

**Date:** July 25, 2007

**To:** Advertising Standards Authority

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## **Regarding**

Friends of the Earth International<sup>1</sup> (FoEI) and Friends of the Earth Europe<sup>2</sup> are filing a complaint to the Advertising Standards Authority (ASA) about a television advertisement of the Malaysian Palm Oil Council (MPOC) entitled "Gift from Nature, Gift for Life". The advertisement was broadcast on the BBC<sup>3</sup> and we believe it constitutes a breach of the Television Advertising Standards Code.

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<sup>1</sup> Friends of the Earth International is the world's largest grassroots environmental network, uniting 70 national member groups and some 5,000 local activist groups on every continent. With approximately 1.5 million members and supporters around the world, we campaign on today's most urgent environmental and social issues. We challenge the current model of economic and corporate globalization, and promote solutions that will help to create environmentally sustainable and socially just societies.

<sup>2</sup> Friends of the Earth Europe campaigns for sustainable and just societies and for the protection of the environment, unites more than 30 national organisations with thousands of local groups and is part of the world's largest grassroots environmental network, Friends of the Earth International.

<sup>3</sup> We do not know about the exact broadcasting day, but a number of people have alerted us to the fact that the advertisement was broadcasted.

## Relevant parts of the Code

We believe that the advertisement contravenes the following parts of the Broadcast Committee of Advertising Practice (BCAP) Television Advertising Standards Codes:

**Article 5.1:** No advertisement may directly or by implication mislead about any material fact or characteristic of a product or service.

**Article 5.2.1:** Licensees must obtain adequate objective evidence to support all claims.

Note 2: Licensees must make their own independent assessment of evidence submitted in support of advertising, and of any advice they have commissioned.

Note 3: Absolute claims should be avoided unless they are backed up by clear evidence and are based on a formula they can completely deliver.

Note 4: Under the Control of Misleading Advertisements Regulations 1988, the ASA is empowered to regard a factual claim as inaccurate unless adequate evidence of accuracy is provided to it when requested.

**Article 5.2.3:** All important limitations and qualifications must be made clear.

**Article 5.2.6:** Advertisements must not make unsubstantiated claims about environmental impact.

## Content of the advertisement

The advertisement, which can be consulted on the MPOC website (<http://www.mpoc.org.my>) contains the following spoken out loud:

*The world has been slowly discovering the secrets of our planet*

*The beauty of nature*

*And the miracles of life*

*And while the world may know almost all the wonders of the earth*

*Many may not be aware of the wonders of this gift from nature*

*This gift for life*

*Malaysia palm oil*

*Its trees give live*

*And help our planet breath*

*Its fruit provide vitamins for our bodies*

*And energy for our daily lives*

*Malaysia palm oil*

*A gift for nature*

*A gift for life*

The following text then appears:

*Malaysia palm oil. Sustainably produced since 1917.*

## **Complaint**

The sentence “sustainably produced since 1917” is clearly misleading. It contravenes Articles 5.2.1 and 5.2.6 of the Code, also resulting in a breach of the more general Article 5.1. The sentence is reinforced by the overall image of the advertisement, which contains statements such as “a gift from nature, a gift for life” and “helping the planet breathe”, as well as images of oil palm trees and tropical rainforests.

“Sustainably produced” is a vague and general term. Though MPOC may counter that it implies only that palm oil has been produced in Malaysia for a long time, since 1917, the consumer is likely to take from the term that palm oil is produced without harming the environment in any way. The footage in the advertisement, by hinting that palm oil production does not harm trees or contribute to deforestation, also leads the consumer to use this definition of “sustainably produced”. Therefore it is an absolute term and should only be used if substantiated with evidence.

MPOC, however, does nothing to substantiate this claim, either in the advertisement itself or on its website. Moreover, the most suitable verifier in palm oil sustainability, the Roundtable for Sustainable Palm Oil (RSPO), will not complete its verification system for sustainable palm oil until either the end of this or beginning of next year. However, even at that point it is very unlikely that sweeping statements will be made for an entire country, as the MPOC does in its advertisement. MPOC is involved in the RSPO process and should therefore be well aware of this.

In its promotional materials, MPOC states that no virgin forests or orang utan habitats are converted for oil palm development. However, this contradicts the experiences of Malaysian environmental NGOs, indigenous communities and various scientists. To state simply that palm oil is “sustainably produced” is to put forth a scientific and public consensus on the issue when there clearly is not one. On the contrary, we believe that much palm oil is produced in an unsustainable manner. For more information on the debate please see attached Annex 1 (on background information on sustainability of palm oil) and Annex 2 (including numerous recent examples of non sustainable production of palm oil throughout Malaysia).

