

Annex 1 – Definitions

The definitions list below includes definitions from the P&C 2013/MYNI 2014 and new terms that were identified in the 2017/2018 P&C and MYNI 2019 Review process.

Term	Definition	Source
Carbon neutrality	Carbon neutrality refers to achieving net zero GHG emissions by balancing a measured amount of carbon dioxide equivalent (CO ₂ e) emissions released with an equivalent amount sequestered or offset. (The term "climate neutral" reflects the broader inclusiveness of other greenhouse gases in addition to carbon dioxide in climate change. The terms are used interchangeably.)	P&C Review 2018
Child	The term child applies to all persons under the age of 18. A person under the age of fifteen years	ILO Minimum Age Convention, 1973 (No. 138) Worst Forms of Child Labour Convention, 1999 (No. 182) Children and Young Persons (Employment) (Amendment) Act 2018
Child labour	Child labour is work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. The term applies to: <ul style="list-style-type: none"> • All children under 18 involved in the "worst forms of child labour" (as per ILO Convention No. 182) • All children aged under 12 taking part in economic activity; and • All 12 to 14-year-olds engaged in more than light work. <p>The ILO defines light work as work that is not likely to be harmful to children's health or development and not likely to be detrimental to their attendance at school or vocational training.</p>	ILO Minimum Age Convention, 1973 (No. 138)
Contract	Any agreement whether oral or in writing and whether expressed or implied whereby one person agrees to employ another as an employee and that other agrees to serve his employer as an employee and includes an apprenticeship contract.	MYNI 2014

Term	Definition	Source
Contract substitution	The practice of substituting or changing the terms of employment to which the worker originally agreed, either in writing or verbally, which results in worse conditions or less benefits. Changes to the employment agreement or contract are prohibited unless these changes are made to meet local law and provide equal or better terms.	<u>ILOR</u> Report to the Committee examining alleged non-compliance by Qatar of Forced Labour Convention 29; paragraph 9
Contract worker	Contract worker refers to persons engaged in temporary work, or work for a specific period of time. It also refers to workers who are not employed directly by the company, but employed by a contractor or consultant with whom the company has a direct contract.	<u>ILO, Non-Standard Forms of Employment</u>
Core work	<p>The primary area or activity that a company was founded to do or focuses on in its business operations. Core work pertains to work that is essential and desirable to the growth of the organisation.</p> <p>All agricultural and milling activities are considered core work, e.g. planting, harvesting, fertilising, maintenance; FFB sorting and grading; machine-technical maintenance; and machine operation.</p>	P&C Review 2018
Debt bondage	The status or condition of debt bondage when their labour, or the labour of a third party under their control, is demanded as repayment of a loan or of money given in advance, and the value of their labour is not applied towards the liquidation of the debt or the length of the service is not limited and/or the nature of the service is not defined.	<u>UN GA Human Rights Council: Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences. July 2016.</u>
Decent living wage	The remuneration received by a worker, for work performed on regular hours, in a particular place sufficient to afford a decent standard of living for the worker and her or his family.	Adapted from GLWC
Deforestation	Loss of natural forest as a result of: <ul style="list-style-type: none"> i) conversion to agriculture or other non-forest land use; ii) conversion to a plantation forest; or iii) severe and sustained degradation. 	Draft Accountability Framework Initiative (AFI) (July 2018). Refer to latest AFI definition

Term	Definition	Source
Due diligence	A risk management process implemented by a company to identify, prevent, mitigate, and account for how it addresses environmental and social risks and impacts in its operations, supply chains, and investments.	Draft AFI (July 2018). Always refer to latest AFI definition
Eminent domain and expropriation	Eminent domain is the statutory power of governments to expropriate private property for public use or in the national interest, usually with the payment of compensation according to rates defined by law. Expropriation implies divesting persons of their property without requiring their agreement or consent.	P&C Review 2018
Environmental Impact Assessment	A process of predicting and evaluating the effects of an action or series of actions on the environment, then using the conclusions as a tool in planning and decision-making.	MYNI 2014
Facilitation payment	Bribes paid to facilitate routine government action [1]. A common example is where a government official is given money or goods to perform (or speed up the performance of) an existing duty [2].	[1] UK Bribery Act 2010 Guidance [2] UK Serious Fraud Office Bribery Act Guidance
Family farm	A farm operated and mostly owned by a family, for the growing of oil palm, sometimes along with subsistence production of other crops, and where the family provides the majority of the labour used. Such farms provide the principal source of income, and the planted area of oil palm is below 50 ha in size. Work by children is acceptable on family farms, under adult supervision; when not interfering with education programmes; when children are part of the family and when they are not exposed to hazardous working conditions.	P&C 2013
Food security	Food security is achieved when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. Four dimensions of food security are commonly identified: food availability, food access, utilisation and stability.	FAO World Food Summit, 1996. See FAO Policy Brief Issue 2 , June 2006 for further detail.

