and the undermining of indigenous peoples and workers' rights. In Indonesia, oil palm expansion has contributed to deforestation, peat degradation, loss of biodiversity, ravaging forest fires and a wide range of unresolved social conflicts. In Sarawak, Malaysia, the impact of oil palm includes loss and destruction of forest resources, unequal profit-sharing, water pollution and soil nutrient depletion. In the midst of the increasing profitability of palm oil in the world market, the versatility of its by-products and its potential as a source of biomass in the food and manufacturing industry, a raging debate has ensued between and amongst civil society and industry members over whether palm oil is a necessary evil or whether the costs of this industry on lives, land and environment far outweigh its worth.

Although considered a fledgling industry in the Philippine agribusiness sector and while its size is certainly small compared to the millions of hectares of oil palm plantations in Malaysia and Indonesia, the Philippines has been cultivating and processing palm oil for the past three decades. In recent years, the rising demand for Crude Palm Oil (CPO) and the high commercial value of the product has driven the growth of the local palm oil industry. At present, production capacity of CPO is largely geared to the needs of the domestic market, but the pressing demand from both the domestic and international markets is driving the industry to aggressively push for the expansion of oil palm plantations. Existing concentrations of oil palm plantations in the Philippines are found in various parts of Mindanao, the provinces of Bohol in the Visayas and Palawan in Luzon.

Within the context of competing (and often conflicting) land and resource uses and tenurial mechanisms, the increasing destruction of the ecosystem, the pervasive violation of community and indigenous peoples' rights by resource extractive industries, and the proliferation of plantations for agriculture and bio-fuel production, this study endeavours to examine the current state of the palm oil industry in the Philippines and to bring to light some of the experiences of local communities, land owners, smallholders and workers in different oil palm areas.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

In the Philippines, the limited information available and the lack of a consolidated picture of the current state of the palm oil industry and emerging concerns of local communities, smallholders and workers over the past years, have limited and prevented civil society engagement in addressing critical issues related to oil palm. Recognising the vibrant civil society engagement and community resistance to the challenges and threats of palm oil expansion in Malaysia and Indonesia, this study aims to contribute in building a comprehensive picture of oil palm expansion in Southeast Asia. It is hoped that this study will bring about greater awareness of the opportunities and threats posed by palm oil expansion, help inform the actions of different stakeholders, and spur concerted responses or initiatives amongst various sectors both within and outside the industry.

Scope and methodology

This study was achieved through a combination of primary and secondary data. The data-gathering methodology includes key informant interviews and focused-group discussions with officers of the palm oil industry and companies, government officials, local cooperatives, smallholders/out-growers, local communities in oil palm sites and NGOs. Case studies were carried out in Palawan, Agusan del Sur, Bukidnon and Sultan Kudarat. Field visits were also conducted in several oil palm plantations in Mindanao and in Palawan.

Considering the scale of oil palm expansion that has occurred over the past years and the geographic scope of its present operations, it has not been possible to engage in an in-depth examination of all the issues this expansion presents. This study mainly provides a general overview of the palm oil industry in the Philippines and specifically looks at the situation of local communities, local cooperatives and workers in key palm oil areas.

Organisation of the report

Section 1 consists of a brief introduction to the study, while section 2 provides an overview of the palm oil industry in the Philippines

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

and trends in CPO production and growth. Section 3 discusses the trends and legal framework in land acquisition and section 4 presents five case studies on the specific situations and experiences of local communities, workers and cooperatives in different oil palm plantation areas. Section 5 weaves a summary of the issues, challenges and lessons learned from the experiences discussed in these case studies. Section 6 draws conclusions and presents a set of recommendations for the development of oil palm in the Philippines.

Research team

The Philippine Country Study is part of a regional research initiative on oil palm spearheaded by the Forest Peoples Programme (FPP) and supported by the Rights and Resources Initiative (RRI). FPP, an NGO based in the United Kingdom, bridges the gap between policy makers and forest peoples. It advocates for an alternative vision of how forests should be managed and controlled based on respect for the rights of the peoples who know them best. FPP works with forest peoples in South America, Central Africa, South and Southeast Asia to help them secure their rights, build up their own organisations and negotiate with governments and companies as to how economic development and conservation is best achieved on their lands.

Research on the Philippines was coordinated by the Samdhana Institute which works to enhance and enrich understanding of innovative approaches to sustainable resource management and through this, broaden the livelihood options of local communities. The Samdhana Institute collaborated with the Alternate Forum for Research in Mindanao (AFRIM) and the Environmental Legal Assistance Centre (ELAC) for the case studies in Bukidnon, Sultan Kudarat and Palawan. Other collaborators in the study include: the Columbio Multi-Sectoral Environmental Movement (CMEM) that contributed the development of a primer on oil palm, Rene Espinosa of Bohol and Kasanyangan Foundation, Inc. (KFI).

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

National trends in palm oil development

Brief history

The palm oil industry in the Philippines traces its early beginnings to the 1950s with the 200 hectare plantation established by Menzi Agricultural Corporation in Basilan, Zamboanga. The company stopped operating the oil palm plantation when the land was turned over to farm workers organised under the United Workers Agrarian Reform Beneficiaries Multi-Purpose Cooperative, as part of the Comprehensive Agrarian Reform Program.¹ In 1967, Kenram Industries, Inc. converted their ramie (*Boehmeria nivea*) plantation to oil palm and established a 1,100 ha nucleus farm as well as a twenty ton capacity crude palm oil mill. These lands were redistributed to agrarian reform beneficiaries organised into cooperatives in 2002.²

In 1980, the National Development Corporation (NDC), a government-owned corporation, in partnership with Guthrie Corporation, a British-owned corporation that was then sold to the Malaysian government, developed a 4,000 ha oil palm plantation in Agusan del Sur. This joint partnership ushered in the creation of the NDC-Guthrie Plantations, Inc. (NGPI). In 1983, NDC entered into another partnership with a Malaysian company, Kumpulan Guthries Sendiran Berhad, which gave birth to NDC-Guthrie Estate, Inc. (NGEI). NGEI then developed another 4,000 ha of oil palm plantations in contiguous areas covering the municipalities of Rosario and Bunawan, Agusan del Sur. The company also established a forty ton crude palm oil mill to process the FFBs from the two plantations.³

Following the legislation of the Comprehensive Agrarian Reform Law (CARL) by President Corazon Aquino in 1988, the lands covered by the oil palm plantations of NGEI and NGPI were redistributed to 1,368 workers through the awarding of Certificates of Land Ownership Award (CLOA). In 1991, the 40% share of Guthrie was bought by Filipinas Palm Oil Plantations, Inc. (FPPI), a Filipino-Indian-Malaysian consortium. Then in 1994, they bought

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

out the 60% share of NDC, thus acquiring full ownership and control of the palm oil mill and associated plantations.

In 1993, a joint-venture partnership of Singaporean, Filipino and Malaysian investors paved the way for the creation of Agusan Plantations, Inc. (API). API developed a 1,800 ha oil palm plantation in Trento, Agusan del Sur. A thirty ton crude palm oil mill was built in 1998. While API covered a smaller area relative to FPPI, it trail-blazed an “out-growership” scheme and has aggressively pursued expansion of its palm oil investments in Maguindanao, Bohol and in Palawan. To date, the company owns and operates three palm oil mills in Mindanao and in the Visayas. Its “out-growers” are widely spread throughout various parts of Mindanao such as in the Surigao provinces, Compostela Valley, Davao del Norte, North Cotabato, Sultan Kudarat and Misamis Oriental, among others.

In 2003, A. Brown Company, Inc. started investing in oil palm. The company is 100% Filipino-owned, mainly based in Cagayan de Oro City and is involved in real estate, energy/power source generation, trading, mining and quarrying, among other activities. A. Brown set up two subsidiary companies for its oil palm investment; the Nakeen Development Corporation (Nakeen) and A. Brown Energy Resources Development, Inc. (ABERDI). Nakeen manages the 1,200 ha oil palm plantation in Impasugong, Bukidnon, while ABERDI runs the ten ton crude palm oil mill in the same area. At present, these four companies – FPPI, API, Kenram and ABERDI – are the main players in the continuing expansion of oil palm in the Philippines.

Government policies and targets

Over the years, different Presidents of the Republic (from the time of Ferdinand Marcos to Gloria Macapagal-Arroyo) have helped promote the “growth” of the palm oil industry. Promotional taglines for the industry include palm oil as the “sunrise industry” and the oil palm tree as the “tree of peace.” The potential of palm oil in the world market has been recognised by the Department of Agriculture, which has claimed that the “global demand for palm oil is estimated

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

at 20 million tons per year and it is predicted to double by 2020.” Arguably though, this “growth”, at least in the Philippines, has yet to be achieved. Investors and business supporters of the industry still await the tangible translation of government support such as in the form of palm oil-friendly policies, infrastructural support, budget for research and financing, among others. Former DAR Secretary Lorenzo also observed that “the Philippines have failed to appreciate the potentials of palm oil and government support is half-hearted and on-and-off.”⁴

The Philippine Coconut Authority

The Philippine Coconut Authority (PCA) is the government body that is mandated to “oversee the development of the coconut and other palm oil industry in all its aspects and ensure that the coconut farmers become direct participants in, and beneficiaries of, such development and growth.”⁵ Presidential Decree 1468’s mission is to “promote the development of a globally competitive coconut and other palm oil industry that would contribute to food security, improved income and enhanced participation of stakeholders. Included in its key functions are the following:

- Formulate and promote a strategic and comprehensive development program for the coconut and the palm oil industry in all its aspects;
- Implement and sustain nationwide coconut planting and replanting, fertilisation and rehabilitation, and other farm productivity programs;
- Conduct research and extension works on farm productivity and process development for product quality and diversification;
- Establish quality standards for coconut and palm products and by-products; and
- Develop and expand the domestic and foreign markets;
- Enhance the capacities and ensure the socio-economic welfare of coconut and oil palm farmers and farm workers.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

A draft document entitled the “Policy Framework for the Development of Palm Oil Industry”⁶ elaborates on the mandate of the Governing Board of the PCA, and includes the following points:

- 1) The palm oil industry shall complement the coconut industry. Ultimately, the palm oil industry will go beyond self-sufficiency and aim for the emerging regional markets in the Asia-Pacific;
- 2) The development of palm oil industry shall be pursued through the initiative of the private sector. The government shall provide the incentives and necessary regulatory measures that will promote, hasten and protect the industry;
- 3) Priority in oil palm cultivation shall be given to idle, unproductive and underdeveloped areas;
- 4) Planting of oil palm shall be encouraged only in areas where oil mill facilities are available or assured. Investments in oil mills shall be facilitated where there is anticipated large scale planting;
- 5) Oil palm cultivation shall be promoted through organised growers who have marketing tie-ups with oil millers;
- 6) All oil palm nursery operators shall be required to register with and be accredited by the Philippine Coconut Authority to assure growers of quality planting materials;
- 7) Local research and documentation (R & D) efforts shall be supported and coordinated by the government.

To date, this policy framework remains a set of recommendations since the PCA Governing Board has not yet passed a resolution to approve it. According to the Director of PCA Region 10, this policy framework has also not been supported by implementing guidelines and therefore is not an official policy document of the PCA. Moreover, the PCA’s mandate appears rather general and regarding palm oil development (vis à vis the coconut industry, which is their primary mandate) and faces some serious internal challenges as a perennially cash-strapped government body. However, the PCA has extended support to the palm oil industry through the following actions:⁷

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

- Facilitating the approval of the PCA Governing Board for the creation of the Philippine Oil Palm Development Council (PODC) in July 2003. The PODC is a venue for various sectors and stakeholders to be equitably represented on matters pertaining to the palm oil industry. Specific tasks of the Council include: 1) coordinating the planning and implementation of policies and programs to ensure the viability of the oil palm industry, including research and development, 2) extending technical assistance in farm production and processing, and 3) promoting trade and market development;
- Setting up the Palm Oil Development Office (PODO) located at the Coconut Extension Training Centre in Davao City last October 2002. The PODO's task is to build a database for the industry and lead in the formulation of primers, manuals and other information for the industry;
- Collaborating with the Philippine Palm Oil Industry Council (PPOIC) which is composed of representatives of small growers cooperatives and palm oil processors, by crafting a six-year Philippine Palm Oil Industry Development Plan (2004-2010) that charts the direction and thrusts of the industry for six years.

Despite these achievements, the PCA believes that it is only through the leadership of the private sector that the palm oil industry can be catapulted to sustained growth. Thus for the past years, the aggressive promotion and expansion of the industry has largely been propelled by investors (owners and heads of palm oil mills/processors and oil palm growers/planters) and with support from other government bodies such as the Department of Trade and Industry (DTI), the Department of Agrarian Reform (DAR), the Department of Agriculture (DA) and also Local Government Units in the provinces of Sultan Kudarat, North Cotabato, Maguindanao, Agusan, Bukidnon, Bohol and Palawan, among others.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

The Bio-fuels Act

In 2006, the Philippine government passed into law Republic Act 9367, also known as the Bio-fuels Act of 2006.⁸ The Department of Energy (DOE) is the leading government agency responsible for implementing this policy. A National Bio-fuels Board (NBB) composed of various national government agencies/bodies has been created as its principal arm to oversee the government's alternative fuels program and to ensure the supply and quality of bio-fuels. Based on AFRIM's research on agro-fuels, the Medium Term Philippine Development Plan (MTPDP) for 2004 to 2010 identified two million ha of land for agri-business purposes. At least 429,000 ha of these lands are earmarked for bio-fuel cultivation. Some of the crops identified as sources of feedstock for bio-diesel are oil palm, coconut and *jatropha*, whilst sugarcane and cassava are the primary sources of bio-ethanol.

The projected development of bio-diesel crops has not gone completely uncontested at the local level. AFRIM has documented some of the problems faced by indigenous peoples from the *jatropha* plantation in Brgy. Lumbia, Cagayan de Oro. In a nearby village, local residents of Brgy. Bayanga in Cagayan de Oro succeeded in their campaign to stop the construction of a bio-ethanol plant in their *barangay* (village or district) and the opening up of a cassava plantation. However, from the findings of this research, the oil palm currently produced in the Philippines for the domestic market has not yet been used for biodiesel but mainly for local food and manufacturing industries. Thus, the additional demand for oil palm as a bio-fuel remains an untapped market opportunity for the palm oil industry.

Philippine Oil Palm Development Plan

Through the leadership of the Philippine Palm Oil Development Council, a Philippine Oil Palm Development Plan for 2004-2010 was crafted in 2003.⁹ This plan aimed to provide guidance on the direction of the industry. Below are some of the main points of this document:

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Vision: Oil palm as a strategic crop for food security, poverty alleviation and employment generation, complementing coconut.

Mission: To develop the palm oil processing industry through gainful production, processing and marketing of oil palm production and by-products to ensure food security, increasing income and promoting rural employment and sustainable development whilst taking into consideration the total preservation of the ecosystem.

Goals and objectives

General: To attain sufficiency in palm oil domestic requirements, thus conserving dollar resources.

Specific:

- To generate employment and enhance livelihood activities in the countryside so that by 2010 a total of about 39,000 farmer-co-operators will have benefited from industry development
- To use underproductive idle areas for a sustainable environmental program so that by 2010 a total of about 104,000 ha will have been planted with oil palm
- To make the industry a vehicle for unity among people

From the SWOT (strength, weaknesses, opportunities and threats) analysis carried out, the Development Plan also looked into the opportunities offered by palm oil, which include the increasing demand for palm oil by the fast food and canning industries, growing interest of the private sector in developing the palm oil and coconut industry, and using coconut oil for the production of higher value products such as oleo chemicals. Some of the current advantages identified by the industry include the 304,000 ha of idle and underdeveloped lands, favourable climatic and agronomic conditions, the existence of palm oil mills in Mindanao (five mills

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

located in the provinces of Agusan del Sur, Sultan Kudarat, Bukidnon and Maguindanao) and in the Visayas (one mill in the Bohol province), growing technical expertise of the private sector, the availability of cheap labour, the availability of government agricultural extension personnel who can be easily trained in oil palm technology and the presence of research centres and academic institutions capable of conducting research on oil palm.¹⁰

On the other hand, some of the weaknesses identified include the lack of local planting materials and importation of seeds, fragmented landholdings that are difficult to consolidate into plantations, the lack of capital of growers, limited financing windows for growers, inadequate road networks in rural areas and the increasing costs of agricultural inputs. Further threats identified include the smuggling of palm oil from other countries by processors due to low and declining local production and the unstable peace and order conditions that may limit development in suitable areas and discourage local and foreign investments.¹¹

Proposed policies and actions

In order to overcome some of the perceived constraints to the growth of the industry, the PPODC has suggested the following policies and actions:¹²

- 1) The palm oil industry shall complement the coconut industry. Ultimately, the palm oil industry will go beyond self-sufficiency and aim for the emerging regional markets in the Asia-Pacific;
- 2) The palm oil industry shall be developed with the initiative of the private sector. The government shall provide the incentives and necessary regulatory measures that will promote, hasten and protect the industry;
- 3) Priority in oil palm development shall be given to idle, unproductive and underdeveloped areas;
- 4) Planting of oil palms shall be encouraged only in areas where an oil mill is available or assured. Investments in oil mills shall be facilitated where there is anticipated large scale plantings;

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

- 5) Oil palm development shall be promoted through organised growers who have marketing tie-up with oil millers;
- 6) An oil palm nursery operators shall be required to register and be accredited by the PCA to assure growers of quality planting materials;
- 7) Initial focus of development will be in trouble-free areas with stakeholders willing to husband their lands and devote their hearts to the development of the industry. The work for peace in Mindanao shall continue.

Programs to achieve this include planting, replanting, on-farm livelihood, oil mill establishment, research development and institutional development as well as training of oil palm farmers and technical personnel. The estimated financial requirement for implementing the development plan (2004-2010) is of PhP 12.512 billion (291,859,116.21 USD).

Palm oil industry structure and linkages

The Philippine Palm Oil Industry distinguishes three interdependent industry chains that support its operations: upstream, focal and downstream industry. The “upstream industry” consists of oil palm plantations or those involved in the production of Fresh Fruit Bunches (FFB). The Focal Industry carries out the processing and refining of Crude Palm Oil (CPO) from the FFB after harvesting, handling and transport of the FFB to palm oil mills. The “downstream industry” is the secondary and tertiary processing of palm oil products for the manufacture and production of food, pharmaceuticals, oleo-chemicals and other industrial and household products. CPO refineries produce cooking oils, margarine and other industrial raw materials for tertiary processing. Tertiary processing produces cooking oils, margarine, soaps, cosmetics, bio-diesel, bio-fuel and lubricants among other derivatives from CPO.

National production of CPO

Over the past years, and with the significant shortfall in supply for domestic demand for palm oil in the Philippines, there has been an

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

upsurge of investment in the establishment of oil palm plantations and interest in establishing more palm oil mills. Local production can only supply 25% of what is needed by local industries; the remaining 75% is imported. Key industry players, particularly officers of the Philippine Palm Oil Industry Development council, are enthusiastic about the bright prospect of increasing palm oil production amidst the soaring prices of this commodity on the world market, not to mention the great demand from the domestic market and the prospect of eventually exporting palm oil globally.

Table 1. CPO production

Product	Average Annual Production (MT)	Average Annual Usage (MT)	Shortfall (%)
Palm Oil	54,333	94,400	42.5
Palm Kernel	6,544	7,277	10.0

Based on 2009 industry data of CPO production and consumption, the shortfall in domestic consumption has an estimated worth of importation of palm oil of around PhP 840.03M (USD 14.83 M). With an annual increase of consumption at a conservative level at 5% and with a plantation gestation period of four years before harvest, the present trend of expansion of oil palm plantation is highly unlikely to catch up with the growing domestic demand.