In a similar case in 2006 Milieudefensie / Friends of the Earth Netherlands filed a complaint to the Dutch Reclame Code Commissie (the sister organisation of ASA

in the Netherlands) against an advertisement of Essent Retail Energie BV<sup>4</sup>. Essent claimed that the biomass it was using for energy production was sustainable and that the palm oil products from Malaysia used by the company for electricity generation meet strict criteria and that its production does not negatively impact the local environment. The Reclame Code Commissie decided that the advertisement was in violation with its standards. In their argumentation they said that the Commission considers it likely that, at this point in time, a major part of the biomass from palm oil products can not be proven to be sustainable.

In addition, while promoting Malaysian palm oil among the general public, the advertisement does not make clear the important limitation on product availability, namely that consumers in Europe cannot possibly verify whether the product they would consider buying contains Malaysian palm oil. On the contrary, product labelling generally does not allow a consumer to determine if a product contains palm oil at all.

The palm oil industry, including MPOC, is very much aware of this. Therefore, it is evident that MPOC aims to influence the perception of the general public on the basis of claims that no consumer can verify.

Through influencing the perception of the general public, MPOC ultimately aims to change the consumer's economic behaviour. However, as clarified above, consumers have no means to translate their altered perceptions into economic behaviour other than through being less critical in general.

In conclusion, if it is accepted that "sustainable" refers to more than merely planting oil palms for the past 90 years, MPOC cannot back up with scientific facts or with independent verification its claim that "Malaysia palm oil (is) produced sustainably since 1917." The sustainability of palm oil production in Malaysia is subject to public and scientific debate. MPOC's claim that Malaysian palm oil is "sustainably produced since 1917" is therefore an inappropriate green claim as described in the Code.

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<sup>4</sup> Decision of the Reclame Code Commissie in the case Miliedefensie versus Essent Retail Energie. File nr. 06.0504A. 5 December 2006.

## **Annex 1**

### **Background information on sustainability of palm oil**

A wealth of evidence, from both scientists and stakeholders, indicates that not all palm oil is produced in a sustainable way.

The Roundtable for Sustainable Palm Oil (RSPO) is developing a verification system for sustainability claims regarding palm oil production. RSPO is expected to complete a verification system by the end of 2007 or in the course of 2008. However, even if the RSPO verification system is put in place, it would not allow for sweeping statements at the country level ("Malaysia palm is produced sustainably") unless all individual management units (plantations and processing facilities) have been verified as meeting all relevant laws and beyond-legal performance sustainability principles and criteria, as laid down by RSPO.

The complainant is certain that MPOC is fully aware of the above. In fact, MPOC chief executive officer Tan Sri Dr Yusof Basiron said in December 2006 that Malaysia will work with the RSPO (..) to come up with an internationally recognised certification for the sustainable development of palm oil. Dr. Basiron was quoted by the Malaysian New Straits Times newspaper as saying that "this is a step towards dispelling lies told on palm oil by competing vegetable oil stakeholders."<sup>i</sup> Thus, MPOC recognition of the need to work with the RSPO and its system of verification is contradicted in its own advertisement "Gift from Nature, Gift for Life", since the advertisement argues that all Malaysian palm oil is already sustainable.

According to the Malaysian Palm Oil Association (MPOA, the private sector association), 66% of all oil palm estates have been converted from rubber and cacao and the rest were established in logged forests.<sup>ii</sup> These (conservative) figures imply that in the years leading up to the end of 2002, some 1,210,000 hectares of forest were cleared for oil palm development in Malaysia.<sup>iii</sup>

Citing on government statistics in Sieh & Ahmad (2001), Dr. Colin Nicolas, presently coordinator of the Center for Orang Asli Concerns (COAC) in Malaysia, states that 86 per cent of all deforestation in Malaysia from 1995-2000 was attributed to oil palm development.<sup>iv</sup> Palm oil production in Malaysia is not just affecting forests. Dr. Nicolas emphasises that "invariably, as a result of these effects of forest clearing and oil palm planting, it is usually the indigenous peoples who bear the consequences of such environmental degradation (..). Together with logging and large-scale development projects, the rapid expansion of the oil palm plantation business into Orang Asal lands makes this sector the

most conflict-ridden one in rural Malaysia. Recent experiences in Sabah, Sarawak and Peninsular Malaysia clearly attest to this.”<sup>v</sup>

The scientific debate about the extent to which the expansion of oil palm plantations contributes to deforestation (and other impacts on sustainable development) is seriously hampered by:

- The tendency of Malaysian government bodies such as MPOC and the Ministry of Plantation Industries and Commodities to group oil palm plantations as “forests” and thereby add the plantation acreage to the national forest cover. As a result, Malaysia’s “forest cover” increases while the United Nations Food and Agriculture Organisation (FAO) statistics that show that the rate of deforestation in Malaysia actually increased from 2000-2005 as compared to 1990-2000.<sup>vi</sup> In their book “Deforesting Malaysia, the Political Economy and Social Ecology of Agricultural Expansion and Commercial Logging”, Professor K.S. Jomo, Y.T. Chang and K.J. Khoo elaborate in detail how forest cover statistics are conveniently adjusted to conceal deforestation in Malaysia.<sup>vii</sup>
- Malaysian government bodies do not publish detailed information about forest cover and forest cover changes. They treat information about the locations (“concession areas”) of oil palm plantation companies as a state secret which makes it hard for third parties to assess the extent of deforestation caused by oil palm expansion and to verify the truthfulness of MPOC’s claims. Globally accessible satellite imagery (such as that published by Google Earth) demonstrates that in Malaysia deforestation for oil palm expansion does take place in many locations.<sup>viii</sup>

## **Background on the Malaysia Palm Oil Council**

The interests and the identity of the advertiser are not clearly presented to the viewer in this case. The advertisement refers only to a website [[www.MalaysiaPalmOil.org](http://www.MalaysiaPalmOil.org)] which presupposes that the viewer can find out more about the advertiser via this website. Once this website is consulted, the “about us” section clarifies that the website is run by the Malaysian Palm Oil Council (MPOC). The viewer, however, remains unsure as to whether the advertisement was indeed produced under MPOC’s responsibility. We assume that this is indeed the case.<sup>ix</sup>

Neither the [MalaysiaPalmOil.org](http://MalaysiaPalmOil.org) website nor the MPOC website clarifies who owns MPOC and what interests it serves. The internet address [[MalaysiaPalmOil.org](http://MalaysiaPalmOil.org)] suggests that MPOC may be a non-governmental organisation (most NGOs have domain names ending with “.org”). The MPOC website merely presents pictures of the MPOC CEO and Chairman, without stating to whom they are accountable.

According to our information, MPOC was set up by the Malaysian government in 1990. Although private sector parties are represented in the Board of Trustees, MPOC ultimately operates as a governmental organisation (council) that falls under the auspices of the Malaysian Ministry of Plantation Industries and Commodities.<sup>x</sup> Among the objectives of the MPOC are:

- To improve understanding of palm oil, its applications and its benefits.
- To uphold the good name of Malaysian palm oil by closing the gap between the issues of perceptions, allegations and the realities of palm oil.
- To safeguard Malaysian palm oil as the most dominant palm oil in terms of market coverage, nutritional benefits, environmental sustainability and commercial success.<sup>xi</sup>

It is, in our view, crucially important to note that the Malaysian government, through substantial or controlling interests via the National Equity Corporation (Permodalan Nasional Berhad, PNB) and its unit trust funds, is an important economic stakeholder (shareholder) in the largest Malaysian oil palm plantation companies such as the Guthrie Group, Golden Hope, Sime Plantations, Boustead and others.<sup>xii</sup>

As a council linked to the Malaysian Ministry of Plantation Industries and Commodities, MPOC plays a key role in promoting the image of palm oil within the country and abroad. The responsible Minister of Plantation Industries and Commodities, Peter Chin, stated that “Malaysia has agreed (in 2006) to jointly work with Indonesia to combat any anti-palm oil campaigns and to promote the sustainability as well as the good value of palm oil.”<sup>xiii</sup> Earlier that year Indonesian media reported that both countries agreed to allocate 500,000 Euro to pay the fees of a consultant or joint spokesman to counter campaigns launched by non-governmental organisations against palm oil production in the two countries.<sup>xiv</sup>

It is against this background that the advertisement must be seen and understood: responsibility for this advertisement and the subject to this complaint is the Malaysian government and the palm oil companies in which it holds financial interests. The advertisement must also be seen in the context of Malaysia’s efforts to promote palm oil consumption regardless of its origin. Malaysia is the largest palm oil producer country in the world and Malaysian plantation companies (including those with controlling stakes held by Malaysian government funds) also hold around 1.8 million hectares of oil plantation land in Indonesia, about one third of the existing oil palm acreage in the country.

### **Violations of voluntary DEFRA codes**

We believe that the advertisement of MPOC has flouted the DEFRA Green Claims Code (GCC) as well.

The GCC stipulates that a green claim should be:

- Relevant to the product in question and the environmental issues connected with it.
- Clear about what environmental issue or aspect of the product the claim refers to.

It also stipulates that a green claim should not:

- Be vague or ambiguous, for instance by simply trying to give a good impression about general concern for the environment.
- Imply more than it actually covers, if the claim is only about limited aspects of a product or its production, or does not deal with a significant issue for that type of product.