Term	Definition	Source
Forced labour	<p>All work or service which is exacted from any person under the menace of any penalty and for which said person has not offered him or herself voluntarily.</p> <p>This definition consists of three elements:</p> <ol style="list-style-type: none"> 1. Work or service refers to all types of work occurring in any activity, industry or sector including in the informal economy. 2. Menace of any penalty refers to a wide range of penalties used to compel someone to work. 3. Involuntariness: The terms “offered voluntarily” refer to the free and informed consent of a worker to take a job and his or her freedom to leave at any time. This is not the case for example when an employer or recruiter makes false promises so that a worker takes a job he or she would not otherwise have accepted. 	<p>ILO Forced Labour Definition</p> <p>ILO, Forced Labour Convention, 1930 (No. 29)</p> <p>ILO, Protocol of 2014 to the Forced Labour Convention, 1930 (P029)</p> <p>ILO, Abolition of Forced Labour Convention, 1957 (No. 105)</p> <p>ILO, Forced Labour Recommendation 2014 (No. 203)</p>
Fragile soil	<p>A soil that is susceptible to degradation (reduction in fertility) when disturbed. A soil is particularly fragile if the degradation rapidly leads to an unacceptably low level of fertility or if it is irreversible using economically feasible management inputs. (See also definition for ‘marginal soil’)</p> <p>Fragile soils on which extensive planting shall be avoided include mangrove sites.</p>	P&C Review 2018
Gender equal	<p>This refers to the equal rights, responsibilities and opportunities of women and men, and girls and boys.</p>	<p>UN Women, OSAGI Gender Mainstreaming - Concepts and definitions</p>
Greenhouse gas	<p>Greenhouse gases (GHGs) are those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and emit radiation at specific wavelengths within the spectrum of thermal infrared radiation emitted by the Earth's surface, the atmosphere itself, and by clouds.</p> <p>GHGs are measured in terms of their global warming potential – the impact a GHG has on the atmosphere expressed in the equivalent amount of carbon dioxide CO₂ (CO₂-e). Greenhouse gases regulated by the Kyoto Protocol include: carbon dioxide (CO₂), methane (CH₄), nitrous oxides (N₂O), Hydrofluorocarbons (HFCs), perfluorocarbons (PFC), and sulphur hexafluoride (SF₆).</p>	<p>Intergovernmental Panel on Climate Change (IPCC) Data Distribution Centre</p>

Term	Definition	Source
Grower	The person or entity that owns and/or manages an oil palm development.	MYNI 2014
Hazardous work	<p>Hazardous work is work performed in hazardous conditions; or “in the most hazardous sectors and occupations, such as agriculture, construction, mining, or ship-breaking, or where working relationships or conditions create particular risks, such as exposure to hazardous agents, such as chemical substances or radiation, or in the informal economy.” https://www.ilo.org/safework/areasofwork/hazardous-work/lang--en/index.htm</p> <p>Hazardous work is also defined as “any work which is likely to jeopardise children’s physical, mental or moral health, safety or morals” and which “should not be done by anyone under the age of 18.” https://www.ilo.org/ipecc/facts/ILConventionsonchildlabour/lang--en/index.htm</p>	Article 3 (d) of ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182)
High Carbon Stock forest	Forests that have been identified using the High Carbon Stock Approach (HCSA) Toolkit	HCSA website www.highcarbonstock.org
High Forest Cover Country (HFCC)	Countries defined as having >60% forest cover (based on recent, trusted REDD+ and national data); <1% oil palm cover; a deforestation trajectory that is historically low but increasing or constant; and a known frontier area for oil palm or where major areas have been allocated for development	RSPO No Deforestation consultancy: HFCC Proforest, 2018
High Forest Cover Landscape (HFCL)	Landscapes having >80% forest cover. Landscape as defined under HCSA Toolkit (Module 5): “The size of a landscape may be determined by (a) identifying the watershed or the geographical land unit containing a cluster of interacting ecosystems; (b) selecting a unit size that encompasses the plantation concession and a buffer of the surrounding area (e.g. 50,000 ha or 100,000 ha); or (c) using a radius of 5 km from the area of interest (for instance, the planned concession).”	HCSA Toolkit (v2)
High Conservation Value (HCV) areas:	<p>The areas necessary to maintain or enhance one or more High Conservation Values (HCVs):</p> <p>HCV 1 – Species diversity; Concentrations of biological diversity including endemic species, and rare, threatened or endangered (RTE) species, that are significant at global, regional or national levels.</p> <p>HCV 2 – Landscape-level ecosystems, ecosystem mosaics and Intact Forest Landscapes (IFL); Large landscape-level ecosystems, ecosystem mosaics and IFL that are significant at global, regional or national levels, and that contain viable populations of the great majority of the naturally occurring species in natural patterns of distribution and abundance.</p> <p>HCV 3 – Ecosystems and habitats; RTE ecosystems,</p>	High Conservation Value Resource Network (HCVRN) Common Guidance for Identification of HCVs 2017