Table 2. Projected Philippine consumption of palm oil and palm kernel oil 2006-2010

Year	Volume of Palm Oil*	Volume of Palm Kernel Oil**
2006	118,091	8,106
2007	123,499	8,282
2008	129,155	8,463
2009	135,071	8,647
2010	141,257	8,836

*Based on 4.52% average annual consumption growth rate with base average volume of 94,400 MT

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

**Based on 2.15% average annual consumption growth rate with base average volume of 7,277 MT

Gross areas of oil palm plantation

From the 2009 data provided by the Philippine Palm Oil Development Council (PPODC), a total of 46,608 ha have already been planted with oil palm. This is considered a promising prospect since it reflects a 160% increase achieved in a span of only four years. In March 2005, only around 29,003 ha of oil palm plantation existed. The table below shows the expansion trend and the various locations of these plantations:

Table 3. Estimated growth of oil palm area in 2003, 2005 and 2009 (ha)¹³

Regions	2003	2005	2009
IVB –Palawan			3,592
VII-Central Visayas	3,994.15	5,300	6,506
IX-Western Mindanao			62
X-Northern Mindanao	190	413.30	1,128
XI-Southern Mindanao	217.38	244.38	1,217
XII –Central Mindanao	6,766.81	6,905.81	13,961
XIII-CARAGA	13,461.72	15,404.29	17,252
ARMM		735.89	2,890
Total	25,226.95	29,003.67	46,608

In Mindanao alone, the Southern Philippines Development Authority (SPDA) has identified 304,350 ha for oil palm plantation.¹⁴ However, existing oil palm plantations covering 46,608 ha only represent about 15% of the total 304,350 potential area for oil palm development.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Table 4. Potential areas for oil palm planting in Mindanao

Region/Province	Hectares
Region IX (Western Mindanao)	
Zamboanga del Norte	7,530
Zamboanga del Sur	31,430
Region X (Northern Mindanao)	
Bukidnon	65,090
Misamis Oriental	10,370
Misamis Occidental	1,440
Region XI (Southern Mindanano)	
Davao del Norte	2,070
Davao Oriental	6,220
South Cotabato	17,000
Region XII (Central Mindanao)	
Cotabato	1,180
Lanao del Norte	830
Sultan Kudarat	5,630
Region XIII (CARAGA)	
Agusan del Norte	10,370
Agusan del Sur	7,490
Surigao del Norte	31,360
Surigao del Sur	93,790
ARMM/Lanao del Sur	3,280
Maguindanao	9,270
TOTAL	304,350

Palm oil mills

At present, there are six palm oil mills operating in the Philippines. These are the following:

1. Filipinas Palm Oil Plantation Inc. (FPPI), located in San Francisco Agusan del Sur and which started operating in 1981. This mill is owned by Filipino (60%) and Indonesian (40%) investors and has a capacity of forty tons/hour of FFB;
2. Agusan Plantations Inc. (AGUMIL Phil.), located in Manat, Puerto, Agusan de Sur and which started operating

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

in 1983. This mill is owned by Singaporean (60%) and Filipino (40%) investors and has a capacity of twenty tons/hour of FFB.

3. Kenram Industrial & Development, Inc. (KIDI), located in Isulan, Sultan Kudarat and considered the oldest among the palm oil mills, having started operating in 1967. The company is 100% Filipino owned and has a milling capacity of twenty tons/hour of FFB.

Milling capacity has significantly increased as a result of the expansion of oil palm plantations resulting from the increased number of “out-growers”. In 2004, the total milling capacity of the industry was of only about eighty tons/hour and was provided by the abovementioned palm oil mills. However, additional mills have been set up with an 87% increase in milling capacity. With an additional seventy tons/hour, the total milling capacity of existing mills at present is of 150 tons/hour. This growth in milling capacity has been achieved by the following companies:

4. Buluan Palm Oil Mill, a subsidiary company of the AGUMIL Phil., located in Buluan, Sultan Kudarat and which started operating in 2008 with a capacity of forty tons/hour.
5. Philippine Agricultural Land Development Mill, (PALM), Inc., another subsidiary of AGUMIL Phil. located in Bohol, in Visayas, and which started operating in 2005 with a capacity of twenty tons/hour.
6. A. Brown Energy Resource Development Inc. (ABERDI), a Filipino corporation located in Impasugong, Bukidnon that started operating in 2007 with a present milling capacity of ten tons/hour. The company is looking into expanding its milling capacity by setting up another twenty ton/hour mill in the upcoming years.

Current estimates of the overall existing oil palm plantation area in the Philippines are of around 50,000 ha. However, it is reported that there is an excess in milling capacity as 20% of these plantations are already senile. Some are already thirty years old or more, with declining yields as in the case of Agusan del Sur and Sultan

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Kudarat. About 30% of the oil palm plantations are still young, ranging from two to six years old. Thus, FFB yield is largely minimal.

Under the Palm Oil Development Plan, a more ambitious target of seventeen palm oil mills to be in place by the end of 2010 was revealed. However, considering that the industry has not achieved its target for the expansion of oil palm plantations, it does not seem to make financial sense to increase the number of mills currently operating.

Table 5. Estimated target number of palm oil mills to be established 2004-2010¹⁵

Region	Number of Palm Oil Mills								% of Total
	2004	2005	2006	2007	2008	2009	2010	Total	
IV				1			1	2	12
VI			1		1		1	3	18
VII			1		1		1	3	18
IX			1		1		1	3	18
X				1		1		2	12
XI							1	1	8
XII							1	1	8
XIII									
ARMM				1		1		2	12
Grand Total			3	3	3	2	6	17	100

Oil palm nurseries

One of the problems faced by the palm oil industry in the Philippines has been its failure to invest in research and seedling germination since the establishment of its oil palm plantations. All seedlings are imported from Malaysia, Papua New Guinea, Costa Rica and recently, Thailand. Nursery establishment has become a profitable business in itself as the demand for oil palm planting material has grown over the past years. Selling prices offered by oil

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

palm nurseries range from PhP 200 to 280 per seedling. Thus, for one ha with 136 plants, the cost of planting materials ranges from PhP 27,200 to PhP 38,080. As a result, the cost of planting materials alone means smallholders who do not have financial capital are dependent on the oil palm companies for financial assistance.

There are currently five government-accredited oil palm nurseries in Mindanao. These are owned by palm oil mill operators such as AGUMILL, FPPI, ABERDI/Nakeen, and KIDI. The Kenram Agrarian Reform Beneficiaries Multi-purpose Cooperative (KARBEMPCO) also owns a nursery, which is located inside their plantation in Sultan Kudarat. Another nursery is run by a private company known as B.H. & Associates in M'lang, Cotabato.



Oil palm nursery in Kenram, Isulan, Kudarat.

Key companies and conglomerates

Palm oil production in the Philippines is mainly geared towards the domestic market. According to an industry report, current production of CPO is not adequate to address domestic demand. Recently, it has been reported that FPPI and KIDI have started exporting their CPO to Japan and other countries due to higher prices on the international market. As of the time of writing, there is no available data on the volume of exported palm oil.

A list of local Crude Palm Oil and Palm Kernel Oil Refineries is published in an industry primer by the Philippine Palm Oil Development Office. Most of these are a mix of Philippine-based

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

transnational and domestic companies that are mostly engaged in the food industry. This list features the following companies:

1. Asian Plantations Philippines, Inc.
2. Ricor Mills Corporation
3. Universal Robina Corporations
4. RFM Corporation
5. Mina Oil Mill Corporation
6. Oleo Fats Inc.
7. Royal Oil Products
8. Barons Marketing
9. Pacific Oil Products

A list of food and industrial manufacturing companies in the Philippines that use oil palm products includes the following:

- | | |
|---------------------------------------|----------------------------|
| 1. Ansi Corporation | 12. Malabon Soap |
| 2. Universal Robina Corporation | 13. Nestle Philippines |
| 3. Windsor Corporation
Corporation | 14. Tricon Link Industrial |
| 4. Serges Products | 15. United Chemical |
| 5. Meadow Brand | 16. Mina Oil |
| 6. Dayton Corporation | 17. Oleo Fats, Inc. |
| 7. G.A. Import Sales | 18. Sandoz Nutrion |
| 8. Royal Oil | 19. Nutrifats & Oils |
| 9. Tantuco Enterprises | 20. GLY Marketing |
| 10. JNJ Oils Industries | 21. Trade Manila |
| 11. United Coconut | 22. Handyware Philippines |

Investment trends and financing schemes

Compared to other countries such as Malaysia and Indonesia, the Philippines offers little competition due to the limited amount of land open for oil palm expansion and the serious constraints faced in terms of financing. Over the past two decades, the development of the palm oil industry has been propelled largely by a combination of domestic and foreign investments. Financing assistance is extended by palm oil companies for the promotion of oil palm development by small landholders.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

In the Philippines, financing schemes for large commercial farms (which include agribusiness, plantation farms producing exportable crops such as bananas and pineapples) are available from private commercial banks. For pineapple and banana plantations, large commercial firms usually enter into contract-growing schemes with farmers to grow these crops. However, private banks have not provided financing for other high value and long-gestating crops such as oil palm and rubber since they are more comfortable financing high value crops over short-term periods. As a result, while it is easier to access financing for traditional annual crops such as rice and corn, it is difficult to obtain loan assistance for long-gestating crops such as oil palm, rubber and other such crops.

Llanto has elaborated extensively on the dearth of long-term financing available for long-term gestating crops. One impediment cited by the Land Bank of the Philippines is the fragmentation of agricultural lands brought about by agrarian reform. The agrarian reform program has diminished the collateral value of lands traditionally used as collateral to bank loans. Provisions in the Comprehensive Agrarian Reform Program (CARP) which have acted as barriers to private investments in agriculture and rural areas include (a) ownership ceiling (b) transferability of the lands and the holding period (c) uncertainties created by the slow implementation of agrarian reform.¹⁶

However, as Llanto further explains, this barrier to private financing has already been surmounted by big agribusinesses in Mindanao. By consolidating lands distributed under the agrarian reform program through various acquisition schemes such as contract growing and leaseback arrangements with Agrarian Reform Beneficiaries (ARBs), agribusiness firms have successfully produced the target export crops. In some of the contract growing scheme arrangements, raw materials and other inputs are also provided by the company to small farmers.

As a long-gestation crop that requires long-term financing, oil palm fruiting starts only in the third year and project pay-out can only start after this period. From the industry's point of view, what is needed is the availability of long-term financing at reasonable rates.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

At present, there are only two main financing windows for oil palm production: the Land Bank of the Philippines (LBP) and the Quedan and Rural Credit Guarantee Corporation (QUEDANCOR).

Land Bank of the Philippines (LBP)

The main financing window for oil palm projects at present is the LBP. Recognising the potential of this industry, LBP has embarked on programs supporting various undertakings related to palm oil. These programs are the Total Development Options-Unified Land Bank Approach to Development (TODO UNLAD) and the Agricultural Loan Fund and Countryside Loan Fund (ALF/CLF).

The TODO UNLAD program strives to effectively link up all players of the countryside socio-economic systems, including the poor farmer-producers of commercial and industrial establishments, local government units, rural banks and non-agricultural cooperatives. Once producers are linked to processors and the market, the program helps to increase agricultural productivity, improve infrastructure and pave the way for rural industrialisation.

The Countryside Loan Fund (CLF) is a wholesale credit facility from the World Bank, available through participating financial institutions for loans to eligible private investment enterprises. The Agricultural Loan Fund, on the other hand, is a credit facility available to farmer cooperatives engaged in agricultural and agri-business projects. Both programs finance projects for agriculture and food-agro processing industries, including palm oil production and processing.

More recently, LBP launched a new financing scheme for oil palm growers organised into cooperatives last year, which is said to be more accessible and attractive to cooperatives. The new financing scheme has the following features:

- A maximum loan of PhP 110,000/ha that will cover the cost of inputs and labour for the first three years of plantation establishment is provided. In return, the landowner/cooperative

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

shall provide an equity of about PhP 20,000/ha. The PhP 110,000 is considered a long term loan whereby the payment of principal and interest shall start on the fifth year after planting.

- The input and labour requirements up to the fourth year (around PhP 30,000) shall be released by the LBP as a short term loan and shall be paid within the year from the sales of the harvest of that year.
- The Bank requires that the cooperative that applies for the loan has a marketing agreement for their FFBs with a particular palm oil mill.

Quedan and Rural Credit Guarantee Corporation (QUEDANCOR)

QUEDANCOR's mandate is to accelerate the flow of investments and credit resources into the countryside so as to trigger the vigorous growth and development of rural productivity, employment and enterprises to generate increased livelihood and income opportunities. In terms of the financing of oil palm plantation development, QUEDANCOR has launched what it considered an innovative financing scheme called the Oil Palm Self Reliant Loan (SRT) Window, designed for small oil palm farmers to access formal credit. Below are the objectives of the SRT:

- 1) To provide livelihood opportunities to oil palm farmers to improve their productivity by providing credit assistance;
- 2) To encourage the adoption of better technology and strengthen the market linkage between oil palm farmers, buyer-firms and processors;
- 3) To help augment the income of oil palm farmers.

Its features include the following:

- a. It is a collateral-free loan.
- b. Farmers will be grouped into groups of three to fifteen members. The elected Team Leader shall collect and remit the loan to QUEDANCOR.
- c. The Team Leader shall be entitled to an incentive equivalent to 25% of the regular interest that will be deducted from the

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

group's last amortisation. No service fee shall be deducted from the loan of the Team Leader.

- d. Farmers must attend value orientation training and/or seminars.
- e. QUEDANCOR shall open a current account for the Team Leader with an interest fee and maintaining balance and shall provide the minimum balance required by banks to open a checking account.

Eligibility requirement are as follows:

1. Residence in the community/*barangay* or within the project location for at least one year;
2. Eighteen to sixty five years old;
3. QUEDANCOR accreditation;
4. Experience/knowledge of or willingness to undergo training on the project;
5. Participation in value orientation training/seminar conducted by QUEDANCOR.

Projects eligible under this program include oil palm plantations approved by the Department of Agriculture and/or QUEDANCOR. For both the financing modes of LBP and QUEDANCOR, the banks further require a tripartite agreement between the lending institution, the mill company and the borrower, whether this is the cooperative or individual small landholders. The basic conditions and responsibilities as enumerated in the tripartite agreement are as follows:

1. Lending Institution
 - Shall provide the loans to qualified applicants
 - Shall provide technical assistance to improve financial management of cooperatives
2. Palm Oil Mill
 - Shall provide the quality planting materials at reasonable cost
 - Shall provide technical support in plantation propagation
 - Shall buy all of the FFBs produced by the borrower at prevailing market price

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

- Shall deduct the pre-agreed loan amortisation amount from the sale of the FFB delivered by the borrower, and shall turn over the said loan amortisation to the lending institution

3. Borrower (Cooperative/Land Holder)

- Shall diligently take care of plantation propagation and maintenance
- Shall follow the technical advice of the agricultural technician provided by the mill
- Shall sell their FFB only to the mill with whom the marketing agreement is signed

Joint DA-DAR-DENR Convergence Initiative

On June 18, 2007, a joint Memorandum Circular by the Department of Agriculture (DA), the Department of Agrarian Reform (DAR) and the Department of Environment and Natural Resources (DENR) outlined the “General Rules and Policies Governing Agribusiness/Upland Agro-forestry Investments/Agreements under the Convergence Framework”. This circular was aimed at guiding planners, field implementers, farmers, investors and other stakeholders involved in agri-business investment ventures.

As highlighted in the Agribusiness Chapter of the Medium-Term Philippines Development Plan (MTPDP) 2004-2010, around two million ha of agri-business lands are to be developed within six years through the complementary rural development efforts of the three national agencies. Adhering to its commitment to this convergence initiative, the DAR has identified 1.24 million ha of potential lands for agribusiness development, the DENR has identified 1.9333 million ha under the Community-Based Forest Management (CBFM) program and the DA has targeted 1.3 million ha of coconut lands for intercropping and around 0.07 million ha of private and Local Government Unit (LGU) owned lands.

Under this convergence initiative, the DA-DAR-DENR will facilitate investment ventures in agribusiness and agro-forestry. Some important policy pronouncements in this initiative include: food security and sufficiency as the utmost priority that should not

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

be undermined in the production of raw materials or feedstock for bio-fuels; only ecologically sound farming technology methods, implements and inputs shall be adopted; priority areas are the lands distributed under CARP and CBFM; the welfare of the settlers/occupants shall always be protected and ensured in terms of livelihood opportunities; sharing of risks, costs and benefits between and among the farmers and investors shall always be to the best advantage of all parties to the contract; investors should provide corporate social services within the area of investment.

Legal framework and land acquisition trends

Legal and policy framework on land and natural resources

Philippine laws on land divide land into two types: public and private lands. Private lands are titled lands that belong to individuals or corporations and are used for residential, industrial/commercial and agricultural purposes. Public lands, on the other hand, are lands that belong to the State. They are further classified into the following subdivisions: forest lands, mineral lands, agricultural lands and natural parks. Apart from agricultural lands, all other lands are under the exclusive control and jurisdiction of the State. All exploration, development, utilisation of natural resources is under the full control and supervision of the State.¹⁷ However, State laws and policies have evolved over the years to accommodate social legislation that vests ownership and/or tenurial security to landless farmers, indigenous peoples and other long-term migrants.

Tenure instruments in forest lands

Forced to address the persistent problems of tenurial security for indigenous peoples and other migrant occupants in the uplands, the State has evolved its programs from a preoccupation with the exploitation of forests for commercial purposes towards more socially oriented concerns. Instead of relocating or driving people away from forestlands, stewardship rights were granted to “qualified” forest occupants, which later served as the precursor to

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

“people-oriented or social forestry and community-based forestry programs.”

Available tenurial options in the uplands during the 1980s and 1990s include the Integrated Social Forestry Program (ISFP), the Contract Reforestation Programs (CR), the Forest Land Management Program (FLMP) and the Community Forestry Programs (CFP). All forestry contracts or agreements are for twenty-five years, renewable for another twenty-five years. The development and management of a particular forest area is subject to the terms and conditions set forth by the Department of Environment and Natural Resources (DENR).

In 1995, President Fidel Ramos issued an Executive Order adopting community-based forest management as the national strategy to achieve sustainable forestry and social justice.¹⁸ Subsequently, the DENR issued the Implementing Rules and Regulations of a new program called the Community Based Forest Management (CBFM).¹⁹ The CBFM become a central reforestation strategy program and at the same time a social justice measure for marginalised communities whose subsistence and livelihood are dependent on forest resources, thus effectively replacing the old forest stewardship instruments issued by DENR.

Under the CBFM program, communities granted CBFM Agreements (CBFMAs) are assured of long-term tenure²⁰ but are in turn responsible for performing a variety of environmental services such as replanting degraded areas, patrolling against poaching and observing sustainable resource use.²¹ While CBFM is also considered a poverty alleviation strategy, its implementation has been limited by numerous challenges. The primary obstacles faced include the lack of financial and technical support to community holders to undertake their Community Resource Management Framework (CRMF) and the fact that their activities are excessively regulated by the DENR.²²

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Indigenous peoples' land rights

Indigenous peoples in the Philippines account for roughly fourteen to fifteen million people out of an overall population of ninety million. They constitute a diverse group of over thirty five major ethno-linguistic groups, each with its own sub-tribes, widely scattered throughout the three main islands of the country: Luzon, Visayas and Mindanao. Generally, most indigenous peoples exhibit a very strong attachment to their land and the resources within it. Customs and traditions are often built around how they own and protect their lands and the resources integral to their survival. As a group, they have been historically marginalised from the mainstream population and have suffered from numerous human rights abuses, a lack security of tenure, poverty and government neglect in terms of provision of basic services such as health care and education. Most indigenous communities are found in remote villages and are under constant threat from State-backed forestry and mining projects, government declared conservation areas and commercial agricultural plantations.

Earlier tenure instruments developed by the DENR under its forestry program failed to resolve many land conflicts in indigenous peoples' areas. Aside from providing very limited security to indigenous peoples, these programs had no power to grant complete ownership of land as lands remain State property, thus undermining the rights of indigenous groups to self-governance and control of their territories.

A significant result of the advocacy for State recognition of indigenous peoples' rights was the passage into law by the Republic of Act No. 7381 or the Indigenous Peoples Rights Act (IPRA), signed by President Fidel V. Ramos in 1997. The IPRA is considered a major breakthrough in the Philippine legal system as it finally recognised the rights of indigenous peoples that had been historically denied from them for more than 300 years.

The IPRA implements provisions in the Philippine Constitution that provide for the recognition and promotion of rights of indigenous cultural communities within the framework of national unity and

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

development. Among the significant rights covered by the law are: indigenous property rights; civil and political rights of all members of indigenous peoples; and social and cultural rights of all indigenous members.²³ Significantly, the IPRA also includes a provision on women's participation that strategically pinpoints a gap in most government policies that limit, if not altogether exclude, the gender dimension.

IPRA led to the creation of the National Commission on Indigenous Peoples (NCIP), which has the mandate to implement the law as well as the final authority in the issuance of ancestral domain and land titles, thereby offering indigenous peoples a way of securing ownership over their lands. IPRA distinguishes two types of indigenous peoples' territories: ancestral domains and ancestral lands. Ancestral domains are defined as "areas generally belonging to indigenous cultural communities/indigenous peoples comprising lands, inland waters, coastal areas, and natural resources, held under a claim of ownership, occupied or possessed by IPs (indigenous people), by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare." Under IPRA, ancestral domains include not only the land but its resources as well. As in the process for applying for a CADC, indigenous communities are required to submit proof of their claim over a particular area. The NCIP confers a Certificate of Ancestral Domain Title (CADT) for approved applications.