The overall direct and implied, visual, spoken and written claim as laid down in the MPOC advertisement is that Malaysian palm oil is “a gift from nature, a gift for life”. This is a statement that remains vague and ambiguous in light of the linkages made: oil palm trees, ample images (symbols) showing extensive tropical rainforests, trees, animals and plants, vague statements that oil palms are “helping the planet breath” and lastly the closing term ‘Malaysia palm oil: sustainably produced since 1917’. In so far as there are linkages between palm oil and these environmental benefits they are not clearly explained and they are also disputed. They could easily mislead consumers into believing that palm oil provided benefits to the environment when this is not the case.

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<sup>i</sup> Malaysia needs palm oil certification. New Straits Times. December 2, 2006.

<sup>ii</sup> Data from: MPOA 2003. Sustainable Palm Oil: Malaysian Palm Oil Association Perspective. Malaysian Palm Oil Association (MPOA). Presentation at the Palm Oil Roundtable, Kuala Lumpur, August 21-22, 2003.

<sup>iii</sup> Wakker, E. 2004. Greasy Palms: The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia. Report for Friends of the Earth England, Wales and Northern Ireland.

<sup>iv</sup> CERTIFYING THE OIL PALM PLANTATION BUSINESS AND PROTECTING INDIGENOUS PEOPLES' RIGHTS Public Forum on Sustainable Palm Oil, 6 January 2005, Kuala Lumpur  
Summary of presentation by COLIN NICHOLAS Coordinator Center for Orang Asli Concerns.

<sup>v</sup> CERTIFYING THE OIL PALM PLANTATION BUSINESS AND PROTECTING INDIGENOUS PEOPLES' RIGHTS Public Forum on Sustainable Palm Oil, 6 January 2005, Kuala Lumpur.  
Summary of presentation by COLIN NICHOLAS Coordinator Center for Orang Asli Concerns

<sup>vi</sup> FAO 2005. Forest Resource Assessment. Rome. According to FAO, Malaysia deforested 78,000 ha annually between 1990-2000, whereas this increased to 140,000 ha from 2000-2005. According to our professional judgment most of this deforestation, and its growth, is directly associated with oil palm expansion.

<sup>vii</sup> Jomo, KS, YT Chang and KJ Khoo, 2004. Deforesting Malaysia, the Political Economy and Social Ecology of Agricultural Expansion and Commercial Logging”. Zed Books in association

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with United Nations Research Institute for Social Development. Further elaboration on this debate is presented in “Malaysian Environment in Crisis” published by Sahabat Alam Malaysia.

<sup>viii</sup> A CD ROM with linkages to relevant satellite images was handed over by the Dutch Palm Oil Platform (an NGO platform in the Netherlands) to Minister Peter Chin of the Ministry of Plantation Industries and Commodities during his trip to the Netherlands in October 2006. This CD ROM can be made available to the BCAP.

<sup>ix</sup> Similarly, it is reasonable to assume that MPOC is also the owner and manager of the anonymous website “Palm Oil Truth Foundation” [<http://www.palmoiltruthfoundation.com>].

<sup>x</sup> MPOC website [<http://www.mpoc.org.my>]; website Ministry of Plantation Industries and Commodities [<http://www.kppk.gov.my/>]. See also: Teoh, Cheng Hai, 2002. The Palm Oil Industry in Malaysia: From Seed to Frying Pan. Report prepared for WWF Malaysia.

<sup>xi</sup> [http://www.mpoc.org.my/main\\_coprofile.asp](http://www.mpoc.org.my/main_coprofile.asp) [http://www.mpoc.org.my/main\\_coprofile.asp](http://www.mpoc.org.my/main_coprofile.asp)

<sup>xii</sup> See also: Teoh, Cheng Hai, 2002. The Palm Oil Industry in Malaysia: From Seed to Frying Pan. Report prepared for WWF Malaysia and the Annual Reports of the companies mentioned.

<sup>xiii</sup> SPEECH BY YB DATUK PETER CHIN FAH KUI, MINISTER OF PLANTATION INDUSTRIES AND COMMODITIES AT THE LAUNCH OF THE SEMINAR ON “BIODIVERSITY CONSERVATION THROUGH SUSTAINABLE PLANTATION PRACTICES ON CAREY ISLAND”. 28<sup>TH</sup> NOVEMBER 2006 (TUESDAY), 9.00 A.M., AT DEWAN KULIAH TERATAI, FAKULTI SAINS, UNIVERSITI MALAYA, KUALA LUMPUR.

<sup>xiv</sup> Indonesia, Malaysia launch joint move to defend palm oil industry. The Jakarta Post, 19 July 2006.