Term	Definition	Source
	<p>habitats or refugia.</p> <p>HCV 4 – Ecosystem services; Basic ecosystem services in critical situations, including protection of water catchments and control of erosion of vulnerable soils and slopes.</p> <p>HCV 5 – Community needs; Sites and resources fundamental for satisfying the basic necessities of local communities or indigenous peoples (for livelihoods, health, nutrition, water, etc.), identified through engagement with these communities or indigenous peoples.</p> <p>HCV 6 – Cultural values; Sites, resources, habitats and landscapes of global or national cultural, archaeological or historical significance, and/or of critical cultural, ecological, economic or religious/sacred importance for the traditional cultures of local communities or indigenous peoples, identified through engagement with these local communities or indigenous peoples.</p>	
Human Rights Defenders (HRD)	<p>Individuals, groups and associations who promote and protect universally recognised human rights and contribute to the effective elimination of all forms of violations of human rights and fundamental freedoms of individuals and peoples. This definition includes Environmental HRD, whistleblowers, complainants and community spokespersons. This definition does not include those individuals who commit or propagate violence.</p>	<p>RSPO policy on the protection of HRD, Whistleblowers, Complainants and Community Spokesmen (endorsed by BoG on 24 Sept 2018)</p>
Independent Smallholder	<p>All smallholder farmers that are not considered to be Scheme Smallholders [see definition for Scheme Smallholders] are considered Independent Smallholder farmers.</p>	<p>Smallholder Interim Group (SHIG)</p>
Indigenous peoples	<p>Indigenous peoples are inheritors and practitioners of unique cultures and ways of relating to people and the environment. They have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live. Despite their cultural differences, indigenous peoples from around the world share common problems related to the protection of their rights as distinct peoples.</p> <p>Indigenous peoples have sought recognition of their identities, way of life and their right to traditional lands, territories and natural resources for years, yet throughout history, their rights have always been violated. Indigenous peoples today, are arguably among the most disadvantaged and vulnerable groups of people in the world. The international community now recognises that special measures are required to protect their rights and maintain their distinct cultures and way of life.</p>	<p><u>UNDESA, Division for Inclusive Social Development, Indigenous Peoples</u></p>