Ancestral lands, on the other hand, are "land occupied, possessed and utilised by individuals, families and clans who are members of indigenous communities since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously to the present, except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other dealings entered into with government projects and other voluntary

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

dealings entered into with government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.” The NCIP provides a Certificate of Ancestral Land Title (CALT) for approved applications for ancestral lands.

A significant safeguard provided by IPRA is that of Free, Prior and Informed Consent (FPIC). IPRA defines FPIC as the “consensus of all members of the indigenous cultural communities/indigenous peoples to be determined in accordance with their respective customary laws and practices free from any external manipulation, interference, coercion and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community.”²⁴ Under Section 59 of IPRA, “all department and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing or granting any concession, license or lease, or entering into any production-sharing agreement without prior certification from NCIP that the area does not overlap with any ancestral domain.” In 2006, the NCIP published FPIC guidelines that described the detailed processes that proponents or project applicants would have to undertake in order to gain access to ancestral domains or ancestral lands.²⁵

However, to date, various issues and complaints have been documented and lodged against the FPIC process as implemented by the NCIP, citing among other problems allegations of manipulation, bribery and serious violations of the rights of indigenous peoples to pave way for economic activities such as large scale logging, mining, multipurpose dams, agribusiness plantations and other development projects.²⁶

Agrarian Reform Program

The Comprehensive Agrarian Reform Law (CARL), approved on June 10 1988, sought to promote social justice by providing farmers and farm workers with the opportunity to enhance their dignity and improve the quality of their lives through the increased productivity of agricultural lands. Both public and private agricultural lands were under the coverage of CARL for redistribution. Farmer-beneficiaries

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

were thus given land by the government as evidenced by a Certificate of Land Ownership Award (CLOA). Potential agrarian reform beneficiaries (ARBs) were required to form cooperatives or associations, whose collective efforts were deemed to make the land productive. While it has been considered a landmark policy in the struggle for land and social justice by landless farmers, the implementation of this law was met with fierce resistance on the part of landlords and in some cases, bloody confrontations have ensued between farmers/farm-workers and landlords.²⁷

Land acquisition and oil palm expansion trends

Historically, oil palm plantations were concentrated in large estates such as those previously held by NDC-Guthrie (e.g. NGEI and NGPI) and Agumill in Agusan del Sur and Kenram in Sultan Kudarat. In view of the CARP, these large-estates were abolished and ownership conferred to farmer-workers organised into cooperatives. Consolidating large-estates for oil palm plantations has been difficult due to the constraints posed by Philippine laws on land ownership and natural resources. Usual targets are those holding CLOAs, private land titles, forest stewardship agreements (e.g. ISFP, CBFMAs) and CADT holders.

Different landholding schemes have evolved over the past years. Below are the different schemes devised by oil palm companies in relation to landowners:

1. Filipinas Palm Oil Plantations, Inc. (FPPIC)

Scheme	Features
--------	----------

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Lease	<ul style="list-style-type: none"> -flat rate or a gradual increase up to a certain specified period (25 years and subject to renewal if agreed by land owners); -company manages the plantation/nucleus estate (both technical and financial); -landowners/CLOA-holders/cooperative members are hired as labourers/workers -this is the type of agreement entered into by NGEI and NGPI
Out-growership	<ul style="list-style-type: none"> -smallholders are self-financed, buy seedlings from mill and finance land development -smallholders may also receive financial assistance (purchase of seedlings) and technical assistance from the company -smallholders deliver FFB to the mill

2. Kenram Industrial & Development, Inc. (KIDI)

Scheme	Features
Out-growership	<ul style="list-style-type: none"> -mill owner supplies hybrid seedlings and technology -farmer spends for plantation development -all production delivered to the mill at current mill prices -cost of seedlings or inputs deducted over a specified period, with or without interest <p>Options:</p> <ol style="list-style-type: none"> 1. Plant now, pay later -healthy/ready to plant seedlings at cost, with no interest charges -fertilisers at cost, no interest charges for the first 4 years of development -free agronomical services

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

	<p>Production and Purchase Agreement (PAPA)</p> <ul style="list-style-type: none">▪ growers sell the FFB exclusively to the company valid for 20 years and renewable upon mutual agreement of both parties▪ FFB should conform with the standards of quality set in the agreement▪ growers repay the costs of seedlings and fertilisers without interest by deducting 30% on the FFB deliveries starting from the first FFB delivery until full payment▪ after four years of development support and upon agreement between the grower and KIDI, the company supplies the growers with farm inputs without interest and payable within 30 days. Any unpaid amount after 30 years earns interest at 12% per year until fully paid. <p>2. 100% self-financing by growers</p> <ul style="list-style-type: none">▪ growers pay seedlings in cash and spend on labour and materials▪ KIDI provides free agronomical advisory services during the first 4 years of crop development
--	---

3. AGUMILL Philippines, Inc. (API)

Scheme	Features
Out-growership	<p>Options:</p> <p>1.100% self-financing</p> <ul style="list-style-type: none">▪ includes oil palm seedlings▪ expenses on labour and material inputs <p>2.Seedling loan</p> <ul style="list-style-type: none">▪ labour and material inputs are self-financed

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

	<p>Tripartite agreement - planting materials and technical assistance Land Bank provides the financing in the form of a development loan</p>
Lease -1,200 ha	<ul style="list-style-type: none"> ▪ yearly rental of land over a period of twenty five years ▪ facilitation of financing loan from First Consolidated Bank (FBC) and Land Bank of the Philippines (LBP) ▪ oil palm seedlings ▪ labour ▪ material inputs <p>Under the bank finance scheme, the landowners enter into a contract with the company and are provided with ready to plant seedlings at a cost and technical services throughout the contract period of twenty-five years. In return, the landowners/growers are obliged to sell all their FFBs to the company based on the standards of crop quality stipulated in their agreement.</p>

3. ABERDI, Inc.

Scheme	Features
Out-growership	<ul style="list-style-type: none"> ▪ mostly self-financed consisting of smallholders and also members of the Local Government Units
Lease	<ul style="list-style-type: none"> ▪ CBFM area

Expansion of oil palm in forest lands

In view of the planned expansion but limited areas that are open for oil palm expansion in the Philippine lowlands, oil palm investors

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

have been looking into its growth in the upland areas. Problematically, some of the areas where oil palm plantations have expanded, as well as potential areas for future development, are located in forest lands covered by DENR tenure instruments as well as in indigenous peoples' ancestral domains.

As a result of the oil palm industry's lobbying to the DENR to "consider African oil palm as an additional crop for forestry plantation development", Secretary Elisea Gozun issued Memorandum Circular No. 2004-12 in August 2004 which outlines "Revised Guidelines Governing the Identification of Forest Areas for the Establishment of African Oil Palm Plantation."²⁸ Under this guideline, oil palm development was opened up in forest areas with "existing tenurial instruments such as, but not limited to, IFMA, SIFMA, CBFMA and other forest land uses agreements." However, it also provided for "appropriate and proper safeguards" in view of the "exigent technical and ecological requirements of the subject species." Below are the safeguards deemed by the DENR to protect the remaining forest lands²⁹:

1. The establishment of African oil palm may be allowed in open/bushland areas of forest lands with a slope of no more than 50% (approximately 26 degrees) and that are not part of designated protected areas, including its buffer zones. In no case shall African oil palm plantation be allowed within Protected Areas covered by Republic Act No. 7586 or the National Integrated Protected Area System (NIPAS);
2. Areas proposed for African oil palm plantation establishment have to be jointly certified by the Provincial Office of the Philippine Coconut Authority, Department of Agriculture (PCA-DA) and Provincial Office of the DENR as suitable and available, respectively, for palm oil development;
3. African oil palm plantation to be established within areas covered by existing tenurial instruments, such as IFMA and SIFMA, shall be confined to only 10% of these areas in accordance with the comprehensive development and management plan and upon approval of the DENR Secretary;

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

4. For CBFM areas, planting of African oil palm shall be allowed subject to the approved and/or amended Community Resource Management Framework/Annual Work Plan (CRMF/AWP), as the case may be, and following criteria No. 1 and certification in criteria No. 2 as described above;
5. For other existing forestry tenurial instruments, existing policies and guidelines governing such tenurial instruments shall be strictly followed in awarding areas for the establishment of African oil palm plantation;
6. In no case shall conversion of existing natural forest and forest plantation (within production and protection forest) be allowed for the establishment of African oil palm plantation; and
7. Establishment of any African oil palm plantation in forestlands shall be subject to an Environmental Impact Assessment (EIA) process.

These policy guidelines thus inform the assistance provided by the DENR to People's Organisations that are holders of CBFMAs in facilitating investments by the private sector, other government entities and individuals for the utilisation and development of portions of the entire CBFM area. Interestingly, a Memorandum Circular No. 98 issued by the DENR on June 24 1998 was already in place, which laid down "Guidelines on Contracting Inside Community-Based Forest Management (CBFM) Areas." This is seen as part of the DENR's effort "to hasten and systematise contracting inside CBFM areas" in order "to encourage investments by the private sector in the CBFM Program." Under this guideline, two types of contracts may be entered into in CBFM areas:

1. Service Contracts, which include extraction of forest products such as felling and bucking; road construction; major and minor log transport; processing or sawmilling activities; reforestation and timber stand improvement; marketing of forest products and professional service or technical assistance.
2. Development Contracts, which include timber and non-timber development; agro-forestry development; agricultural development; livestock production and ecotourism.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Contracts pertaining to oil palm development fall under category 2 or the so-called Development Contracts. The DENR, however, strongly emphasised that “all contracts shall at all times be consistent with the PO’s CBFM Agreement and approved CRMF.” The period covered by Development Contracts shall be for the period agreed upon by the parties but in no case must it exceed the term of the CBFMA or its extension, if any.³⁰

Oil palm expansion in ARBs and private lands

Oil palm expansion is mostly concentrated in privately owned and titled smallholders’ land and also among Agrarian Reform beneficiaries who are issued CLOAs. CLOA holders’ lands were turned over to oil palm corporations through a leaseback arrangement. Flores-Obanil and Manahan defined the leaseback arrangement as a “major mechanism for agrarian reform in the plantation sector in which a cooperative or worker-beneficiaries or individual farmers turn over the control of their land through a lease contract to a multinational or agribusiness corporation or former landowners in exchange for lease rental and possible employment in the farm as farm-workers.”³¹ In the early stages of the palm oil industry, the leaseback arrangement has been the dominant mode of land acquisition for oil palm plantation.

In 1998, the DAR, through Secretary Horacio Morales, promoted several schemes such as leaseback, joint ventures and contract growing as official strategies for the implementation of agrarian reform. This strategy had been heavily criticised as inimical to the rights and interests of small farmers such as the “leasebacks” and contract growing agreements of farmers to multinational agribusiness companies such as Dole and Del Monte.³² Some of the problems of the agrarian reform program include the lack of financial support to the farmer-beneficiaries, vulnerability of CLOA/ARB holders to leaseback schemes from which they receive low rent, unfulfilled promises of employment and other benefits, and so on. Thus, many of the farmers who entered into such schemes remain impoverished while having abdicated their access to and control of their lands.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Expansion of oil palm in Ancestral Domain areas

Some of the existing oil palm plantations located in or overlapping with ancestral domain territories are to be found in Bukidnon, Sultan Kudarat, Agusan, Cotabato and Palawan. Specific issues regarding FPIC and other violations of indigenous peoples' rights will be discussed in the five case studies included in this research. While vast tracts of lands are urgently needed for oil palm expansion, some members of the Palm Oil Development Councils are not particularly keen to develop ancestral domain areas as they consider the requirement processes tedious and complicated. However, on the ground, "facilitators" or brokers either employed by oil palm companies or working independently are aggressively scouting for viable lands for oil palm in ancestral domain areas, many of which being extensive grasslands, are deemed suited for oil palm development.

Map of ARBs and CADTs



Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Experiences and issues in palm oil plantation areas

CASE STUDY 1. The case of oil palm plantation beneficiaries in Sultan Kudarat, Mindanao

The Kenram Agrarian Reform Beneficiaries Multipurpose Cooperative (KARBEMPCO) in Isulan, Sultan Kudarat, is a cooperative and one of the two beneficiaries of the 1,600 ha oil palm plantations formerly owned by Kenram Philippines, Inc. (KPI) and the First Southern Land Development Corporation, Inc. in Isulan, Sultan Kudarat.³³ It received a collective Certificate of Land Ownership Award (CLOA) in 2002. Although there is little room for small players in a market-led industry such as that of oil palm, there are still opportunities left untapped by the ARBs to maximise their endowments. KARBEMPCO's experience shows that even as market-oriented land transfer schemes restrict the opportunities for reforms offered under CARP, the gains earned by the ARBs' collective action should not be overlooked.



Oil palm nursery set up by Kenram in Sultan Kudarat

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Oil palm development in Sultan Kudarat

Sultan Kudarat plays a key role in the Philippines' oil palm industry. In 1966, KPI set up the country's second oil palm plantation in the province. The corporation developed a nucleus estate of around 1,600 ha with a twenty ton milling facility established at the heart of the plantation. It expanded the plantation through an out-growership scheme with some landed families in the municipalities of Tacurong, Isulan, Esperanza and President Quirino. The out-grower scheme was designed to expand the plantation, with KPI providing loans for planting materials and farm inputs in exchange for the sole right to buy the Fresh Fruit Bunches (FFBs) produced by the growers.

No major expansion occurred in Sultan Kudarat until the year 1999 when Agusan Milling Corporation (Agumil), in partnership with the Central Cotabato Peace and Development Council, established their first nursery to expand their plantation in Sultan Kudarat, Maguindanao and Cotabato provinces. This was followed by the nursery establishment of Kenram Industrial Development Incorporated (KIDI), Kenram Agrarian Reform Beneficiary Multi Purpose Cooperative (KARBEMPCO) and KPI. Oil palm plantations in Sultan Kudarat now cover an aggregate area of approximately 11,000 ha and are expected to expand as interest in oil palm production grows.

Area of coverage

In 1999, planted areas of oil palm in Sultan Kudarat only covered 4,800 ha. This area has now grown to around 11,000 ha, including the Kenram plantation. The nurseries are continuously producing planting materials and expansion plantation activities are ongoing.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Municipality	KIDI ^a (including co-ops)	KPI	Agumil
Tacurong		43.37	397.83
Isulan		30.73	118.10
Esperanza		18.83	61.81
Bagumbayan		49.43	399.59
Palimbang		4.29	
Columbio		38.95	922.81
President Quirino		39.79	501.49
Lutayan			107.94
Lambayong		3.13	34.47
Senator Ninoy			77.09
Total	6,994.00	228.52	2,621.13

Total oil palm expansion area in Sultan Kudarat as of May 2010

(breakdown of hectareage not available)

Milling

Sultan Kurarat hosts the second milling facility set up in the country with a capacity of twenty tons per hour. The first milling facility was established in Basilan and catered to the 280 ha plantation. Agumil and Filipinas Palm Oil set up the third and fourth milling facilities respectively in Agusan province. Recently, two additional mills were established in Mindanao, one in Maguindanao province owned by Agumil and another in Bukidnon by Aberdi. These mills process the FFB into crude palm oil and palm kernel oil for food and industrial use. All milling facilities are owned by the investors, who are the former landowners in the case of Sultan Kudarat. Two milling facilities are within reach of KARBEMPCO, one in Sultan Kudarat owned and operated by KIDI and another in Buluan, Maguindanao, owned and operated by Agumil. KARBEMPCO only deals with KIDI in marketing of the FFB. The cooperative does daily deliveries to the mill and is paid within a period of fifteen days based on the current price and oil recovery rate results from the laboratory.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Pricing

The pricing of oil palm is highly dependent on the world market and current exchange rates. Local pricing is guided by the formula presented below. Other assumptions considered in the computation are the extraction rate and the milling charges, which are shouldered by the producer. The milling fee at the time of writing was pegged at PhP 600/ton in KIDI and the recent proposed contract of Agumil pegged at PhP 750.

Price formula (from the recent contract of Agumil)

$[(A \times B) + (C \times D) - P750/MT] \times 85\%$, where:

- A the Selling Price per ton of crude palm oil or CPO
(Net of Vat)
- B the oil extraction rate based on Average OER in the mill or few new planting is
(based on #1 below provided the crop quality does not exceed the limit as indicated in schedule B)
- C the Selling Price per ton of Kernels (net of VAT)
- D the average kernel extraction rate of KER

* milling fee per ton (subject to annual review based on escalation of cost in labour and materials which is estimated at 2% per year).

Marketing of oil based on weekly published oils and fats index.

NOTE:

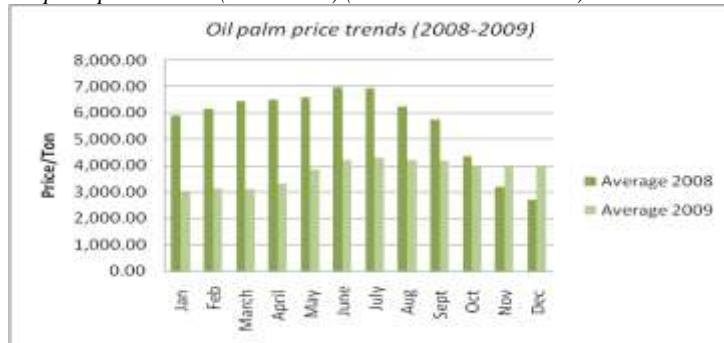
1. Oil Extraction Rate (OER) shall be based as follows:

3-4 years from field planting	15.0%
4-5 years from field planting	17.0%
5-6 years from field planting	18.0%
6-above from field planting	based on Mill Actual KER
2. Kernel Extraction Rate (KER) shall be based as follows:	
3-4 years from field planting	3.0%
4-5 years from field planting	3.4%
5-above from field planting	based on Mill Actual KER

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

NOTE: OER and KER shown above are for reference. Actual extraction is furnished from mill analysis.

Oil palm price trends (2008-2009) (Source: KARBEMPCO)



Current situation from the cooperative's perspective

Collective over individual title

The distribution of the land on which Kenram plantations are located took place in 2002. Compared to the difficult and sometimes violent struggles reported as having taken place on banana plantations, the awarding of land to the ARBs in the above plantation was relatively smooth and facilitated by partnerships between the People's Organisations (POs), non-governmental organisations (NGOs) and the Department of Agrarian Reform (DAR). The landowner did not display much resistance either and reportedly showed openness to negotiations related to land distribution, management options and marketing agreements. It helped, of course, that the landowner retained ownership and control of the milling facility despite it being located within the area covered by the plantation.

During this period, social preparation activities were undertaken to speed up land distribution processes. Formation of the POs through cooperative organising became the primary focus of these activities. Subsequent activities were launched to build up the awareness of and strengthen PO members' capacity to engage in active

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

participation. The PO was ensured that its members would be the potential beneficiaries. The cooperatives were organised and served as claimant organisations. While strengthening of people's organisations was being undertaken, advocacy work, networking, lobbying and negotiations were also given attention to speed up the process.

The cooperatives KARBEMPCO and MAPARBEMPCO received their collective Certificates of Land Ownership Award (CLOA) in 2002. KARBEMPCO has 413 members (2 women and 411 men) while MAPARBEMPCO has 295 members (59 women and 236 men). It was also during this time that the viability and feasibility of a PO managed plantation operation was decided by the beneficiaries. At present, *barangay* Kenram and Mapantig are within an Agrarian Reform Community (ARC) and receive priority government support for community development through the DAR and Local Government Units.

The cooperatives set up mechanisms to sustain the plantations' operation. The workers, now ARBs, were retained. Wage increases and provision of benefits including profit sharing were also implemented. Management of the plantation is under the general assembly (GA) but the Board of Directors also makes decisions in between GA meetings. A general manager administers all of the economic projects of the cooperatives while field managers oversee the plantation operation.

Cooperative-managed plantation

The table below shows the annual dividend of members, exclusive of their salary and other benefits. In 2008, every member received PhP 10,000 but this was decreased to PhP 4,500 in 2009 due to the decrease in net income of the cooperative generated from oil palm production.

The decrease in production income in 2008 and 2009 is attributed to the fluctuating FFB prices during that period. The production of FFB also decreased due to the replanting program of the cooperative from 2005 to 2009, covering a total of 559.39 ha (72 ha in 2005, 348

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

ha in 2006, 140 ha in 2009), representing more than half of the total production area of the cooperative. Production in the 72 ha replanted area has begun and is expected to peak in the twelfth year.