## Annex 2

### Examples of non-sustainable oil palm production throughout Malaysia.

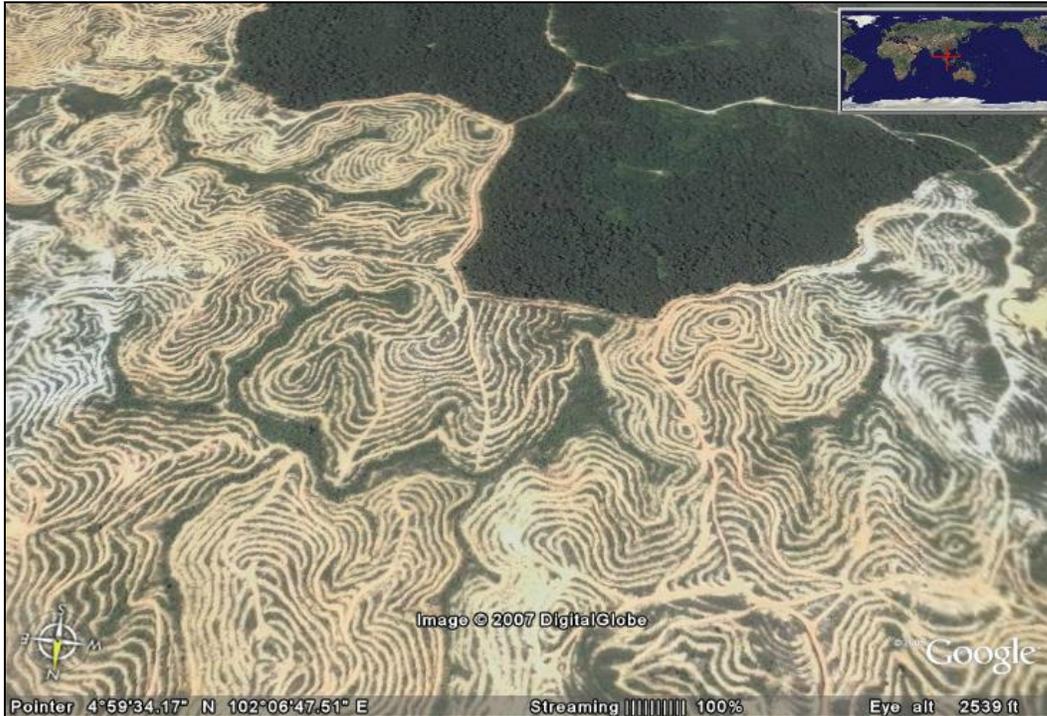
Below, we present exhibits of environmentally and socially destructive oil palm development as they have been taking place in various Malaysian States in Malaysia over the past 5-7 years.



#### **Kelantan**

In the West Malaysian State of Kelantan, many plantation projects result in deforestation and serious environmental damages. In the vicinity of Gua Musang, several major land clearing projects can be observed from satellite imagery. Field checks confirmed that a number of large-scale clearing projects are taking place in Kelantan, some of which fall under the direct ownership of the State Government.

The projects involve the clearing both older rubber plantations and natural tropical lowland rainforest.



*Stripping the forest: oil palm development in Kelantan (Google Earth satellite image)*

In various localities land and natural forest clearing is conducted on extremely steep slopes (30-50°, see image below). These areas are terraced but as they remained unplanted for some time, these soils are subject to land slides and severe erosion.



*Land clearing between Gua Musang and Limau Kasturi in Kelantan, Malaysia. Note (above) the large land slide resulting from forest clearing on very steep slopes. In April 2007, natural forest logs were still being removed and few young oil palms were being planted. This is a State government land clearing project.*



**Kedah**

Because of its environmental and health impacts, open burning to clear land for oil palm planting is strictly illegal in Malaysia. However in the State of Kedah in West Malaysia, not far from Kulim town, burning stacks of debris from a clear-felled oil palm plantation were documented as recently as April 2007 (see image).



*Illegal burning of rows of debris resulting from the clearance of an old oil palm plantation. Kedah, April 2007.*

## **Pahang**

In 2003, a Malaysian newspaper exposed a major case in which UMNO, the leading political party in Malaysia and in the State of Pahang, had in 1998 had been awarded by the State government the rights to log and deforest 4,000 hectares of virgin peat swamp forest, 90% of which was classified as “*Permanent*” Forest Reserve, for an oil palm plantation. Environmental laws were circumvented by splitting up the project in 10, so that no Environmental Impact Assessment had to be (and was) conducted (the minimum size for an obligatory EIA is 500 ha).

In 2000, Umno Pahang conferred logging company Seruan Gemilang Makmur (SGM) with the exclusive right to fell, extract and sell the logs in the area. In return, the company paid the party a mere RM 50,000 (7,100 GBP) for the deal which was believed to be worth millions. The logging contractor, who was sued over the case, exposed receipts to payments of around 45,000 pounds each to two UMNO leaders in the State of Pahang. Most of the timber value – estimated at 14 million GBP - was cashed in, but years later the site remained unplanted.