Cooperative's income 2002-2009

KARBE MPCO	Year end 2002	Year end 2003	2008	2009
Income:				
Productio n/ Marketing	9,544,787.94	34,935,253.77	13,914,01 0.48	6,118,899.94
Capital Build Up	565,098.00	2,023,899.67	15,932,80 0.00	15,932,800.00
Dividend/ member	16,426.65	34,878.62	10,169.63	4,500.00
Total asset	74,280,392.2 4	97,769,537.29	174,115,1 74.02	160,961,604.7 6
Members	413	413	413	413

Comparative data: during the takeover (2002-2003) and most recent (2008-2009)

Through their earnings from oil palm production, the members of the cooperative were able to increase their capital build-up. This allowed them to diversify their economic undertakings after only two years of operation. KARBEMPCO is currently engaged in credit provision to members, consumer store management, swine breeding and fattening, and planting material marketing.

In addition to the annual dividends received by the members of the cooperative (refer to the table above), the workers' daily wage has increased from PhP 170 to PhP 218 (mandated minimum wage) with a PhP 15/day cost of living allowance. The cooperative is also able to provide additional employment opportunities. From a workforce of 180 in the past, KARBEMPCO now has 190 plantation workers, mostly men. Employment is also generated through the other economic initiatives of the cooperative described above. The cooperatives have also been able to address the members' basic needs in terms of housing. Prior to the oil palm plantation takeover, most of the workers resided in bunkhouses owned by KPI. After the

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

co-op takeover, a residential area of 27 ha was allocated. Each member received a 500 square metre lot for housing.

Since the two *barangay* (Kenram and Mapantig) were launched as an Agrarian Reform Community (ARC), they have become priority areas for government projects through the DAR. The swine breeding and fattening in KARBEMPCO was among the projects funded by the DAR program. The potable water system project is also one of the support projects now directly managed by the cooperative. Other services they have access to are support for electrification facilities, a telephone system and cable TV line.

These gains are not confined to the cooperative members. The cooperative also provides salaries and subsidies for one catechist and two teachers in the *barangay* public elementary school. The swine breeding and fattening project also provides piglet dispersal to the residents of the *barangay*. Beneficiaries of this project are determined by a joint committee composed of representatives of the cooperatives and the *barangay* officials.

The ARBs are optimistic that they will be able to transform their cooperative into a major player in the palm oil industry chain. An initial step towards this is the setting-up of a nursery for their replanting program and expansion. The cooperative has obtained high breed pre-geminated seed from Papua New Guinea. It is also set to begin trials for a project on organic fertiliser production using piggery waste and bunch waste from the mill, as part of their bid to reduce chemical-based fertiliser application in the plantation.

However, there are limitations which they still have to overcome, foremost of which are the limited business skills and capitalisation available to the cooperative members. Education seminars for leaders as well as the members have been implemented since the cooperative took over the plantation. However, despite these training and seminars, specific problems in organisational and business management are still encountered. This may be understandable considering that the ARBs are still in the phase of scaling up from single plantation management operation to multiple business operation. Limited capital hinders the expansion of the

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

current plantation operation and business expansion of the cooperative. A concrete example of this is the nursery installation. Even though the co-op has established the nursery, it is limited to the replanting program of the cooperative's existing area. Other areas for plantation expansion cannot be accommodated as a result.

Conclusion

The ARBs of the Kenram oil palm plantation work within an industry controlled by big players where pricing depends on world prices and seedlings are sourced from outside the country. They, however, have command of land which is an important endowment and the source of millers and buyers' much needed produce. The benefits gained, as seen from the cooperative's point of view, cannot be underestimated. However, their present situation does bring to mind certain concerns worthy of consideration by the cooperative, NGO partners, and government.

Firstly, collective titling, when tied to market-led schemes, undermines the redistributive principles of agrarian reform. This is very clear when one looks at the condition of women beneficiaries who experience exclusion in many respects. They are not hired in the plantation, nor do they have a voice in the cooperative leadership. Women earn income by collecting fruits that fall from fruit bunches and selling these to the cooperative for PhP 30-40 per kilo. Only one woman is employed in the co-op's office. As minority members, no projects have reportedly been implemented that specifically benefit the women. As landowners, they are practically denied access and control over land that they own.

In the case of a number of individually distributed banana plantations, anti-reform arguments are clearly mistaken in claiming that breaking down plantations into small farms would result in losses for the banana export industry. Amidst challenges, the situation points to potentials for poverty alleviation under small farming systems and the increasing capability of ARBs to directly engage and influence the market.³⁴ In a number of these plantations, women and men beneficiaries work on their individual farms and

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

supply the production volume required by their cooperatives that are in charge of marketing.

Due to the market-oriented land transfer scheme, annual payment for amortisation runs into millions of pesos. KARBEMPCO's amortisation is based on the Average Gross Production of the plantation, which is computed at 5% for the first five years and 10% from the 6th year up to the 30th year. If computed based on the table of earning shown earlier, in 2003 for instance, some PhP 1.747 million would have gone to payment of amortisation from the cooperative's reported earnings of PhP 34.395 million. This amount could easily have financed rehabilitation of the plantation or livelihood projects for women and other members who could not be absorbed in the plantation. The company also made the wise move of holding on to the milling facility and transferring costs of production to the cooperative.

A large portion of the existing oil palm production in the province is in the hands of KARBEMPCO. They can maximise this position as leverage in negotiating with the companies. Their proximity to two oil mills should work to their advantage in getting a better price for their produce since milling facilities now work below their capacity because of low supply. The development of a nursery is a good initiative but this should not be limited to the co-op's needs. Strategically, they could consider investing in providing transport and seedling to other palm oil growers, especially the small out-growers. This would help diversify their income while providing support to their immediate community outside the co-op membership.

Beneficiaries can surmount challenges in a market-led land reform if there is a confluence of strong social movement and government action that cushion against pressures posed by transnational companies and landowners within commercial farms. Borras quotes Fox in referring to this as the *bibingka* strategy wherein "mutually reinforcing interaction between societal and State pro-reform forces" can counter anti-reform actions.³⁵ This has been experienced at the distribution stage of CARP for a number of plantations in Mindanao, including that of Kenram.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

A similar strategy is called for in terms of post-distribution. The government should not abandon its regulatory function. No good contract for instance can be forged between investors/former landowners and beneficiaries without the government balancing the disparity in negotiating power between the two parties. Land transfer should also be “complemented by other policies that provide access of small farmers to markets, inputs and improved production incentives”.³⁶ In the case of Kenram, the co-op beneficiary is equally responsible in making sure that the gains of agrarian reform accrue to all – leaders and members, men and women alike.

CASE STUDY 2. Oil palm expansion in Impasugong, Bukidnon

Impasugong is located in the north-eastern part of the province of Bukidnon and politically subdivided into thirteen *barangay*. Its proximity to Malaybalay City, Bukidnon's capital, and Cagayan de Oro City is considered an advantage in terms of trade. Based on the 2010-2019 Comprehensive Land Use Plan of Impasugong, the municipality's population is composed of 65% Higaonon and 35% mixed tribes. It has a total land area of 107,167 ha, 83% of which is classified as timberland while the remaining 17% is considered alienable and disposable land. The second biggest land area and biggest timberland area (18% of total timberland) in the municipality is located in *barangay* Kalabugao.

The Comprehensive Land Use Plan also shows that corn and rice are the two major food crops produced in Impasugong which are planted over approximately 2,000 ha and 645 ha respectively. Plantation crops such as pineapple, sugarcane, and banana are produced on some 3,000 ha. Oil palm is planted on at least 800 ha of land. The local government of Impasugong promotes oil palm as an agro-forestry crop along with abaca and banana. It prides itself as

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

the “palm oil capital of Northern Mindanao” with oil palm production as its top priority for the next five years.

Actors involved

The local government unit and other State agencies

State policies provide a conducive atmosphere for oil palm expansion in Impasugong. The local government has made oil palm a priority crop that is envisioned to propel economic development for the municipality. As such, it has entered into partnership agreements with farmers and government financing institutions such as QUEDANCOR to act as a conduit for loans for small farmers who wish to engage in palm oil production. The Municipal Enterprise and Economic Development Office (MEEDO) of Impasugong also provides technical assistance to farmer-growers and takes charge of promotional activities to encourage local farmers to produce palm oil. Plans for the setting-up of an agro-industrial trading centre are also said to be underway to support other economic activities related to oil palm production such as *amakan* weaving.

The Department of Environment and Natural Resources (DENR) has provided maps that identify available lands for plantations. The Department of Agriculture (DA) has tested the suitability of land for oil palm production. The National Commission for Indigenous Peoples (NCIP) on the other hand, is responsible for certifying whether identified lands are within or outside the boundaries of ancestral domain areas.

The company

A. Brown Company, Inc. is engaged in trading, energy/power source generation development and production, quarry and mining, and real estate development. Although known as an American-owned company, a company official claims that it is a 100% Filipino owned company, with the owners based in Cagayan de Oro City.

The company has two subsidiaries, namely, Nakeen Development Corporation and A. Brown Energy Resources Development, Inc.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

(ABERDI), for its oil palm plantation development and palm oil production, respectively. Located on a five ha property in Barangay Poblacion, ABERDI operates a plant with a ten ton/hour capacity and produces crude palm oil. Faced with inadequate supply from within Impasugong, the company sources FFB from about 600 ha of farmland from as far as Cotabato province in order to meet its production targets. The palm fruit oil produced by ABERDI is distributed to local feed millers in Manila, Cebu and Bukidnon. A small amount of crude palm oil is also exported to Malaysia.



ABERDI palm oil mill in Impasugong, Bukidnon

Although it currently operates below capacity because of low supply, ABERDI has plans to expand its operation and set up a compact refinery plant to produce crude palm oil (CPO). It targets a 520 metric ton production of CPO a month and intends to expand its plantations to 2,500 ha. Company officials are optimistic that this could be done, especially in the light of Nakeen's projected 5,000 ha expansion site in Opol, Misamis Oriental. The company has conducted sitio, municipal and provincial level consultations in preparation for the plantation development in Opol.

Nakeen reportedly owns a 70 ha oil palm plantation (40 ha in Maluko, Bukidnon; 27 ha in Dalirig and 3 ha in Lunocan, Manolo Fortich). It also operates a nine ha pre-oil palm nursery situated in Lunocan, Manolo Fortich, and another ten hectare main nursery in Impasugong. However, the Nakeen official interviewed for this

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

study admitted that conflicting claims over land prevents their expansion efforts. For instance, reportedly uninhabited areas on DENR maps turned out to be inhabited by communities growing permanent crops in those areas. However, the official also stated that titled ancestral domain areas were not a priority for the company because of the tedious requirements of the NCIP.

The communities

Ancestral domains and public lands under various tenurial arrangements such as stewardship and pasture lease are targeted by existing expansion activities. Oil palm is now planted in at least six of the thirteen *barangay* in Impasugong. The LGU's joint venture contact with farmers covers the *barangay* of Guihean, Sayawan, Poblacion, and Pinaanan. Nakeen has direct investments in *barangay* Hagpa and Kalabugao. Prior to the planting of oil palm, the farmers produced corn, rice, abaca and coffee, mainly for household consumption and local trading.

Nakeen's development contract

About a third of the total timberland areas (or 5,000 ha of Barangay Kalabugao) has been identified by the DENR as suitable for oil palm. In 2006, the Kapunungan Sa Mga Mag-Uuma sa Kaanibungan (KASAMAKA - Association of Farmers in Kaanibungan) together with the LGU and the DENR developed a five year development plan for the *barangay*, which included oil palm production as a priority project. This process was approved by the DENR as a requirement for the granting of the Community Based Forest Management Agreement (CBFMA) applied for by the community, which covers some 2,100 ha.

Under the CBFMA, KASAMAKA is mandated to develop, manage and protect the allocated community forest project area. Moreover, it is allowed to enter into agreement or contracts with private or government entities for the development of the whole or a portion of the CBFM area. Nakeen became involved in 2006 when it negotiated with KASAMAKA for the use of 1,200 ha of the CBFMA covered areas for oil palm production.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

A twenty five year development contract was soon signed between Nakeen and KASAMAKA and planting of oil palm began in 2007. Priced at PhP 6,000/ha, Nakeen reportedly paid members of the people's organisation a total of PhP 7.2 million in cash in exchange for the sole authority to develop the area. A member claims that KASAMAKA took PhP 1,000/ha of the PhP 6,000 rental fee.



Del Monte's pineapple plantation lies below the hilly slopes planted with oil palm in Impasugong, Bukidnon

Quoting a contract provision, a company official stated that the "claimant waives the right to develop the area in favour of the company." The contract is said to contain provisions for social service delivery such as PhP 10,000 medical assistance per year, the setting up of a water system in Sitio Kaalibungan, school improvement, *amakan* weaving as a livelihood project, and financing for rice production. The company official also claims that eight *datu* (village chieftains, usually the highest officials in the indigenous traditional political structure) in the community are given Php 1,500 monthly compensation "for keeping peace in the area".

The company gives employment priority to KASAMAKA members or their household members. For every five ha owned by a KASAMAKA member, his/her family is entitled to nominate one worker to work in the plantation on a regular basis. On average, a worker earns PhP 200 a day. The organisation also doubles as a labour contractor during harvest and planting seasons, charging a 15% service fee to seasonal labourers hired by the company. Even

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

though the majority of the *barangay* population is Higaonon, KASAMAKA members are mostly Dumagat or settlers from other areas.

Barangay Hagpa is another target of expansion. Unlike *barangay* Kalabugao, *barangay* Hagpa with its thirteen sitios is covered by a 14,000 ha ancestral domain area that was already awarded a CADT in 2008. Unlike other CADT claimants, the Agtulawon-Mintapod Higaonon Cumadon (AGMIHICU - “Pure Higaonon tribe in Mintapod and Agtulawon Ancestral Domain”) has two leaders, a head claimant for the CADT and a President who allegedly takes charge of activities for economic development. The President, Agilio Nanolan, is a former *barangay* captain and now municipal councillor. He reportedly facilitated the signing of the contract between AGMIHICU and Nakeen despite the opposition of a number of *datu*, including the head claimant, *datu* Amay Mantangkilan Cumatang.

Although only 200 ha of the ancestral domain have been converted into oil palm plantations, conflict is already brewing between those who oppose the presence of oil palm in their ancestral domain and those who take interest in the company’s offer. It is reported that a good number of tribal council members from the thirteen sitios of *barangay* Hagpa are in favour of the development contract. Some Dumagat expressed concern that some Higaonon leaders themselves would lead in pursuing oil palm expansion. As one local official revealed, “*nisugot mi ato nga mag CADT mapangalagaan ang yutang kabilin apan ang usa ka datu nga hinuon mag-una una sugot nga mapasulod ang A. Brown dinihi*”. (“We applied for CADT in order to protect the ancestral domain. However, it is one *datu* who would approve for A. Brown’s entry here”). Other community members, Hiagaonon and Dumagat alike, oppose the expansion since the expansion site is their protected forest while other sections are used for agricultural purposes.

The 200 ha expansion area has already been sold by the Higaonon to various Dumagat families but it was the People’s Organisation, AGMIHICU, who signed the development contract with the company. The rental fee of Php 8,000/ha for twenty five years in

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

barangay Hagpa is a little higher than the rate applied in *barangay* Kalabugao. The cash given by the company was received by AGMIHICU but was turned over to the Dumagat who are now considered owners of the land. The Higaonon are reportedly content to work as employees in the plantation. Some fifty Higaonon were given training on basic forest management to act as forest guards hired by Nakeen and are paid PhP 3,000 a month each. Labourers receive PhP 200 per day. Landowners who get to work on the farm are paid only PhP 120 per day. Women work as seasonal workers and are paid only PhP 80 per day.

LGU-Farmer Joint Venture Arrangement (JVA)

Enticed by the availability of financing offered by QUEDANCOR in 2004, the LGU of Impasugong introduced the Oil Palm Production Project to small farmers. Under this project, the LGU would enter into twenty five to thirty year joint venture contracts with farmers formed into seven-member self-reliant teams (SRT). The LGU's policy was that no expansion activities would be carried out in watershed areas. Target areas for production would be those covered by pasture lease agreements and not being utilised.

The LGU committed to providing technical assistance, financing road construction and maintenance, and paying the initial four years loan interest by the farmers. The farmers were required to obtain a PhP 50,000 loan from QUEDANCOR as their counterpart to cover the labour cost, seedlings, hauling, inputs and management cost to be paid to the LGU at PhP 5,000/ha. Interestingly, the farmers were also supposed to pay the LGU PhP 6,000/ha per year for road maintenance even though the LGU had committed itself to subsidise this expense. The farmers' loans are to be released through instalments to the LGU which acts as project manager. The agreed net profit sharing between the farmers and the LGU is 60:40 in favour of the farmers from the start of harvest up until the project's termination period. Nakeen is the sole supplier of oil palm seedlings and the sole buyer upon harvest of oil palm.

The venture began with fifty-one farmers owning a total of 128 ha. These figures have now fallen to ten remaining farmers with about

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

34 ha of productive land. QUEDANCOR suddenly stopped releasing money two years after the venture began in 2004 due to lack of funds. The LGU reportedly released some PHP 500,000 as counterpart to continue financing the project. To save the investments, the LGU is presently negotiating with Nakeen for the rehabilitation of the farms with a possible sharing arrangement on the income. Meanwhile, SRT members who are not as fortunate as the remaining ten remaining have outstanding loans. The farmers whose investments failed are said to have gone back to planting corn.

Issues and conclusions

The case of Impasugong illustrates several of the issues of concern currently surrounding oil palm expansion. First is the fact that the lands the government claims as marginal and uncultivated and therefore targets for expansion are in reality existing agricultural lands and ancestral domains, in which various customary tenurial arrangements are already in place.

Secondly, farmers and indigenous peoples end up shouldering social and environmental costs of expansion activities while benefits are skewed in favour of the investors. Communities lose their access and control over their land and other resources as a result of the agreements they sign with the company or LGU. Although we can also observe variations in existing forms of agribusiness venture arrangements, the terms have remained essentially the same, that is to say, in favour of investors. Elements of a lease arrangement are present in the development contract between Nakeen and its expansion areas. A twenty five year contract in exchange for PHP 6,000-8,000/ha is obviously a lopsided arrangement, exploiting the communities' weak negotiating power. In lease schemes, farmers and indigenous peoples become mere workers of the company and not allowed to use the land for other economic ventures for extended periods of time.

Thirdly, land use conversion stresses the existing unequal power relations between men and women and leads to a further denial of

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

women's land rights. Women are increasingly marginalised through their exclusion from employment opportunities on the plantations.

Fourthly, land use conversion also presents concerns over food security as food crops produced by farmers give way to production of an industrial crop under the guise of reforestation. Fifthly, the fact that oil palm is not grown organically means that the use of chemical-based inputs may pollute watersheds found in ancestral domains which will also affect water supplies in the lowlands, a concern shared by both the Higaonon and Dumagat populations. Although research so far has not documented any specific cases of harassment of plantation workers and smallholders, experiences in plantation development in other parts of Mindanao present lessons that should be considered and best avoided.

Other than regular employment in the plantation, there is not much evidence to show how the local communities benefit from the agribusiness arrangements. There also seems to be very little public awareness on environmental issues related to oil palm production such as soil erosion and destruction of biodiversity due to mono-cropping. Six years after expansion activities began, the question likewise remains of whether these will indeed usher in economic development as envisioned by the local government.

Without a doubt, there are obvious economic, social, and environmental concerns that need addressing in relation to the presence of oil palm plantations in Impasugong. Envisioned partnerships for local economy development may work if policies make sure that benefits accrue equally to, if not in favour of, the poor and vulnerable sectors and that stakeholders negotiate on equal grounds. This is far from becoming a reality in the case of Impasugong.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

CASE STUDY 3. Oil palm cultivation in Palawan: Status of investments and impacts on communities and the environment

With a total land area of 1,489,626 ha, Palawan is the largest province in the Philippines, equivalent to 5% of the Philippines' territory. An archipelago composed of 1,768 islands, noticeably with irregular coastlines, Palawan is bounded on the east by the Sulu Sea, on the northeast by the Mindoro Pass, on the west by the China Sea, and on the south by Borneo Island territorial waters. It is politically subdivided into one component city, twelve mainland and eleven island municipalities. The latest population count of Palawan is 892,660. The economy is largely agriculture-based. Primary agricultural crops grown are rice, corn and coconut.

While the history of oil palm cultivation the Philippines started in the 1950s with the establishment of oil palm plantations in Basilan, the establishment of oil palm cultivation in the Province of Palawan, considered the country's Last Ecological Frontier, began with talks and discussions that took place only in 2003. The idea of introducing oil palm and its potential environmental impacts were received with deep concern by both government and non-government sectors. Experiences from the neighbouring countries of Indonesia and Malaysia in terms of the adverse effects of oil palm cultivation on the environment were the sources of these uncertainties. However, the Provincial Government of Palawan remained keen to open up certain areas in Palawan for oil palm cultivation with the belief that it would benefit the rural economy.