A massive gap in the peat swamp forest, that was once the home of rhinos, tigers, honey bears, gibbons, tapirs, and panthers as well as endangered ramin trees, remains easily distinguished from space.<sup>1</sup> See the satellite images below (1992 – 2001).



*Ladang UMNO from space (prior to deforestation in 1992, left; after land clearing and construction of peat drainage canals, 2001, right).*

## **Selangor**

Open burning to clear land for oil palm planting is strictly prohibited in Malaysia but such practices can still easily be observed. Even in close vicinity to the city Kuala Lumpur, it is not uncommon to observe from the air open burning practices in the State of Selangor.

In August 2004, a land fire just outside Subang airport burnt for at least a week without action being taken. The area was located adjacent to existing oil palm plantations and thus most likely comprised an expansion project:



*Land burning outside Subang / vicinity Kelang. August 2004.*

Rights to demonstrate are strictly limited in Malaysia, but as Selangor hosts the Federal capital, Kuala Lumpur is sometimes also the center of community and plantation workers' protests against poor treatment by the industry and government. Weak housing rights and low wages in oil palm plantations for workers, and land rights conflicts remain the major social sustainability challenges that the Malaysian palm oil industry is yet to address before it can claim sustainability.



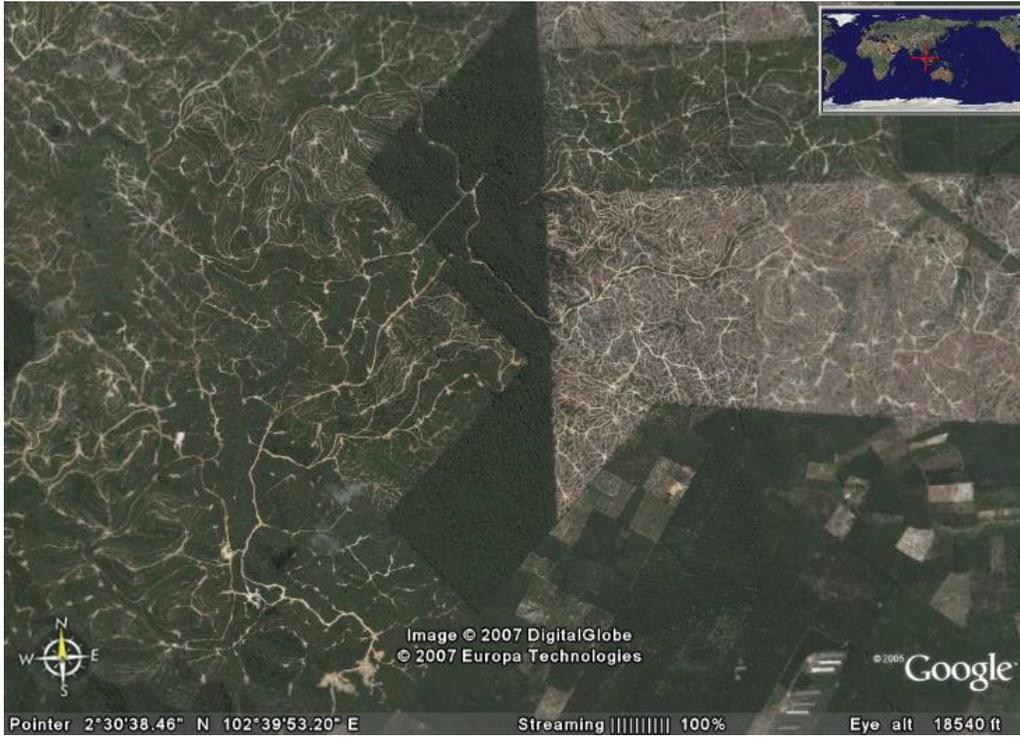
*Workers of the Golden Hope company demonstrating in Kuala Lumpur with banners "Golden Hope: No Hope", "Golden Hope, compensate us".*



*Signboard for an oil palm project set up by JEOA, the government department that is to assist the Orang Asli (Semai) indigenous communities in their development. The project sign announces the project started in 2000 and ended in 2003. However, when the image was taken in March 2003, no oil palms had been planted. Indigenous communities in Malaysia are rarely enabled to provide inputs on development projects based on free, prior and informed consent.*