According to a study conducted by the Philippine Coconut Authority (PCA) and the Palawan Palm Oil Industry Development Council (PPOIDC) for foreign investors³⁷, out of the 454,405 ha of agricultural area in Palawan, 208,997 ha are appropriate for oil palm plantation. Current sources reveal that at first, the Provincial Government of Palawan identified some 80,000 ha for oil palm cultivation. However, out of the 100,000 ha nationwide target for palm oil production in the country, Palawan was allocated 20,000 ha to be planted until 2011. Agusan Plantations Group, the Palawan

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Palm and Vegetable Oil Mills Inc. (PPVOMI) and the Agumil Philippines Inc. (AGPI) dominate the palm oil industry in Palawan and intend to cover 15,000 ha with oil palm plantations.³⁸

Presently, more than 3,746.31 ha in South Palawan are already planted with oil palm, and another 2,000 ha are programmed for next year.³⁹ Current oil palm plantations are found in the municipalities of Aborlan, Narra, Quezon, Rizal, Sofronio Espanola, Brooke's Point and Rizal. These areas are planted and owned by individual self-financing growers, cooperatives and PPVOMI (called anchor areas by the company). In the span of seven years, palm oil investors have brought in PhP 1.2 billion worth of investments to Palawan, as disclosed in the PCA 2009 Report. Although palm oil is a known feedstock for agro-fuel, a demand which will certainly sustain and increase the price of the commodity due to emerging biodiesel markets, palm oil production in Palawan is mainly for use as edible oil.

A previous study assessing agro-fuel development projects in Palawan identifies *jatropha* and oil palm as agro-fuel crops currently being invested in Palawan⁴⁰, noting that oil palm had the most mature feedstock plantation development. Unfortunately, the study also points out that the plantation owners do not pass through usual regulatory channels. The study further took notice of the problematic attitude of the environmental regulatory agencies in terms of stopping further land conversion or imposing stricter surveillance and control mechanisms. It cites experiences in mining areas where established zones have been modified to suit development proposals and concludes by expressing concerns over the likelihood of science being overtaken by political and economic demands. The study also raises the implications of oil palm cultivation for indigenous peoples in relation to their tenurial security, including benefit-sharing arrangements between the company and cooperative community members.

Development of oil palm cultivation in Palawan

In a meeting between oil palm investors and President Gloria Arroyo, it was reported that the Philippines imports around PhP 840

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

million (14 million USD) worth of palm oil. the Philippine Government has found a remedy to reduce the cost of import and provide solutions to the growing domestic demand for palm oil; to develop its own palm oil industry. In 2002, the average production of palm oil was of 54,333 metric tons, while the average consumption requirement was of 94,400 metric tons.⁴¹ The growing demand for palm oil is expected to reach 134,500 tons by 2010 and 171,700 tons by 2015.⁴²

Initial activities started to shape the oil palm industry in Palawan in 2003. The Provincial Government of Palawan invited the Agusan Plantations Group of Companies and the Philippine Palm Oil Development Council (PPODC) to Palawan, according to Ponciano Narciso, General Manager of PPVOMI/Agumil-Palawan (also Chair of PPODC during that time). The first visit to Palawan occurred sometime in February. Successive visits were carried out to conduct an in-depth study on the potentials of Palawan for palm oil project. A forum held at the Palawan State University (PSU) served as a venue where attendees from the government sector manifested their interest and pledged support to project implementation.

According to Ponciano, around October 2004, the Agusan Plantations Group of Companies began its intensive information drive in South Palawan and conducted studies on the ground specifically to assess and stimulate the interest of local inhabitants and the LGUs in project implementation. One field personnel was sent to Palawan to scour around for potential plantation areas, talk to local inhabitants, assess the acceptability of the project and carry out necessary preparations. North Palawan was the first region to be considered for oil palm cultivation. However, Romasanta claimed that LGUs in South Palawan were more active and the municipality of Brooke's Point quickly donated a piece of land in *barangay* Maasin for the establishment of the company's nursery area. However, Nelson Sombra, an indigenous leader in Brooke's Point, thought the area was merely for the company's nursery. This area too is now an oil palm plantation. Sombra claims the area was supposed to be a reservation for future use and is now covered by a twenty five year Memorandum of Agreement (MOA). When the nursery was established, around 600,000 pre-germinated seedlings

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

from Kimbi, Papua New Guinea, arrived in Maasin. During this time too, the company began acquiring areas to serve as the company's anchor areas.

According to Romasanta, the focus of the company was on Mindanao, but the lobbying carried out by the cooperatives, coconuts farmers and the mayors somewhat encouraged Agumil to establish itself in Palawan, with the support of the Provincial Government which created the Palawan Palm Oil Industry Development Council through a provincial legislation (Provincial Ordinance No. 739-04) on January 2004.⁴³ The ordinance states that the Council was established to enhance the economic prosperity of the agricultural industry. The duties and functions of the Council are: to formulate policies and plans for the development of the palm oil industry in Palawan and to recommend the same to the Sangguniang Panlalawigan for appropriate legislative measures if necessary; to initiate research on palm oil development; to advocate the promotion and institutionalisation of the palm oil industry development in Palawan; to encourage investments and promotion of palm oil industry development, particularly the establishment of milling plants/refineries and seed farmers; to monitor, evaluate and recommend measures in the implementation of the programs of the Provincial Government on palm oil industry development; to determine the areas suitable for palm trees plantations within Palawan, and; to perform such other duties and functions as may be necessary for the effective implementation of the program.

The Provincial Government showed its support by including oil palm in Palawan's development plan. The Provincial Comprehensive Development Plan of Palawan for 2005 has as its vision "to become a province where people, culture, religion and economy are in harmony with the environment and natural resources and the population living in peaceful, orderly and prosperous communities." Notably, two of the identified priority programs and projects are on oil palm as part of the development of plantation crops with private investors and processing plants. It was also a timely opportunity for the oil palm sector since the Land Bank of the Philippines (LBP) had established a financing program for such projects. According to Narciso, the Provincial Government, through

*Oil Palm Expansion in South East Asia: trends and implications for
local communities and indigenous peoples*

Governor Joel Reyes and Vice Governor Dave Ponce De Leon, formed an investment team that visited Mindanao to present the potential of Palawan and business proposals for oil palm development.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Project brief: the integrated palm oil processing project

Location: Municipalities of Aborlan, Narra, Quezon, Sofronio Espanola, Brooke's Point, Rizal and Bataraza

Investors/Proponents: Palawan Palm & Vegetable Oil Mills Inc. (PPVOMI), AGUMIL Philippines, Inc. (API) – Palawan Operation

Project components:

Palm Oil Mill – Cost: PhP 390,000,000.00

Oil Palm Nursery – Operation: PhP 49,043,817.08

Oil Palm Plantations – Operation: PhP 84,682,694.2.

Project cost: PhP 523,726,511.33

Production purpose: edible oil

Environmental Compliance Certificates (ECCs) issued:

ECC R4B 1006 0102 covering the palm oil mill of Agumil Phils. Inc. (AgPI), issued July 1 2010

ECC R4B 0901 025 3909 covering oil palm plantation in: (1) Bgys. Mabini, Sagpangan and Iraan in Aborlan; and (2) So. Mariwara, Bgy. Princess Urduja in Narra

ECC R4B 0807 0178 3909 covering oil palm plantation in Bgys. Isugod, Panitian, Aramaywan and Tagusao in Quezon

ECC R4B 0807 0177 3909 covering oil palm plantation in So. Salungsong, Bgy. Iraan in Rizal

ECC R4B 0807 0170 3909 covering oil palm plantation in Bgys. Pulot Interior, Punang, Labog and Iraray in Espanola

ECC R4B 0811 327 3909 covering oil palm plantation in Bgys. Calasaguen, Maasin, Pangobilian and Samarinana in Brooke's Pt.

ECC R4B 0901 024 3909 covering oil palm plantation in Bgys. Sandoval, Tarusan and Igang-Igang in Bataraza

PCSD-SEP clearance issued:

March 25 2010 for the Integrated Palm Oil Processing Project

Source: PCSD 165th Regular Meeting. Evaluation Report Brief for the Council. 25 March 2010.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

By December 2005, PPVOMI was organised and registered as a local company and part of the Agusan Plantations Group of Companies. The company began official operation in January 2006. Narciso claims that the company pursued the project in Palawan only after the construction of their processing plant in Bohol due to certain financial limitations. However, the project was not received positively by all; the Department of Environment and Natural Resources (DENR), the Palawan Council for Sustainable Development (PCSD) and the Environmental Legal Assistance Centre (ELAC) in particular raised numerous environmental concerns. The company nonetheless continued to carry out and obtain the necessary requirements and documents, including an Environmental Compliance Certificate (ECC) for the plantations and the project. Narciso also noted that after securing their first ECC in 2007, it became much easier for the company to proceed because the project was claimed to be that of the Provincial Government.

At present, many of the oil palm trees are bearing fruits. For now, the harvests are left to decompose and used as compost, as the agreement for production is for 2011. The mill plant with the capacity to process 15 tons/hour of oil palm nut to crude palm oil is still under construction. According to Narciso, the mill plant will be able to process the FFB of the 15,000 ha oil palm area.

Existing palm oil investments and projects

At present, the oil palm industry in Palawan is dominated by PPVOMI and AGPI who currently implement the Integrated Palm Oil Processing Project. Both companies are part of the Agusan Plantations Group of Companies, which also includes Agusan Plantations, Inc. (API) and the Philippine Agriculture Land Development and Mill, Inc. (PALM, Inc.). Their mission is “to develop oil palm plantations in the Philippines in areas that are conducive for such cultivation with the objective of achieving participation of farmers to out-growers program, thereby alleviating the poverty at the countryside”.⁴⁴ The group envisions becoming the largest oil palm plantation company in the Philippines. Narciso claims that they hold an estimated 50% of the domestic market share on palm oil, excluding operations in Palawan. PPVOMI and AGPI

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

share the market with Pilipinas Palm Oil Plantation Inc. and Kenram Industrial Development Inc.

During community interviews, the name of the construction company Cavite Ideal International Construction and Development Corporation (Cavdeal) came up several times. Cavdeal is based in Cavite and owned by Mr. Lamberto Lee, Jr. The construction firm became controversial when it was blacklisted by the World Bank for “collusive practices” involving the bidding for the Philippines’ National Road Improvement and Management Program (NRIMP) Phase 1. Cavdeal is involved in the PhP 1.8 billion road-building project in South Palawan. Sources claim that CavDeal is purchasing lands in South Palawan, and according to agents of CavDeal, the target quota is of 500 ha. It is however unclear if the purchased areas are intended to be used for oil palm plantations. However, the PPVOMI General Manager confirmed that CavDeal intends to invest in oil palm. The PPVOMI or AGPI have no business ties with CavDeal. However, Narciso claims that they were already approached by the company and that they could help CavDeal on the technical front. However, he also suggests that it would be difficult to come up with enough land area to allow for a palm oil mill to operate.

Project status



Oil palm nursery

The nursery is located within the thirteen ha project site. It is the source of seedlings for out-growers

Located in Bgy. Sandoval, Bataraza, the total area of oil palm cultivated is 250 hectares. and plantations.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

The nursery is accredited to PCA. This requirement helps the PCA to monitor the source of planting materials and whether or not they comply with the requirements. The company must also comply with the quarantine and guidelines on the importation of oil palm planting materials of the Bureau of Plant Industry (BPI). In particular, oil palm planting materials should be free from Chlorotic Ringspot virus, Lethal Yellowing and *Brontispa longissima*. Pest and disease control have an important impact on the productivity and profitability of oil palm. Oil palms are prone to the attacks of pests such as bagworm, nettle caterpillars and rhinoceros beetles (locally known in Palawan as *bagangan*).

The pre-germinated seedlings of PPVOMI/Agumil come from Kimbi, Papua New Guinea, the world's fifth top supplier of palm seedlings. The supplier of the company is New Britain Palm Oil Limited. The company finds importing pre-germinated seedlings from Papua New Guinea (PNG) cheaper than engaging in seed production in the Philippines. Seedlings are made available to the growers as part of their loan. Growers buy seedlings from the nursery at PhP 117 each. Each hectare of land may be planted with 120 to 130 oil palms. A single palm tree with a good yield is of forty five kilos and over, while fifteen kilos or less is considered a failure. Harvest occurs two to three times a month. The estimated gross income per hectare is PhP 9,000 for four to ten year old palm; PhP 72,000 for ten to fourteen year old palm and PhP 60,000 for fifteen to twenty five year old palm.

Oil palm plantations

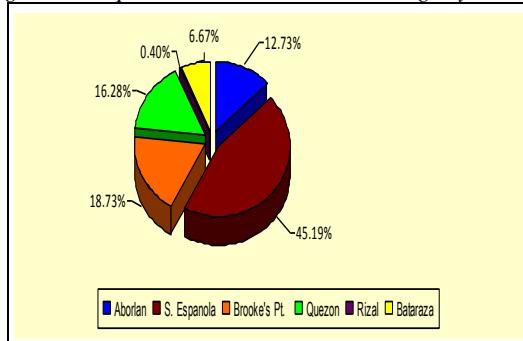
The target sites for the establishment of oil palm plantations are located in the municipalities of Aborlan, Narra, Quezon, Sofronio Espanola, Brooke's Point, Rizal and Bataraza, all of which are in South Palawan. The target total hectarage is of 15,000 ha.

Data from the company on the statement of hectarage was 3,750.71 ha as of December 31 2009 and 3,746.31 ha as of July 31 2010, while the data from the PCA as of December 2009 was of 3,687.39 ha. It is worthy to note that these figures do not include some twelve ha (source's estimate) in *barangay* Sumbiling and Taratak of

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Bataraza. Furthermore, during an interview on October 14, 2010, the PPVOMI General Manager mentioned that the total area planted was of 3,790 ha. Regardless of these disparities, the data shows that the overall area of oil palm cultivation in Palawan is of around 4,000 ha.

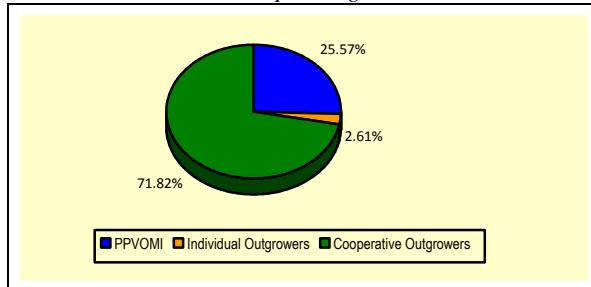
Figure 1: Oil palm cultivation - total hectarage by location



Plantings are spread over the six municipalities, except Narra. Currently, the biggest plantation is located in S. Espanola (see Figure 1). All plantations are managed and owned by individual self-financing growers, cooperative out-growers and PPVOMI (see Figure 2). PPVOMI plantations represent around 25% of the total area planted while the remaining 75% are plantations belonging to the contract growers of AGPI, most of whom are cooperatives with very few individuals.⁴⁵ Puerto Princesa City is soon to be added to the list as 10,000 ha have been surveyed and offered by the Iwahig Prison and Penal Farm for oil palm development and around 1,500 ha offered by the City Government.⁴⁶ An additional 2,000 ha are projected for the coming year.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Figure 2: Oil palm cultivation - total hectarage by ownership/management



Palm oil mill

The mill plant, which has the capacity to process fifteen tons/hour of oil palm nut to crude palm oil, is currently under construction. It will be located in the allocated seven ha area within the thirteen ha project site in Bgy. Maasin, Brooke's Point. Processed plant products are Crude Palm Oil (CPO) and Palm Kernel (PK) which are sold to processors and refiners, including the San Miguel Corporation and Philippine Refining Company.



Road leading to the mill plant being constructed at the PPVOMI oil palm plantation in Bgy. Maasin, Brooke's Point.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Palm oil as edible oil and as bio-diesel feedstock

Oil palm expansion in Palawan is geared towards the production of palm oil as a substitute for cooking oil for the domestic market. PPVOMI is able to compete locally because it produces quality products, according to PPVOMI General Manager Ponciano Narciso. Palm oil is rarely exported as it takes time to transport the palm oil and its quality decreases over time.

Around 2008 and 2009, the company felt the pressures brought about by ongoing discussions and concern over climate change. However, Narciso explained that this had faded when the price of gasoline fell. He considered the use of palm oil for biodiesel as a last resort. PCA Palawan Manager Romasanta further claimed that the production of palm oil for biodiesel would probably not be agreed to since Palawan's food security would be consequently affected.



*Oil palm plantation adjacent to rice cultivation area,
Maasin-Calasaguen, Brooke's Point.*

Contract agreements

The two existing agreements are the Production, Technical and Marketing Agreement and the Management Services Agreement. Both are agreements made between AGPI and the Contract Grower (Cooperative or Individual). The project package of PPVOMI for Palawan is the same package introduced by PPVOMI in Mindanao; technology, assured quality of planting materials, and market assurance, according to Narciso. The Production, Technical and

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Marketing Agreement as stated in the agreement is entered into to ensure success of the oil palm cultivation and sale of produce. Some of the key terms and conditions between the cooperative and AGPI are as follows:

1. That parcels of land entered into the cooperative and utilised for oil palm cultivation by the growers cannot be mortgaged, sold, transferred, assigned or leased to any third party without the prior written consent of AGPI;
2. That the grower procures F1 seedlings directly from AGPI;
3. That compliance with labour laws is the sole responsibility of the grower;
4. That guidance and permission from AGPI is needed if there are plans to plant intercrops; and that lowland paddy/rice intercropping is not allowed;
5. That if the project is not managed by the grower to the satisfaction of AGPI, it will hand over the management of the project to AGPI (covered in the Management Services Agreement);
6. That execution of Management Services Agreement is within seven days of the receipt of the letter from AGPI or Management Take-Over;
7. That AGPI provides technical assistance, trains the grower and its farm workers in all undertakings of the farm, and assists the grower in the administration and maintenance of efficient accounting and internal control systems;
8. That purchase of FFB shall be made under the following conditions set forth based on the crop quality standards and pricing formula;
9. That there are corresponding charges if AGPI spends for the restoration of the project (14% compounded interest per annum) and 10% management fee or 10% total operational cost, whichever is higher.

Additionally, in the Management Services Agreement, the grower authorises AGPI to take over management of the land and use the funds under oil palm development loan provided by LBP and AGPI for the development of the land into an oil palm plantation, including the technical and financial matters pertaining to the

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples



Oil palm plantation in Bgy. Iraray, Sofronio Espanola, which has the largest oil palm cultivated area in Palawan.

project. Several views exist on the two agreements mentioned above. PPVOMI claims that a cooperative will always present themselves as capable

of managing a plantation, but that in reality, they cannot. This, according to him, is the reason for the existence of the Management Service Agreement. AGPI returns the management of the project to the grower upon the expiration of the term of the Management Services Agreement. The simultaneous signing of the two agreements in itself is a sign that the possibility of project management turning ugly is anticipated. One contract grower in Bataraza says that the contract looked good on paper but not in its actual implementation. Others have questioned the management fee and why the two agreements have to be signed at the same time. A further problem is that these agreements have been signed without clear explanation to local inhabitants of their content and consequences.

Land leases/rental

PPVOMI has leased some of their land as anchor areas for oil palm plantation. Lease rates are of PhP 1,000/year for the first three years; PhP 2,000/year up to the tenth year; and PhP 3,000/year for the eleventh to the twenty fifth year. Andres Colegio of the Irrigators Association in Calasaguen in Brooke's Point, who has worked for a long time in sugar plantations in Negros, raised the possibility of adopting the lease rental sharing in agrarian reform (Republic Act 6657). He suggested a 75:25 sharing percentage division. Colegio explained that from the first to the fifth year, all earnings go to the

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

company. In the sixth year and beyond, the AR sharing of 75% (company) and 25% (farmers), or even 70-30 or 65-35 sharing would be advisable.

Contract growers: Cooperatives, their plantation areas and loans

PPVOMI confessed that their commitment to the cooperatives was quite complicated. All cooperatives are not qualified to avail financing from LBP. If the cooperative tries to loan, they are asked to come up with 20% equity. In Palawan, AGPI has decided to set up the equity for the cooperatives in order for the LBP to commit to 80% equity. Hence, the cooperatives have double loans, both from AGPI and from LBP. The responsibility of ensuring that the implementation will be closely monitored has been given to the company in view of the financing commitment of LBP.

When a cooperative commits a particular area for planting, the company has to assess if it really exists, according to Narciso. He further explained that the photocopy of land titles (or *barangay* certification) is used as reference for initial area inspection and validation, in case the land is hilly or rocky. When the photocopy has been fully scrutinised, the bank requires the submission of the original. Narciso explained that at first the original titles had to be deposited in the bank. But later on, LBP passed the responsibility onto the cooperative who was asked to keep it. The first batch of titles and certifications are with the LBP and those which arrived later are kept by the company. This would appear as collateral but Narciso clarified that the difference is that in true collaterals it would be treated as real estate mortgage and stamped. The documents of the cooperatives kept by the cooperative are for safekeeping and require no stamp.

Once the loan of the cooperative is approved, the cooperative will have an account for their oil palm project. The account requires signatories from the cooperative and one signatory from the company. Once the actual work is done, and at the end of the payroll period, the lead man submits a report which the technician inspects, validates and certifies. The documents enter the office and processing of payment starts. This is done according to PPVOMI to

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

ensure that funds to be withdrawn from the bank are funds used to pay for the completed jobs.

Integrated palm oil processing project

SEP clearance: terms and conditions

(issued March 25 2010)

- Confine project operation of the nursery and oil mill within the approved area covering 13 ha.
- Secure permits/clearances from concerned agencies prior to construction and operation of projects.
- Establish a Multi-Partite Monitoring Team (MMT) to monitor the air, water quality, waste disposal and other effluents that will be generated by the project.
- Implement mitigating measures as stipulated in the submitted EIS.
- Should the implementation of the project cause adverse environmental impacts and pose a nuisance to public health and safety as determined by PCSDS, these factors shall be sufficient ground for the cancellation or suspension of the Clearance.
- The herein grantee shall assume full responsibility and liability for damage to private/public property caused by the project.
- In case there is a need for additional conditions to ensure environmental integrity and public safety as a result of regular monitoring inspections, the same shall be imposed by the PCSD.
- In the exercise of their visitorial power, authorised PCSD/S officials/personnel shall be allowed to conduct monitoring/inspection without prior notice.
- Any expansion of the project is subject to a separate SEP clearance.
- This Clearance is non-transferable.

In terms of the accountability of the cooperative, PPVOMI explained that if one is a member of the cooperative, one's accountability is pro-rata based on the extent of one's participation. For example, in a loan of PhP 100,000 for one hundred ha, Member A with one hectare would receive PhP 1,000 in loans while Member B with ten ha would receive PhP 10,000 in loans. Narciso further stated that the cooperatives were aware of their loans. The financial and accounting books are transparent materials which anyone may consult. Regularly, copies of these financial reports are made available to the cooperatives.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

The financing programs of the Land Bank of the Philippines for oil palm projects are open only to cooperatives. Cooperative applicants must have one hundred members and a three year track record, paid-up capital, complete core management, and other such requirements. The bank commits 80% financial assistance while the remaining 20% becomes the borrower's equity. The anchor firm (the company) shoulders 10% of the equity. The 80% include, for one hectare of oil palm with production cost of PhP 144,000; a development and planting cost of PhP 109,310, working capital of PhP 34,690, labour inputs of PhP 21,740 and materials of PhP 122,260. The bank requires no collateral but does require original land titles for safekeeping reasons.

PCSD policy and SEP clearance

From its forests down to its marine and coastal areas, Palawan's biological diversity is incomparably rich and unique, but also extremely fragile. It is for this reason that a special law was passed, Republic Act 7611, or the Strategic Environmental Plan for Palawan Act, popularly referred to as SEP Law. The main strategy of this law is the delineation of an Environmentally Critical Areas Network (ECAN) consisting of terrestrial or forest areas, coastal/marine areas and ancestral/tribal lands into the following zones: multi-use, restricted, buffer and core zones. Certain activities are allowed or prohibited within the different zones. The Palawan Council for Sustainable Development (PCSD) oversees the implementation and realisation of the SEP Law, with the support of the PCSD Staff (PCSDS). All development projects and undertakings to be implemented in Palawan must first secure an SEP Clearance from the PCSD.

According to PCSDS, PCSD currently has no specific policy regarding agro-fuels. When projects such as the Integrated Palm Oil Processing Project come into effect, SEP clearance is required at the policy level. However, no specific clauses refer to agro-fuel. If the application for and clearance of land is for the production of edible oil but bio-diesel is produced, the project needs to apply for another SEP clearance.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples



Fruit bearing oil palm tree in Bgy. Tagusao, Quezon. Tagusao has a 150 hectare oil palm plantation.

plantation project will not pass through the process of securing an SEP clearance because the company/proponent has already been given an SEP clearance and it is the company that contracts the out-growers. As understood at the PCSDS level, compliance to the terms and conditions of the SEP clearance applies not only to the company but to the out-growers too. This means that the out-growers should also be aware of the terms and conditions of the SEP clearance and that the company should provide them with sufficient information in this regard. As the PCSDS has not yet carried out any monitoring activities with respect to out-growers, they cannot yet assess the degree of compliance to the terms and conditions of the company and whether or not these are also imposed on out-growers in practice.

A critical issue is that of allocated plantation land regulated by SEP clearance. In this particular case, the company targets 15,000 ha for their palm plantations but according to the SEP clearance terms and conditions, project operation of the nursery and oil mill must be confined to the approved area of thirteen ha. Hence, the 15,000 ha, which are assumed to be private lands of the cooperatives, are in fact oil palm plantations which are not covered by any SEP

PPVOMI-Agumil has obtained one SEP clearance for their Integrated Palm Oil Processing Project, consisting of the nursery, the palm oil mill and the plantations. Plantations which are owned by, and projects implemented by, cooperative out-growers are not covered by an SEP clearance. The explanation for this by the PCSDS is that

the responsibility to manage the contract growers lies with the company. A cooperative with an oil palm

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

clearance. The PCSDS considers the establishment of oil palm plantations in Palawan as a major land use change. But a proposal such as this is evaluated on a project basis; SEP clearance is based on a “per project” issuance.

Financial institutions have been asked by the PCSD/S to include SEP clearance as part of their requirements in order to ensure the environmental viability of the area and development project. It is worth mentioning that in a previous agro-fuels study, PCSDS Officials Atty. Adel Villena and Executive Romeo Dorado claimed that the LBP has financed various oil palm projects covering 3,740 ha of the 4,245 ha targeted to be financed. They questioned why LBP had disbursed a significant amount of funds to projects that did not pass through the proper licensing and permitting process. It is assumed that these statements were made when the project has no SEP clearance yet.

Oil Palm Plantations and Ancestral Land/Domain Areas

According to NCIP Provincial Officer Engr. Parangue, consent for changes in land use and development is not necessary where land is privately owned. The process of securing consent disappears when privately owned land has been entered into the cooperative, together with other lands owned by the cooperative members to be planted with oil palm. However, there are cases, as in Tagusao, where local inhabitants have requested a large area of CALC land. In this case, entering a communal area does require consent from the community, which requires a long time to obtain. Therefore, Parangue advise the local inhabitants to limit their land use to their own individual lots/land outside of their CALC. The inhabitants reportedly did not push through with their application for the CALC area.

However, it would appear that there are portions of the 150 ha oil palm plantation in Tagusao that do belong to a CALC area. According to one member of the cooperative, around forty ha of CALC area were supposed to be part of the 150 ha oil plantation project of the cooperative, but the CALC planted area already reached 150 ha. There are also portions of the CALC which were sold by IPs to non-IPs, although this was not caused by the oil palm

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

project as it was land sold earlier on. However, these areas are now planted with oil palms. Parangue claims he was not aware that part of the CALC area had been sold. The piece of land that he himself had sold was not part of the CALC area. He also states that if indeed part of the CALC area had been sold, it would be the buyer's loss as he would no longer own this land.

Parangue also explained another case in Berong, also in Quezon, where local inhabitants wanted to invest in oil palm plantations and obtain around 500 ha to establish the plantations. NCIP certification was necessary for them to enter into a contract with the palm oil company. However, the company is reportedly trying to avoid taking responsibility for the application for this certification as it is a time-consuming process. According to PPVOMI General Manager, the company is attempting to establish oil palm plantations in CADC areas, but finds it far more complicated as they consequently need to deal with NCIP and consult with the indigenous people. If, on the other hand, the community submits the application, the project becomes a community-initiated project for which there is no need to pass through the FPIC process. The project need only be validated by the NCIP to the community. If an agreement is needed, the agreement will be a sign of their consent of the terms and conditions. In the words of Parangue, "it is a circumvention of the FPIC process, which is not illegal".

Another case is that of CBFM in Iraan, Rizal, where a portion of the applied-for CBFM area is also claimed as ancestral land, although there has not yet been any formal application for this latter claim on the part of local inhabitants. The CBFM applicant (cooperative) consists of IPs and non-IPs who have already obtained a certification precondition for a palm oil project from the NCIP.

Oil palm plantations and DENR tenurial instruments

According to Caluya, Chief of the DENR-FMS in South Palawan, the DENR supports the processing of tenurial instruments required by palm oil projects and recommends that proponents of the palm oil projects concentrate on A&D (alienable and disposable) land. If the area is timberland, the DENR supports the project by issuing

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

appropriate tenurial instruments within that timberland. In areas already covered by CBFM, proponents are encouraged to coordinate with the Peoples' Organisation (PO) which is the CBFM holder. However, if the area is not yet covered by a tenurial instrument, they may apply for the appropriate tenurial instrument, such as SIFMA or any kind of lease from the government. Tenure is over a period of twenty five years, renewable for another twenty five years. It is a requirement for the application of the tenurial instrument to conduct and submit a feasibility study to DENR. An ECC must also be submitted, particularly for forest tenurial instruments, since the area required is often large, as is the case for oil palm plantation projects.

According to Caluya, oil palm plantations in Palawan are concentrated on A&D land covered by titles. Caluya also claims there are no oil palm plantations in CBFM areas yet and planning for the establishment of plantations in such areas is still ongoing. In CBFM in Isugod, Quezon, for example, the process of planning and coordinating with the PO is still underway. In Iraan, Rizal, the CBFM application is under consideration for approval by the DENR Central Office.

The PPVOMI is trying to establish an oil palm plantation in Iraan, Rizal, an area which is currently under CBFM application. According to the PPVOMI General Manager, a clause is included in the guidelines of implementation in CBFM that such land can be utilised as agricultural production area. The latest statement of hectarage indicates that over fifteen ha of oil palm have already been planted in the area of Iraan. One source suggests that the areas planted with oil palms are IP-inhabited areas. However, Caluya claims that any oil palm plantations would be in the A&D (alienable and disposable land), in which case CBFM application could be withdrawn as the land is no longer utilised for forestry purposes but for agricultural production. If timber is to be cut during the clearing period, regardless of whether or not it is an A&D area, the owner is still required to coordinate with the DENR. Any impact on timber or trees resulting from the establishment of the palm oil project is the concern of the Forest Management Services (FMS) of the DENR whose role it is to monitor if and how felled trees are used and whether or not felling is taking place in line with forest regulations.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Caluya claims that there were no plantations within MMPL area, but that there are plantations close to buffer zones, such as in areas of Espanola (Pulot Interior) and Brooke's Point (Maasin and Calasaguen). When asked whether or not the 20,000 ha targeted by the Provincial Government of Palawan could be specifically located, Caluya said that further verification on the ground was necessary. Data on the actual delineation and verification of such areas were unavailable at the time of writing. As such, there are no exact figures available regarding where these areas located.

The PPVOMI General Manager explained that their focus for oil palm development was the area between rice lands and forest areas, an area he claims is rarely used by people. The 80,000 ha of potential area mentioned is spread throughout North and South of Palawan. As of yet, only one project module of 15,000 ha has been confirmed. While going beyond 15,000 ha is tempting, Narciso says that local capacity is limited. Taytay and Roxas, both municipalities in North Palawan, have already expressed their wish to establish their own oil palm plantation projects but will face similar capacity constraints.

Impacts on communities and the environment and emerging issues in oil palm cultivation

Socio-economic impacts and emerging issues: local perspectives

At the community level, Goyok Tiang, an indigenous leader from Iraan in Rizal, reports having been approached to engage in oil palm plantation. However, he and several other *panglimas* (traditional indigenous leaders) decided against it as they did not feel that they understood the system well enough and were already content with the *almaciga* (resin) concession granted to them. Calib Tingdan, an indigenous leader from Sowangan in Quezon, claims there are no oil palm projects or plantations in his area because the local community was able to monitor these early on and has decided against it ever since. After seeing a film showing the effects of oil palm development on local communities, they feared the adverse effects that the chemicals and wastes used on oil palm plantations would have on their rice farming areas. In particular, the local inhabitants

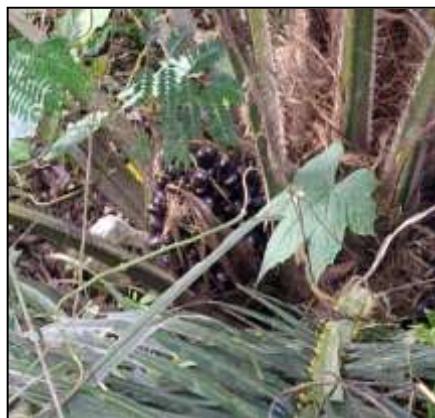
Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

did not want to take the risk of infecting their coconut trees with *Brontispa*. As Tingdan explained, between a coconut tree and an oil palm tree, *Brontispa* would most certainly attack the coconut tree as the oil palm tree would already have been protected by sprayed pesticide.

At first, Fermin Queron of Espanola thought of using his land to plant oil palm but decided against it later on after a friend from Mindanao warned him of its negative effects. He was also told that most oil palm farmers had lost their lands to the banks and that it took several years before their land became productive, by which time their loan interests had accumulated. These were the main reasons why many among the community did not pursue oil palm cultivation. Their area is clear of oil palm plantings, although Fermin is a member of the cooperative in Punang that has an oil palm plantation.

Otol Odi, an indigenous leader from Punta Baja in Rizal, says that he cannot yet decide whether or not to agree to have an oil palm plantation within his CADC area. He believes further consultation with the CADC officials and members is necessary. If the MOA is positive and the process carried out fairly, he thinks oil palm plantations might not be such a bad idea.

On the other hand, Chieftain Paldina Japil of Pulot Interior in Espanola admitted to being rather confused regarding the actual benefits of oil palm projects for local inhabitants. He had been told by a group of people who came to visit him that “even owners of tiny pieces of land could become millionaires”. Feeling that he did not completely understand the project and its



*Fruit bearing oil palm tree in Bgy.
Malatgao, Quezon.*

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

implications, Paldina decided against growing oil palm on his own land, despite the fact that his rice-planting area is already surrounded by oil palm plantations. Although there was no land conversion on his part, land conversion that has occurred in adjacent land has inevitably had implications on the local food security of the community in the area.

Despite these negative consequences, one clear benefit of oil palm plantation development as seen by the PCA is the generation of rural employment. In their 2009 Year End Report, it was computed that the number of jobs created by the oil palm project was of one worker per hectare. This means that if the total area planted with oil palm is of 3,790 ha, the oil palm project can provide 3,790 jobs to community members. The report also mentions the fact that the capacity to purchase has significantly improved. However, Bonifacio Tompong of Tagusao in Quezon, who works in the plantation as a team leader/timekeeper, has voiced his concern over the remuneration of plantation workers. He has successfully lobbied to increase the salary of labourers from PhP 120 to PhP 150/day, where it has since remained and once fallen back down to PhP 120.

It is evident that the generation of employment is not only about the number of jobs created for the community but also about how much a worker earns a day. Work in oil palm plantations is in the capacity of lead man/foreman (*kapatas*), headman or labourer. The lead man and headman are both cooperative members but the lead man is



Oil palm trees bordering the rice fields in Bgy. Panitian, Quezon.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

chosen by the cooperative while the headman is chosen by the company. Work is paid based on a daily rate which ranges from PhP 100 to PhP 150 for the team leader and labourers and PhP 180 for the headman. The daily rate varies with different cooperatives. Increases or changes in daily rate can be requested through a resolution by the cooperative to the company, asking the company and cooperative to deliberate with the bank in order to make such a change. However, the company and/or bank have argued that the standard or minimum wage rate cannot be given because the money is loaned from the bank.

Increasing the daily rate would equate to an increase in salary expenses, interests and loans. On the other hand, low daily pay rates is one of the reasons why many have already stopped working in the plantations. Another reason has been repeated experiences of late payment.

In Maasin, taking an absence leave from cooperative activities was once used as justification for a salary deduction. In Espanola, extensive land clearing (*rabas*) was carried out by workers, young and old, who were paid only PhP 130 daily. Most of them had to walk from their houses to the assigned area at the break of dawn. Sources report that during that time, some workers complained that they had not been paid for all their working days and received less than they expected. Previously, a case of payroll padding had also been reported in the Bataraza area.

Tompong is a plantation worker who receives a very low salary for his labour on the oil palm plantations. However, Tompong, who entered a hectare of his land (which is part of the CALC area) in the plantation, observes that prior to the establishment of the oil palm project, life was very difficult. However, with the continuous amount of work available since then, life has become slightly easier. He feels very positive about next year for by then, the mill will have been built and harvesting will begin. He was told by the plantation supervisor that for the first two years, the growers would have the privilege of receiving their full harvest earnings as they would not be required to pay the bank back yet and loan deductions would only start in the third year. He learned that there would be a 75%

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

deduction and the remaining 25% would be left for them. This situation appears to differ to that in the Bataraza area where, according to one grower, the workers would only begin to receive a share from the harvest in two years' time (i.e. 2012).



Oil palm plantation at the foot of a mountain in Iraray, S. Espanola.

A number of growers reasoned that oil palm projects were beneficial in terms of making idle lands productive. For instance, Danny Aysen, Chair of the CFC FAMICO in Quezon, is not worried about having entered his fifteen ha of land into oil palm plantation.

In his words, “*Ang nakakatakot ay kung hindi mo matataniman, isang kasalanan yan, na mayroon kang area na nagiging masukal at walang silbi*”. (“What is worse is if you do not plant your land; it is a serious lapse if you let your area become infertile and useless.”) The palm oil expansion craze has led to massive land buying and selling in Espanola and Brooke’s Point area. Suede, an indigenous leader in Espanola, observes that many of the landowners who lived elsewhere came back solely to sell their land when they heard that certain people wanted to purchase land properties, and then left again.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Chieftain Paldina, also in Espanola, reports that some indigenous people sold their land for the very cheap price of



Pail for the rhinoceros beetles in the middle of oil palm plantation in Espanola.

PhP 1,000/ha. In Pulot Interior area, around five to six indigenous families sold more than thirty ha of their land, which is now planted with oil palms, although the Chieftain is not sure who owns it. He finds it difficult to do anything about situation as the decision rests with the indigenous land owner, adding that it becomes even more difficult if the landowner has already been partially paid. When under pressure to sell their land, some indigenous people have also been duped and given limited information regarding the actual terms and conditions of their sale. According to Paldina, one indigenous person was dismayed when he read the Deed of Sale; it stated that he was selling his land at PhP 40,000/ha but the agent had only paid him PhP 10,000 as initial and another PhP 10,000 as the final payment. In Chieftain Paldina's words, "it is our attitude as Palawan that when we are confronted by pressure such as when we find ourselves in the middle of an area already surrounded by oil palm plantations, we are forced to sell. Although that is my case, I do not want to sell my land because I have nowhere else to go. But this presents a problem because when others sell their land, they have nowhere else to go but encroach on timberland area. It becomes a threat to the forest."

Environmental impacts

According to Narciso, the environmental concerns raised by oil palm development are shared by both the company and the labourers. Striking a balance between plantation productivity and

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

scale and environmental sustainability is also critical for the crops themselves. Narciso reasons that the establishment of an oil palm project is a better option because only one clearing is required as compared to the yearly burning caused by *kaingin*. Among the positive environmental impacts of oil palm plantations, the PCA reports that vegetation has regenerated itself and that birds, bees and other fauna are frequently seen in the area. The PCA does not share the same environmental concerns as Malaysia or Indonesia. According to Romasanta, this is because the type of government and management of resources in the Philippines is different. Moreover, a Council exists for farmers to raise any complaints.

One of the indigenous leaders in Maasin states that at present, the effects of oil palm expansion have not been felt yet. (“*Sa ngayon, ang oil palm hindi pa laganap na nararamdamang ang epektong*”). Negative impacts are not always expected as PPVOMI told local people that no wastes at all would be created by palm oil production, according to PCSDS. However, this will only be proven when operation of the plantation starts. For a ton of oil processed, it has been reported that 2.5 tons of effluents are discharged. As an island province, all wastes in Palawan are expected to flow to marine and coastal areas, at the detriment of the rich biodiversity which thrives in these environments.