### **Johor**

While flooding is an annual event in the east coast of the Malaysian peninsular, it was considered uncommon in Johor and Malacca until recently. These two States that suffered extensive damages from heavy flooding in December 2006. The flooding was particularly severe in the vicinity of Gemas and Segamat in the State of Johor where in the surroundings of this town, large-scale land clearing for oil palm plantations have been ongoing for the past few years. Satellite images demonstrate that some rubber plantations have been converted, but again that also extensive tracts of lowland tropical rainforest were and continue to be cleared (see image):



*Large land clearing project for oil palm plantations in Gemas - Segamat, Johor State. The green triangle blocks represent remaining natural tropical rainforest. The bottom right corner below, oil palm smallholdings.*



*Top part is oil palm, the lower part a new clearing of rainforest, with the two triangles again representing some remaining lowland rainforest.*

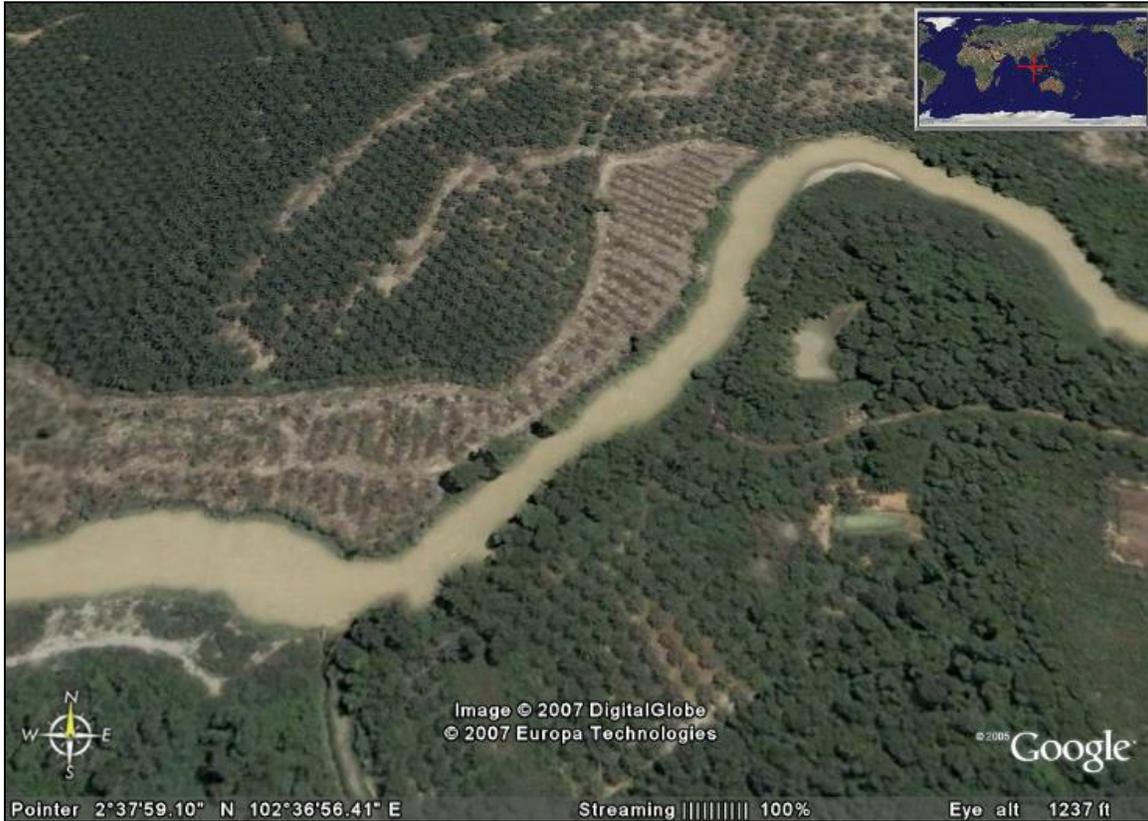
### **Perak**

Open burning, most likely with the aim to prepare land for planting with oil palms, was observed from the air somewhere in the border area of Selangor and Perak State in April 2007:



### **Negeri Sembilan**

Malaysian government policies and environmental better management practice recommend the conservation of natural (forest) vegetation buffer zones along rivers and streams as this helps to reduce the impact of soil erosion and river sediment loads (which contributes to flooding). It is, however, still more common practice to see the policies and better practices violated as plantation companies merely strive to maximize the commercial use of land. Even previously conserved buffer zones are frequently cleared and planted with oil palm trees in Malaysia. The satellite image below is in the State of Negeri Sembilan. Light brown areas are recent clearings, the systematically planted crop, oil palm. The broccoli shaped vegetation, remnant natural forest or village forests.