According to PCSDS Abigail Cruz, the formation and approval of the project’s MMT (Multi-Partite Monitoring Team) was put on hold after a complaint was received related to the *brontispa* infestation of around 4,000 coconut trees in Bataraza. The first meeting-orientation of the MMT members was held in the first week of October. Formation of MMT is one of the usual conditions in any ECC. However, it seems that the coconut trees are not only suffering from *brontispa* but also from rhinoceros beetle, locally known as “*bagangan*”. Suede Taiban, an indigenous leader who has lived in Espanola his entire life, witnessed how his coconut trees were destroyed by the beetles. In Iraray area alone, more than 1,000 coconut trees belonging to twenty farmers were affected. Pointing to one such beetle-infested tree, Taiban explains, “*Kagaya nyan o, yung katabi nyan, katabi ng oil palm, ubos na nyog diyan. Papunta*

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

doon sa itaas." ("Just like the one beside the oil palm, the coconuts there are gone. That goes all the way up.")

Many local inhabitants believe oil palm is to blame for the diseases ravaging the coconut trees. According to Taiban, this has never happened before. In his words,

"We have coconut trees, we have *buri* (*Corypha Elata*, a large palm tree species) here. But when they planted oil palm that is when it all started. The pest here is not *brontispa*, but the *bagangan*. The *brontispa* is the one attacking in Bataraza at Brooke's Point. We suffered and experienced difficulty because of the beetles that attacked our coconuts. The way I see it, it is because of the oil palms. The beetles thrive and grow inside the coconut fruit. When we sought explanation, they said the beetles came from *buri*. They all cleared the *buri* and the beetles laid their eggs and became many. Although many are not content with this explanation, there is nothing we can do."

However, Danny Ayson of Quezon claims it is wrong to blame oil palm as the source of *brontispa*. In his words,

"As far as I know, the seeds came from other countries. We have quarantine. If indeed the seeds had diseases, they would not transport them. There are also processes in the nursery, which are being managed by the PCA. They are the ones who allowed this to happen. If they are not to blame, we blame PCA for allowing these seeds to be transported into the Philippines. The planting materials are covered by a permit. PCSDS are aware that previous imported seedlings of Agumil which were brought to Bukidnon nurseries were pest-infected. People could not help but connect the introduction of oil

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

palm in Palawan to the condition of the palm trees suffering from pests.”

On another note, the PCSDS has raised its concern over the impact of transforming a vast area planted with diverse crops into mono-cropped land. PCSDS Maria Luz Martinez explains that high biodiversity areas are more resilient to adapt to climate change, and has questioned how mono-cropping will compare in terms of resistance. In the 1980s, huge amounts of funding were spent to introduce intercropping annual crops such as coconut and coffee; changing this system to mono-cropping may have adverse consequences. The use of insecticides and pesticides to increase production yields may also pose major environmental and health risks. Other environmental issues pointed out by the PCSDS include the intrusion of oil palm among local species, oil palms depleting nutrients and carbon release of large scale plantations.

Finally, a farmer in Brooke’s Point observes that oil palms are susceptible to rat infestation. He claims this has not caused serious problems yet as the mill plant has not yet been completed. Furthermore, he states,

“A friend of mine from Mindanao told me that when the mill plant comes into the picture and the oil palms are not bearing fruits, insecticides will be sprayed that will affect the insects that come into contact with the flowers. They will use exotic bees that are resistant to [the insecticide] but will help in the fruiting process. I hope these bees will not affect our native bees that make excellent honey. We will not know until the plant operates. But we have to take the precautionary side rather than use a lot of chemicals and exotic species to force it to fruit.”

The future of agro-fuel production in Palawan

It is expected that oil palm activities will increase in coming years, especially with the expansion of oil palm plantations and the

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

completion of the mill plant construction. If ventures such as these are supported by the government, as is the case in Palawan, no government agency or office will stand against it. The PCSDS, for example, raised many environmental concerns and yet the project has been given an SEP clearance by the PCSD, which is not surprising.

In addition to oil palm and *jatropha*, a proposal has been submitted for sunflower bio-diesel in the Quezon municipality. This is led by the Cooperative Union of the Philippines (CUP) project and is expected to cover around 500 ha of land. The local newly organised cooperative, Southern Palawan Sunflower Production Cooperative, also has plans to implement a similar project for which the target financing institution is also LBP. The cooperative plans to obtain certification from the DENR and has already identified areas in Quezon for the establishment of its plantation, which includes areas adjacent to municipal roads, CBFM area in Bgy. Isugod and some other isolated areas. The market has not yet been fully established but the CUP will seek to develop it either locally or abroad. There is also a proposal to establish a milling plant. Danny Ayson, head of the cooperative and of the CFC-FAMICO which owns an oil palm plantation project in Quezon, explains that this will bring in various investments to Quezon to widen the employment choices of the farmers and make idle lands productive.

Conclusions and recommendations

More than anything else, investments or projects on oil palm in Palawan must be analysed in the context of environmental sustainability, due to the global, national and local significance of Palawan's environment. Debates on the acceptability of oil palm in Palawan would have been different if palm oil production was intended for agro-fuel feedstock rather than as edible oil to supply domestic consumption demand. This would present a policy challenge to PCSD as the PCSDS clearly admits that they lack a policy on agro-fuels. Nevertheless, this study draws out the following key points:

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Oil palm cultivation is focused on South Palawan, and although there are some data inconsistencies as to its actual exact coverage, it is estimated that coverage is close to 4,000 ha. Since the existing cultivation area has not reached even half of the company's target, it is expected that there will be further cases of more land selling, land conversion and encroachment on areas inhabited and used by indigenous communities (i.e. areas covered by legal tenurial instruments and those held individually and privately by indigenous peoples), utilisation of CBFM areas and areas covered by CLOA sold below the ten year prohibitory period. Current areas being used for oil palm cultivation should be reviewed based on their slope, tenurial instruments (existing or proposed) and land status (forest land or A&D), with the view of protecting the environment and food security. Otherwise, there is the risk of compromising natural ecosystems and primary crop food production areas of rice, corn and coconut.

Data at hand and research duration are too limited to provide an in-depth analysis of the consistency of oil palm cultivated areas as well as existing and proposed land uses of the municipalities in South Palawan. Geographic coordinates of the actual cultivated areas and EIS documents of the project would be useful references. Thus it is highly recommended that the following agencies: PCSD/S, DENR, DA, DAR and NCIP, including NGOs, coordinate and identify areas which are appropriate for oil palm cultivation. Areas for oil palm cultivation should also have established criteria consistent with the ECAN Zoning and CLUP. This may in turn become the basis for the development of a policy specific to agro-fuels.

Community interviews on land acquisition (either through purchase or lease) for the establishment of oil palm plantations suggest doubtful transactions are made by agents of the buyers. Some indigenous people become vulnerable due to their lack of a clear understanding of land transactions. Some may underestimate the cultural value of their land in the light of quick economic gain. Access to information is essential to widen their options for making their land productive and yet not compromising the environment. It is particularly critical for cooperative out-growers to fully understand the agreements they enter. Surprisingly, not a single

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

respondent commented that their contract was unfair. However, it is still too early to say that contracts are absolutely fair as there has been no harvest or production yet.

Some of the impacts that have been identified are perceived to occur in the future. As one indigenous leader accurately puts it, “we do not feel yet the effects because it is still early”. But earlier activities such as the establishment of oil palm plantations, land acquisition mechanisms, the implications of land use change, and claims connecting *brontispa* and rhinoceros beetle infecting the coconut trees to the introduction of oil palms in Palawan, have already made initial impacts on both the community and the environment. It is expected that the MMT of the project will play a crucial role as the project progresses and expands.

CASE STUDY 4. Woes of ARB cooperatives and oil palm workers in Agusan del Sur

The Caraga Region is comprised of the provinces of Agusan del Norte, Agusan del Sur, Surigao del Norte and Surigao del Sur. This region prides itself as “home to the pioneering large scale oil palm plantation.” At present, two of the biggest palm oil mills are located in Agusan del Sur, where one also finds the greatest concentration of large nucleus estates and out-growers. Industry data shows that approximately 50% of the total oil palm area in the country is located in this region.

The large scale consolidation of lands for oil palm plantation started in Agusan del Sur during the Martial Law period under President Ferdinand Marcos. Constitutional limitations to land ownership by foreign corporations was easily circumvented, thus making possible the consolidation of around 8,000 ha of land for oil palm plantation through the partnership of the National Development Corporation (NDC) and Guthrie Corporation, at the time a British-owned company. The Presidential Proclamation that made this partnership

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

happen was criticised as leading to the violations of land rights and national patrimony.

Stories of “land-grabbing” that preceded the establishment of the oil palm plantation were quite well-known amongst the older residents in Agusan del Sur. AFRIM reports that “the development of oil palm plantations in the 1980’s has displaced and disposed several communities.” It recorded that around 400 farmers and Manobo families in the Municipality of Rosario, Agusan del Sur, were displaced when NGPI cleared the area for the 4,000 ha oil palm plantation. The company had “offered” to purchase lands at very cheap rates. The company was also backed by a paramilitary group (also known as the Lost Command) composed of around 250 former soldiers and headed by a retired Colonel.⁴⁷

Apart from providing security to the plantation, the Lost Command was involved in harassment and intimidation of those who would not sell their lands to the plantations. The paramilitary was also charged with other atrocities such as “manhandling, murder, rape, theft and robbery.” AFRIM further reported, “the crimes committed by the Lost Command on behalf of the NGPI were of such a degree that the Commonwealth Development Corporation, a creditor of NDC and Guthrie, made it a precondition that the Lost Command be replaced by a new security company before granting new funds for the expansion of the oil palm plantation.”⁴⁸

For those involved in promoting the oil palm industry at present, this dark side of the history of oil palm in Agusan is best forgotten. The Lost Command was justified as a necessary measure because of the heavy presence of armed rebels (New People’s Army) in the area during this period. Issues adversely affecting communities, workers and local cooperatives are nowhere to be found in the documentation or records of the palm industry.

At present, two of the biggest palm oil companies are operating in Agusan del Sur. The Filipinas Palm Oil Plantation, Inc. (FPPI), a Filipino-Singaporean firm, was established after consolidating the former NDC-Guthrie Plantations, Inc. (NGPI) and NDC-Guthrie Estates, Inc. (NGEI). It operates an 8,000 ha plantation in San

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Francisco and Rosario. In 1988, under the CARP, the 8,000 ha were redistributed to its workers. Organised into local cooperatives, the NGEI and NGPI leased their lands to FPPI, thus allowing the latter to continue its cultivation and operation of the oil palm plantation. FPPI also operates a forty ton palm oil mill. While FPPI maintains a nucleus estate of around 8,000 ha of oil palm plantation, it actively promotes oil palm cultivation among individual growers and corporate planters elsewhere in the Caraga region and other adjacent provinces.

Meanwhile, the Agusan Plantations, Inc. (API), also a Filipino-Singaporean firm, operates a 1,815 ha plantation and runs a palm oil mill in Trento, Agusan del Sur. In consolidating their nucleus plantation, they also leased land from another Agrarian Reform Beneficiary (ARB) located in Brgy. Manat, Trento. API is also known as the most aggressive player in the palm oil industry, having led the expansion of oil palm in Luzon (Palawan), Visayas (Bohol) and in many other parts of Mindanao. They own the newest (and considered to be the most sophisticated) palm oil mill in Buluan, Maguindanao.

Below are accounts involving three local cooperatives and a labour union in Agusan del Sur that will provide some of the present issues surrounding “just compensation,” fair labour practice, undermined ownership and control of land, and some of the deceptions allegedly committed by oil palm companies in Agusan.

Legal suit against FPPI

The NGEI Multi-purpose Cooperative, Inc. is an agrarian reform workers cooperative in San Francisco, Agusan del Sur, which acquired ownership of 3,996.6940 ha of agricultural land cultivated with oil palm under CARP in 1988. In 1990, NGEI entered into a Lease Agreement with the NDC-Guthrie Estates, Inc., which is now assumed by Filipinas Palm Oil Plantations, Inc., for FPPI to continue the operation of its palm oil plantation in the said lands for a period of twenty five years. The lease agreement contained the following points:

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

- a) That the period of the lease agreement shall commence from September 27 1988 and end on December 31 2007;
- b) A fix rental of PhP 635/ha per year;
- c) Variable component equivalent to 1% of net sales from 1988 to 1996 and 0.5% from 1997 to 2007.

On January 29 1998, NGEI, through its Chairman, Antonio Dayday, entered an Addendum to the Lease Agreement extending the original contract for another twenty five years from January 1 2008 to December 2032, with the annual lease rental remaining at PhP 635/ha.

NGEI argued that the said addendum to the lease agreement was null and void because the Chairman who led the negotiation and signed the amended agreement had no authority to enter into the said agreement, particularly in terms of extending the period of lease. Other grounds for complaint enumerated by NGEI include:

- 1) The addendum was not approved by co-op members and the PARC Committee as required under the DAR Administrative Order No. 5, series of 1997;
- 2) The annual lease rental together with the package of economic benefits is cheap, onerous, unfair and contrary to Republic Act 3844.

NGEI also emphasised that the exceedingly long period of lease would deprive the farmer-beneficiaries of the right to personally till the land, which is contrary to the real intent of Republic Act 6657 or the CARL. Petitioners asked for the addendum to be nullified, the lease area to be returned to them and for FPPI to pay all the accrued rentals and other economic benefits retroactive to the date of the lease agreement.

FPPI, on the other hand, argued that the said addendum was in order, that the Chairman who negotiated the contract was authorised to do so and that out of the 3,913.5951 ha under the lease, they would only pay for 3,231.1571 ha because the rest of the areas are still subject to segregation and survey or classified as problematic areas. Finally, the amount of rentals added to the economic benefits is more than that prescribed under DAR A.O. No. 5, series of 1997.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Changes in the variable components (economic package) are shown below:

Years covered	Amount (per hectare in PhP)
1998-2002	1,865
2003-2006	2,365
2007-2011	2,865
2012-2016	3,365
2017-2021	3,865
2022-2026	4,365
2027-2031	4,865
2032	5,365

The DARAB, upon its review of the case, issued a decision on February 3 2004 “declaring the addendum to the lease agreement null and void; declaring the original lease agreement to be valid and binding between the two parties; that any renegotiation of the existing lease agreement must comply fully with Administrative Order No. 5, series of 1997.” As stipulated in the said Administrative Order, “the terms and conditions of the lease agreement including the determination and computation of lease rental of palm oil land shall be mutually agreed upon by the contracting parties, subject to the approval of the PARC Executive Committee upon the recommendation of the PARCCOM and certification of the DAR that the lease agreement does not violate agrarian policies and principles”. Furthermore, under the same A.O., it importantly states that “Renegotiation of the amount of lease rental shall be undertaken by the parties every five years, subject to the recommendation of the PARCCOM and review by the DAR.”

This first decision was favourable to NGEI, but FPPI filed a Motion for Reconsideration to the DARAB. On March 22 2004, the DARAB issued its resolution, completely reversing the earlier decision. Below is an excerpt of the DARAB decision:

“Admittedly, foregoing facts and evidences were inadvertently overlooked by the Regional Adjudicator, and to insist on its honest error and inadvertence is not only fair to the respondent but will award undeserved benefits to complainants. Wherefore, the decision of

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

the Regional Adjudicator dated February 3 2004 was set aside and the decision was rendered declaring the validity of the Addendum executed on January 29 1998 and accordingly dismisses the case on the grounds afore-stated amounting to lack of cause of action.”

NGEI appealed against this decision to the Court of Appeals (CA). On May 9 2008, the CA promulgated its decision “affirming” the DARAB final resolution of the case. NGEI has elevated the case to the Supreme Court, asking for a review of the decision of the Court of Appeals. NGEI’s petition to the Supreme Court is docketed as G.R. No. 184950. At present, no decision has been taken on the case. NGEI and its members are hoping for the speedy resolution of the case. In the meantime, FPPI has withheld all rentals payments and economic benefits due to the cooperative because of the unresolved case still pending at the Supreme Court.

Apart from this law suit in relation to the lease agreement, FPPI had been subject to various labour cases lodged by co-op members/FPPI workers to the Department of Labour and Employment (DOLE), particularly regarding the illegal dismissal of employees/workers. NGEI’s current Chair, Kim Ronquillo, has requested NGOs and other support organisations nationally and internationally to support them in their case against FPPI.⁴⁹

Violation of agreements

The Cuevas Agrarian Reform Beneficiaries Multi-Purpose Cooperative (CARBEMPCO) is a registered Agrarian Reform Beneficiary (ARB) with thirty nine members. In 2003, they entered into an oil palm project with AGUMIL Philippines, Inc. (API). The cooperative entered into a Management Service Agreement with AGUMIL, whereby the latter provides for the technical management and guarantees the cooperative’s PhP 10 million loan from the Land Bank of the Philippines. CARBEMPCO, on the other hand, will develop and operate the palm oil plantation of 220 ha. According to CARBEMPCO officers, the early beginnings of the operation of the oil palm plantation and the management of the cooperative was a

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

turbulent period due to the demands of cash-strapped members to be paid their initial shares prior to the amortisation period. AGUMIL and LBP were reluctant to meet this demand and a series of dialogues and confrontations followed. It was only in October 2007 that regular shares were given to members from the proceeds of FFB sold to AGUMIL.

Apart from venturing into oil palm, CARBEMPCO had initiated other programs and projects earlier on. CAMBEMPCO's five year development plan outlines the thrust of the cooperative in improving its business operations. Members of the cooperative and its workers are already provided benefits such as the Social Security Service (SSS), Philhealth and emergency medical assistance. It has also received various grants such as the DAR and Agrarian Reform Support Project (ARSP) of the European Union, which supported the rehabilitation of road from the farm to the market in Brgy. Cebolin and Cuevas, and the establishment of nursery and agro-forestry projects. Livelihood assistance was provided by PATSSARD, with which they implemented goat-raising, feed mill water system and hog-raising. From the DOLE, they received financial assistance for a vegetable gardening project for female cooperative members. To date, CARBEMPCO has actively pursued its partnership with the LGUs and other government agencies such as DAR, CDA, TESDA and with NGOs.

Although the early period of CARBEMPCO's operations was generally smooth sailing, in recent years, the company had experienced problems with AGUMIL in relation to several violations of the terms and conditions of the Management and Services Agreement, such as delayed payments, loan interest and surcharges, price differences and the indiscriminate firing of labourers/workers on the oil palm plantation. The cooperative formally raised these concerns with the company and during the National Palm Oil Congresses, but to this date, the problems remain unresolved.

Another cooperative, the Kabingwangan Upland Farmers Tribal Multi-Purpose Cooperative (KUFTRIMCO) also has an existing contract with API and LBP, a tripartite Production, Technical and

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Marketing Agreement, which they entered in 1998. KUFTMC is mostly composed of indigenous peoples who acquired a stewardship contract with the DENR under the Integrated Forest Stewardship Program (ISFP) over around 440 ha of forestland. They currently share an office with the local service centre of the NCIP in Brgy. Libertad, Bunawan, Agusan del Sur.

Similar to the marketing contract of CARBEMPCO, KUFTMC provides land and other farm inputs such as labour, while API extends free technical assistance and exclusively buys all the produce of the oil palm plantation at a guaranteed or prevailing price for a period of twenty-five years. LBP, on the other hand, provides the credit requirements of the project. In this case, LBP extended PhP 20.5 million development loan under its Todo-Unlad Financing Program. In 2006, KUFTRIMPCO paid for a quarterly amortisation of PhP 1,425,722.

Over the years, KUFTRIMCO has had a difficult time keeping up with its financial obligations towards the Land Bank. Among the reasons for their failure to pay are failing yields, high cost of operations and delayed payments of API for their FFB deliveries. Adhering to the demand of the LBP that the API should take on the management of the plantation to restore the projects' operations to normal production standards and until they would be able to meet their financial obligations, KUFTRIMPCO entered into a Management Service Agreement with API in November 2006. Under this agreement, API is given free hand to manage the project and in return for its services and expenditures, charges KUFTRIMPCO 14% compounded interest per annum. This also applies to any accrued amount representing API's management fees. The Management Service Agreement will be in effect for a period of five years or until API's production targets and loan obligations of KUFTRIMPCO to LBP and API have been fully paid. Thus, KUFTRIMPCO is now in a position where it is mired in unpaid loans and has lost control over the management of its oil palm plantations. This has in turn aggravated the financial situation of its members, many of whom were already poor farmers.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

Violation of workers' rights

The Filipinas Palm Oil Workers Union-National Federation Labour Union-Kilusang Mayo Uno (FPIWU-NAFLU-KMU) officially represent the plantation and mill workers of FPPI in negotiating for their Collective Bargaining Agreement with the company since January 19 2007. The majority of the officers and members of the workers union are also members of NGEI and NGPI, the ARB cooperatives that leased their collective CLOA to Filipinas Palm Oil, Inc. (FPPI). The current composition of the workers union includes 348 regular workers and 588 casual (contractual) workers.