*Clearing of river buffer zones for oil palm in Negeri Sembilan.*

**Sabah**

In Sabah, East Malaysia, extensive areas of swamp forests were converted for oil palm plantations, among which forests along major rivers such as the Kinabatangan river. These forests provide crucial habitat for orangutans, proboscis monkey and Borneo’s only elephant populations. Land clearing up to the river bed, except for a last single row of trees, has made it impossible for wildlife to migrate and sustain their populations and, with them their tourism value. Extensive flooding in 2000 caused many new oil palm plantings to be destroyed and a couple of companies now allow some of the river buffer areas to be restored.



*The single tree “beauty strip” along the Kinabatangan river (image August 2000).*



*Flooding of the Kinabatangan watershed (2000, images WWF Malaysia).*

### **Sarawak**

The government of Sarawak aims to expand the acreage of oil palm plantations to over a million hectares in the next decade(s). This expansion is already taking place at the expense of peat swamp forests and Native Customary Rights land, held or claimed by indigenous communities, resulting in numerous social conflicts. Local people and the general public cannot influence the way in which the plantation projects are planned as public participation in, for example, Environmental Impact Assessments is not required in Sarawak. Serious lack of transparency and public participation are among the biggest constraints to be addressed if the palm oil industry is to claim sustainability in Sarawak.

Friends of the Earth Malaysia (SAM) recently revealed that between 1999 and 2002, one oil palm and two tree-plantation projects jointly covering more than 300,000 hectares have been approved for development within the watershed of the controversial Bakun Dam in Sarawak. This is in conflict with the government's indications in 1996, when it said that it would gazette a total catchment area of about 1.5 million hectares. The Environmental Impact Assessment report for the oil palm project, which is located only 13 km above the dam, boldly states that there are no permanent settlements within their project area. SAM documented the existence of at least five Penan settlements in the vicinity of the project. The peoples' livelihoods and their access to clean water have been and will be severely threatened with the degradation of their land.<sup>ii</sup>



*Land clearing for oil palm around Miri, Sarawak (2006).*

### **Outside Malaysia**

From the early 1990s onwards, Malaysian companies have been expanding into Indonesia to seek cheap land for oil palm development. According to estimates by the Malaysian government, Malaysian companies held a land bank of around 800,000 ha in Indonesia by the end of 2004, but according to Friends of the Earth, the present area is more likely in the order of 2 million hectares.<sup>iii</sup>

While denying that Malaysian companies in Indonesia are guilty of damaging the environment (in Indonesia), the chairman of the Malaysian Palm Oil Board (MPOB) at the same time recently also conceded there “could be some black sheep”.<sup>iv</sup> There are, indeed, cases of Malaysian companies developing their plantations in environmentally destructive manners. PPB Oil Palms, one of Malaysia’s leading oil palm companies is expanding aggressively in Central Kalimantan where peat soils are cleared, burnt and planted with oil palms, to significant part on lands not yet released for conversion by the relevant Indonesian authorities.<sup>v</sup>



*Mothers and children bathing in a river destroyed and polluted by land clearing and open burning in the concession area of PT Mustika Sembuluh, the Indonesian daughter company PPB Oil Palms Bhd. in Central Kalimantan.*



*Burning of wood rows prior to oil palm planting in PT Titian Sarana, a PPB subsidiary in Central Kalimantan. August 2006.*

## **Conclusion**

We presented a small selection of materials that exhibit some of the key environmental and social challenges in achieving sustainability in Malaysia's oil palm industry. A selective series of images may also be presented to demonstrate that some plantation companies are working on introducing better management practices. The essence of the evidence presented here, however, is to illustrate that in many locations Malaysian palm oil is not sustainably produced.

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<sup>i</sup> Umno Pahang given multi-million ringgit logging concessions. Malaysiakini.com, July 21, 2003; Umno Pahang logging scandal: ACA report lodged. July, 30, 2003; Satellite photos confirm widespread logging on Umno's land. Malaysiakini.com, August 7, 2003; DOE has no explanation why EIA not done on Ladang Umno. Malaysiakini.com, 20 August, 2003; RM320,000 paid to Umno leaders, claims logging firm. Malaysiakini.com, September 15, 2003.

<sup>ii</sup> SAM Calls for Transparency and Accountability in Sarawak, Press Release Sahabat Alam Malaysia, 21 June 2007; New doubts over Malaysia's Bakun Dam, Asia Times Online, 10 July 2007.

<sup>iii</sup> Malaysian investments in oil palm companies, according to the Ministry of Plantation Industries and Communities. In reply to parliamentary questions: 12/19/2005; corporate research by Friends of the Earth Netherlands.

<sup>iv</sup> Call to enlist EU help on palm oil. Daily Express News, 16 June 2007.

<sup>v</sup> Milieudéfensie (Friends of the Earth Netherlands), Lembaga Gemawan and KONTAK Rakyat Borneo. June 2007.

“Policy, practice, pride and prejudice: Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia)”.