On October 4 2010, the FPIWU staged a strike, citing two issues against the company: 1) deadlock in the Collective Bargaining Agreement and 2) unfair labour practices that violated stipulated provisions in the CBA. The union alleged that the FPPI management was not serious about its negotiations and had resorted to intimidation of its workers. On the CBA deadlock, the following were identified as “unacceptable” decisions of the company: 1) wage increase of PhP 4 for 2010 and another PhP 4 wage increase in 2011 and 2) additional rice subsidy of PhP 1,000 or a total of PhP 6,000 rice subsidy annually. The CBA deadlock for the past three years has made life extremely difficult for the workers considering that “casual” workers only receive PhP 150 per day and regular workers receive PhP 223-272 on average per day. As food and other basic product costs have increased by about 12% and the company reportedly earned a net income of PhP 1,231,606,674.80 billion for the period 2008-2009, the labour union believes that their demands are reasonable and could easily be met by the company.

Other violations in the CBA documented by the Labour Union for the past three years include the following: 1) non-regularisation of workers with positions; 2) lack of adherence to the agreement to pay for the repair of the houses of workers; 3) non-regularisation of “casual” workers who replaced those who had retired, were handicapped or had died; 4) indiscriminate firing of a female contractual worker (who replaced her dead husband) without any valid reason; 5) lack of provision of the Cost of Living Allowance (COLA) to workers as required by law; 6) underpaid “casual”

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

workers; 7) non-implementation of salary increase as stipulated in the CBA; 8) no thirteen month pay given to regular workers; 9) non-payment of service incentive and holiday leave for casual workers; and 10) mandatory benefits such as the Social Security Service (SSS) and *Pag-Ibig* Home Development Mutual Fund⁵⁰ not given by the company.

FPIWU alleges that the palm oil company has failed to honour its obligation as stipulated in the CBA and has not taken their demands seriously since they lodged their complaints regarding unfair labour practices. Instead, the company requested the Office of the Department of Labour and Employment (DOLE) to assume jurisdiction (Assumption of Jurisdiction) over the case. The Assumption of Jurisdiction (AJ) would give power to the DOLE to prevent a labour “strike” and order workers to resume work immediately. FPWU did not see this as an appropriate response to their demands, which come from members who are mainly driven by hunger and asserting their rights under the law.

Since the workers started the “strike”, operations of both the plantation and the mill have completely stopped. According to the leaders of the union, the protesters are prepared to carry on their protest as long as the company fails to address their demands.

CASE STUDY 5: Revisiting the Tabung Haj oil palm project

In the records of the oil palm industry, one can hardly find any account of a failed oil palm project as blatant as that of Tabung Haj. The story of the Tabung Haj project illustrates the case of a bilateral agreement (between Malaysia and the Philippines) that went wrong and how CARP was manipulated to grab lands from unsuspecting indigenous peoples. Atty. Ibarra Malonzo provides a detailed account of the case in his article published in the Philippine Daily Inquirer⁵¹:

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

“The case of the Malaysian company Tabung Haji will illustrate the folly of a foreign investor wishing to do good by investing in oil palm development in Mindanao. Tabung Haji manages the Haj Fund of Muslims collected by the Malaysian government to finance their obligatory pilgrimage to Mecca. It has gone into big oil palm development projects in many countries.

In 1996, Malaysian Prime Minister Mahathir directed Tabung Haji to undertake a 30,000 ha oil palm development project in Lanao del Sur with corresponding crude palm oil mills and refinery to hasten the pace of peace and development efforts in the wake of the breakthrough peace agreement between the Moro National Liberation Front (MNLF) and the Philippine government. Tabung Haji would finance the entire project.

As an initial project, Tabung Haji entered into a joint venture agreement with Janoub Philippines, Inc., a company owned by former Ambassador Abdul Khayr Alonto. Janoub undertook to acquire title over 5,500 ha of land situated in the municipality of Tagoloan II, Lanao del Sur and to acquire usufruct for and on behalf of the joint venture company, Tabung Haji Janoub Philippines, Inc. (THJP). For this contribution to the joint venture, Janoub was given 40% of the shares of stocks of THJP, while Tabung Haji owned 60% of the said shares. In addition, THJP paid a substantial amount of money to Janoub to cover expenses incurred for securing title and usufruct over the 5,500 ha of land.

This land was an agrarian reform settlement known as the Kapai settlement, awarded by President Marcos in 1978 to Mr. Alonto and a group of MNLF followers as part of a peace process following the peace pact brokered by Libyan President Ghaddafi in 1974. None

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

other than President Ramos himself committed national government resources to facilitate titling of the Kapai settlement by the DAR.

Without waiting for the issuance of the Certificate of Land Ownership Award (CLOA) by the Department of Agrarian Reform-Autonomous Region of Muslim Mindanao (DAR-ARMM) and the registration of the CLOA with the Land Registration Authority (without which there is no valid title), THJP proceeded to clear the land and plant oil palm in 1997. But soon, opposition to the project arose from Muslim and *lumad* (indigenous peoples) occupants of settlement lands led by municipal mayors of Tagoloan and Talakag, the latter located in Bukidnon province. Both mayors claimed that their constituents owned the settlement lands. The beneficiaries previously identified by DAR-ARMM were all followers and relatives of Mr. Alonto who were not residents of the Kapai settlement.

Moreover, it turned out that 2,200 ha of the Kapai settlement fell within the boundary of the municipality of Talakag occupied by the members of the Higaonon tribe. Neither the Higaonon nor the Muslim natives of Tagoloan were identified as beneficiaries by DAR-ARMM nor were they even consulted by Janoub on the project.

For three years, the joint venture company persevered in clearing and planting 1,000 ha of oil palm despite growing opposition. In the absence of a clear title, agencies of the ARMM government issued certifications that the CLOA was forthcoming.

Faced with insurmountable opposition and holding no registered title to the Kapai settlement, in January 2000, Tabung Haji decided to pull out of the project, but only after having invested a total of PhP 200

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

million. Today, the 3 to 4 year old oil palm trees, chosen from the best hybrid seedlings of Malaysian nurseries, are already fruiting. But no one is harvesting because the ownership of land and plantation remains unsettled. Meanwhile, the oil palm trees are being choked to death by shrub, vine and returning forest.

Two years ago, President Arroyo visited the Tabung Haji plantation after Prime Minister Mahatir called her attention to the failed project during an earlier state visit to Malaysia with a begging bowl in hand for oil palm development assistance. A witness I interviewed reported that President Arroyo, employing her trademark *taray* [assertiveness], chided Mr. Alonto for claiming ownership to the 5,500 ha of land, saying, “How can you own these lands? These are CARP lands. A beneficiary can only own a maximum of three hectares.”

Three months ago, I talked to the *barangay* chair of the area covered by the 1,000 ha oil palm plantation. Interestingly, he identified himself as a Muslim *lumad*. He claimed that the Muslim *lumad* of Tagoloan and the Higaonon of Talakag are the rightful owners of the land covered by the Kapai settlement. They favour the oil palm project on condition that they are listed in the CLOA and get a fair share of the harvest. But, if the problem of the CLOA is not settled soon, they will cut down the oil palm plantation and plant rice and corn for a living.

As a result of the Tabung Haji investment debacle, the Philippines have become a laughing stock in Malaysia. If three presidents could not fix a simple land title for 5,500 ha as local equity, why take seriously President GMA’s ambitious goal to develop two to three million hectares for agribusiness?”

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

General concerns and issues relating to oil palm

The 50,000 hectares or so of land in the Philippines currently devoted to oil palm plantations is small compared to the millions of hectares of oil palm plantation areas in Malaysia and Indonesia. Thus, the threat of the scale and number of oil palm plantations is not as grave as in these countries. However, notwithstanding the issue of scale, the findings in this research have pointed out several serious issues pertaining to the conversion of prime agricultural lands and forest lands into oil palm, land-grabbing in Agusan and in Lanao, violations of indigenous peoples in the case of Bukidnon and in Palawan, environmental issues raised in the case of Palawan and Bohol, violation of palm oil workers' rights and the breaching of terms of agreements between ARB cooperatives and API in Agusan.

Promises and realities

From the perspective of the palm oil industry and government, oil palm has the potential to significantly contribute to national and local economic growth as there is very high domestic and global demand for CPO. Thus, the drive for oil palm expansion has set the stage for the aggressive promotion of the industry and negotiations with smallholders, ARB's and indigenous communities that are holders of CADTs or CALTs, holders of CBFMs and also LGUs.

As the industry promotes the imperatives of expanding the palm oil industry, the opening up of lands to oil palm cultivation promises income and benefits that other agricultural crops will find difficult to compete against. Some promoting the industry go so far as to claim that oil palm development will bring untold wealth to those involved. Taking into consideration the huge demand at present in both the domestic and the largely unexplored international market, there is indeed a great potential for the palm oil industry to contribute to the Philippines' economic development and generation of employment.

At present, the palm oil industry is private-sector led, by nature primarily governed by the rules of the markets (global and domestic) and driven by profit. This is the same driving force that took centre

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

stage in the historical economic development of Mindanao as the “land of promise” in the 1950s, which spurred the rush for large scale consolidation of vast areas of lands in the hands of rich, politically-influential elites and foreign transnational corporations. On the other hand, current realities on the ground and contemporary land conflicts that remains prevalent in many areas in the Philippines are reflective of the wanton disregard of rights, the failure to equitably share wealth among the poor and marginalised and the destruction of the environment for the sake of business and profit.

Land rights and poverty

Philippine laws generally guarantee land rights of marginalised communities. Tenures such as the CLOA and CADTs/CALTs, and the various DENR forest stewardship instruments seek to address the problems of landlessness and poverty that remain widespread in the country. Many experiences of communities, however, point to the fact that mere ownership of land is not enough to improve their conditions. At this point, it is worth noting the interesting debates of de la Rosa and Malonzo around agricultural development and poverty. De la Rosa contends that corporate farming in Mindanao, particularly the one “being spearheaded by government and the landlord-transnational combine in Mindanao has not eradicated hunger and poverty in Mindanao”. Malonzo, on the other hand, argues that it is the lack of investments in agriculture in Mindanao that has resulted in a rural development gridlock. In the case of agrarian reform, this program has made access to large-tracts of lands in Mindanao for oil palm development by agri-business corporations difficult, if not impossible. No agribusiness investors in their right mind will invest hundreds of millions of pesos for plantation development without a secure and valid land tenure instrument. Malonzo proposes instead a convergence strategy of drawing together the different stakeholders, including the landowners and agribusiness investors with capital and knowledge.

Over the past years, the corporate-farming agricultural model that de la Rosa had referred to has dominated the agricultural development landscape in Mindanao. This has been the case for Mindanao’s

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

large-scale plantations of banana, pineapple, oil palm and recently, bio-fuel plantations. Some of the problems he cites with this model are that it is profit-driven and that control is mainly in the hands of the transnational and Filipino agribusiness investors. Government regulatory mechanisms are either not in place, or have done very little to protect the rights of small landowners. In agribusiness contracts, such as the ones for oil palm, investors have free rein in stipulating conditions that are designed to protect their investments, but completely disregard the conditions of the generally poor and small landholders. In the case of NGEI and other ARB cooperatives, these landowners are only paid a measly rental fee for their lands.

Key challenges and recommendations

Palm oil is increasingly becoming a promising crop in terms of potential income and benefits to landowners as well as contributing to a thriving domestic industry and employment generation. However, the various social, economic, environmental impacts of oil palm expansions are being experienced differently by different stakeholders, including the local cooperatives engaged in the industry, indigenous communities and civil society. Access to justice for individuals whose rights have been violated as a result of palm oil expansion stands out as a key area of concern. Legal remedies are in place, but do not always work. In other words, “the legal is political”. Moreover, State policy frameworks and legislation on land and resources generally support oil palm expansion, but are often contradictory of indigenous peoples’ rights (e.g. UNDRIP, IPRA) and environmental laws as it overlaps with other land uses such as ancestral domain, agricultural land for food (e.g. rice, corn), forest and protected areas. In addition, oil palm expansion is occurring amidst overlapping land rights conflicts in relation to mining, logging and other large-scale bio-fuel/agro-fuel plantations.

The expansion of oil palm raises numerous questions:

- How do we regulate the oil palm industry and curb its “bad” practices?

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

- What principles and standards should be pushed on the oil palm industry?
- What are the minimum standards that should govern the operation and practice of oil palm industry?
- How can the legal system be made responsive to the injustices created by the oil palm industry sector?
- How do we press for State accountability over its failure to address land rights issues, lack of livelihood support on poor and marginalised farmers, failure to support its community forestry programs (e.g. CBFM, ISFP) and ancestral domain areas?
- What approach can be taken towards government bodies that collude with oil palm companies?
- Is oil palm a sustainable livelihood option for poor and marginalised farmers and indigenous peoples?
- Is oil palm an ecologically-friendly crop?
- Is it an economically-viable vis à vis other crops in terms of fair and equitable benefit-sharing for landowners and the government?
- What development approach should we adopt to develop this prime commodity that takes into consideration effective land use, equitable benefit-sharing, environmental impacts and most importantly respect for human rights?
- What is the role of civil society in addressing oil palm issues?
- What forms of collaboration should be forged among different stakeholders (e.g. landowners and planters, indigenous communities, industry intermediaries, government)?
- What inside and outside strategies should be undertaken in addressing oil palm industry issues and what forms of collaboration at the local/national and regional/international should be taken?

In response to these concerns, the following recommendations have been devised to help overcome the numerous challenges posed by oil palm expansion in the Philippines.

- Documenting “success” stories throughout the Philippines, not only in terms of monetary gain, but also in terms of other important values such as human rights, ecological preservation, respect for cultural norms and so on. Such

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

stories and experiences in different oil palm areas must be shared so as to stimulate a dialogue between the various stakeholders involved

- Documenting case studies (of abuses and violations) for advocacy and lobbying purposes
- Building greater awareness of communities regarding their legal rights
- Building the capacities of local communities to make informed choices when engaging into contracts or agreements with investors, palm oil companies and banks
- Reforming the legal system so that it is responsive to the injustices created by the oil palm industry sector
- Undertaking a detailed analysis of the social, economic, and environmental impacts of agro-fuels; pending that, a moratorium on agro-fuel development needs to be enforced
- Assessing any “perverse incentives” of the agro-fuel industry
- Lobbying the government to put into place regulatory and enforcement mechanisms to forestall forest degradation and all the social, economic, and cultural ramifications this brings to local communities
- Developing a dossier or case study of instances of rights violations in the Philippines in order to disseminate and publicise the cases and stimulate advocacy.
- Creating a dossier on human rights and oil palm for the national Human Rights Commission and activate joint action through the national Human Rights Commission
- Establishing a network for indigenous peoples to share their experiences and lessons learned
- Filing the case of Palawan to the National Court
- Linking Philippines NGOs to regional level advocacy networks
- Creating campaign calls to stop the expansion of plantations, uphold the rights of smallholders and plantation workers, provide access to justice, give recognition to community ownership over land and natural resources, and recognise their right to self determination and right to life

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

- Calling for improvements in industry standards through certification processes such as the RSPO
- Engaging at the national level through: advocacy, community participatory mapping, reforestation projects/multi cropping/sustainable farming, negotiations with companies and the government, meetings and consultations with public and private investors
- Informing and engaging Parliamentarians in the issue of palm oil
- Lodging police reports in cases of human and labour rights violations
- Sending petitions, memorandums and letters
- Lobbying for community safeguards using national and international laws
- Using the RSPO to gain political space and voice for the powerless

Endnotes

¹ PPODO 2006

² *ibid.*

³ Derequito 2005

⁴ From the Keynote Speech on “Pursuing Palm Oil Potentials” by DAR Secretary Luis Lorenzo, Jr. during the 3rd National Palm Oil Congress held in Butuan City, July 16-17 2003.

⁵ Presidential Decree 1468, Article 1, Section 2.

⁶ Draft document from the Philippine Coconut Authority presented during the Palm Oil Congress.

⁷ From the speech “Seizing the Oil Palm” by Danilo Coronacion, Administrator of the Philippine Coconut Authority, during the 3rd National Palm Oil Congress, Butuan City, July 16-17, 2003.

⁸ Some of the salient provisions of the law include: a) phasing out of the use of harmful gasoline additives b) mandatory use of bio-fuels with the following requirements: 1% biodiesel blend and 5% bioethanol blend for all diesel and gasoline fuels sold in the country.

⁹ PPODO 2006

¹⁰ *ibid.*

¹¹ *ibid.*

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

¹² *ibid.*

¹³ Mini-Workshop on Oil Palm Development in Mindanao, June 18 2009.

¹⁴ Palm Oil Industry Situationer Report by the Department of Agriculture-Agribusiness and Marketing Assistance Service 2007.

¹⁵ The Philippine Oil Palm Development Plan 2004-2010. Mill to be established is either of a 30 ton FFB capacity for every 7,000 ha or a 20 ton FFB capacity for every 5,000 ha.

¹⁶ David et al. 2003; Llanto & Estanislao 1993

¹⁷ 1987 Philippine Constitution, Article 7, Section 2-3.

¹⁸ Executive Order No. 263, 1996.

¹⁹ DENR Administrative Order No. 29, 1996 Series.

²⁰ The period covered by the CBFMA is of twenty-five years, renewable for another twenty-five years.

²¹ Lamcheck 2006

²² DENR's commercial forestry programs such as the Industrial Forest Management Agreement (IFMA) and the Socialised Forest Management Agreement (SIFMA) obtain funds from the General Appropriations (GA) approved by the Philippine Congress. Funding for CBFM relies mainly on donors under the Foreign Assisted Projects (FAPs). Thus, the lack of assured or guaranteed funding to implement the program has effectively derailed the success of achieving its avowed goals.

²³ Republic Act 8371

²⁴ *ibid.* section 3.

²⁵ The 2006 FPIC Guidelines on Free Prior Informed Consent came into effect on October 10 2006.

²⁶ 2003 Philippine Country Report of UN Special Rapporteur on Indigenous Peoples; ICERD 2009

²⁷ Flores-Obanil & Manahan 2006

²⁸ According to the FMB Region 10 Technical Director, this is the only existing policy that governs oil palm.

²⁹ Memorandum Circular No. 2004-12, August 2004.

³⁰ *ibid.*

³¹ Flores-Obanil & Manahan 2006

³² de la Rosa 2005

³³ The other cooperative beneficiary is the Mapantig Agrarian Reform Beneficiaries Multipurpose Cooperative (MAPARBEMPCO).

³⁴ Clamonte 2002; Pacaba-Deriquito 2004

³⁵ Fox cited in Borras 1998:9

³⁶ Griffin et al 2002:314

³⁷ Cited in Dalabajan 2010

³⁸ Based on Key Informant Interview with Mr. Ponciano Narciso, General Manager, PPVOMI/AGPI-Palawan Operations, October 14 2010.

Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous peoples

³⁹ Agumil Phils. Inc. – Palawan Operations. Hectarage Statement as of July 31 2010. It is worthy to note that this figure does not include some twelve hectares in the municipality of Bataraza (total area based on the estimate of the source), which based on initial information at hand, are planted with oil palms by the land owners. These plantations can be found in barangay Sumbiling and Taratak. Furthermore, this figure is not consistent with the company's December 2009 Statement of Hectarage which reported around 3,790 hectares, consistent with the figure mentioned during the interview with the PPVOMI General Manager in October 2010.

⁴⁰ Dalabajan 2010

⁴¹ *Palm Oil Industry Destined for the Philippines* 2002

⁴² Department of Agriculture 2009

⁴³ PPOIDC is composed of Governor as Chairman, Vice Governor as Executive Vice Chair, PCA as Lead Agency , along with other members – Office of the Provincial Agriculturist, DENR, PCSD, Provincial Cooperative Development Office, DAR, Land Bank of the Philippines, Palawan State University, Provincial Assessor, PPVOMI, BPI, LGUs, DTI, ELAC, NCIP and the City Agriculture Office.

⁴⁴ Agusan Plantations Group 2010

⁴⁵ PCA Palawan Field Office 2009

⁴⁶ PCA- Palawan Field Office 2009

⁴⁷ Derequito 2005:21

⁴⁸ *ibid.*

⁴⁹ Philipine Oil Palm Meeting in Brgy. Bayanga, Cagayan de Oro City, August 23-24 2010.

⁵⁰ The *Pag-Ibig* Home Development Mutual Fund is a mandatory benefit for all Filipino employees in both private and public companies whereby both the employer and employee give regular monthly contributions taken from the monthly salary of workers and additional contributions from the employer. Employee benefits include housing and salary loans.

⁵¹ Malonzo 2010