Term	Definition	Source
In good faith	The principle of good faith implies that the parties make every effort to reach an agreement, conduct genuine and constructive negotiations, avoid unjustified delays in negotiations, respect agreements concluded and applied in good faith, and give sufficient time to discuss and settle collective disputes. In the case of multinational enterprises, such companies should not threaten to transfer the whole or part of an operating unit from the country concerned in order to unfairly influence negotiations.	ILO Q&As on business and collective bargaining
Integrated Pest Management (IPM)	IPM is the careful consideration of all available pest control techniques and subsequent integration of appropriate measures that discourage the development of pest populations and keep pesticides and other interventions to levels that are economically justified and reduce or minimise risks to human health and the environment. IPM emphasises the growth of a healthy crop with the least possible disruption to agro-ecosystems and encourages natural pest control mechanisms.	P&C 2013 FAO 2013 http://www.fao.org/agriculture/crops/thematic-sitemap/theme/pests/ipm/en/
Intimidation and harassment	Intimidation and harassment include loss of income due to/resulting in organisational restrictions, threats of dismissal from employment, restrictions on travel, restrictions to the environment in which the HRDs operate, deliberate obstruction to holding of meetings between HRDs, hostility within the community the HRDs lives as claims may be seen to jeopardise the community's honour and culture (this may especially be the case with women HRDs). More serious measures include character assassination of HRDs, discrediting, defamation campaigns, arbitrary use of security forces, surveillance, SLAPP suits (Strategic Lawsuits against Public Participation) due to his or her work and/or in the course of his/her activities, threats of physical violence and death threats. Special attention is needed to avoid gender-specific violence such as rape or threats of sexual violence used to silence women.	P&C Review 2018
ISO Standards	Standards developed by the International Organization for Standardization.	P&C 2013 ISO: www.iso.org
Land clearing	Conversion of land from one land use to another. Clearing actively managed oil palm plantation to replant oil palm is not considered land clearing. Within existing certified units, clearing of less than 10 ha is <u>not</u> considered new land clearing.	P&C Review 2018
Landscape	A geographical mosaic composed of interacting ecosystems resulting from the influence of geological, topographical, soil, climatic, biotic and human interactions in a given area.	IUCN https://www.iucn.org/downloads/en_iucn_glossary_definitions.pdf

Term	Definition	Source
Landscape level	The size of a landscape may be determined by (a) identifying the watershed or the geographical land unit containing a cluster of interacting ecosystems; (b) selecting a unit size that encompasses the plantation concession and a buffer of the surrounding area (e.g. 50,000 ha or 100,000 ha); or (c) using a radius of 5 km from the area of interest (i.e. planned concession boundaries).	HCV-HCSA Assessment Manual 2017
Livelihood	<p>A person's or a group's way of making a living, from their environment or in the economy, including how they provision their basic needs and assure themselves and following generations secure access to food, clean water, health, education, housing and the materials needed for their life and comfort either through their own direct use of natural resources or through exchange, barter, trade or engagement in the market.</p> <p>A livelihood includes not just access to resources but the knowledge and institutions that make this possible such as time for community participation and integration, personal, local or traditional ecological knowledge, skills, endowments and practices, the assets that are intrinsic to that way of making a living (e.g. farms, fields, pastures, crops, stock, natural resources, tools, machinery and intangible cultural properties) and their position in the legal, political and social fabric of society.</p> <p>The risk of livelihood failure determines the level of vulnerability of a person or a group to income, food, health and nutritional insecurity. Therefore, livelihoods are secure when they have secure ownership of, or access to, resources and income earning activities, including reserves and assets, to offset risks, ease shocks and meet contingencies.</p> <p>(Compiled from various definitions of livelihoods from Department for International Development (DfID), Institute of Development Studies (IDS) and FAO and academic texts from: http://www.fao.org/docrep/X0051T/X0051t05.htm).</p>	P&C 2013
Managed area	The land containing oil palm and associated land uses such as infrastructure (e.g. roads), riparian zones and conservation set-asides.	P&C Review 2018
Management documents	Management documents are documented information and evidence to interact with the RSPO P&C. It shall be in the form of manual, working procedures, report and records that subject to be audited and reviewed periodically.	ISO 9001 QMS – https://advisera.com

Term	Definition	Source
Marginal soil	Problem and marginal soils may include podzols soils such as BRIS (beach ridges interspersed with swale) and kerangas soil, and potential or actual acid sulphate soils. Suitability of these soils is also influenced by other factors including rainfall, terrain and management practices. Areas with these soils within new plantations may only be developed for new plantations provided that adequate management plans based on best management practices are in place. Failing which plantings should be avoided on these soils.	MYNI 2014
Migrant worker	<p>A person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment. Migrants are defined as those who cross international boundaries for the purposes of employment, and do not include those workers who move within a country for the purposes of employment.</p> <p>In Peninsular Malaysia context, migrant worker is referred as foreign employee under Section 2 of the Employment Act 1955 (Act 265).</p> <p>In Sabah and Sarawak, migrant worker is referred as non-resident employee under Section 71 of the Immigration Act, 1959/1963.</p>	<p>P&C 2013</p> <p>Employment Act 1955 (Section 2)</p> <p>Immigration Act, 1959/1963 (Section 71)</p>
Miller	A person or entity that operates a Palm Oil Mill.	MYNI 2014
Natural ecosystems	All land with natural, native vegetation, including but not limited to native forests, riparian vegetation, natural wetlands, peatlands, grasslands, savannahs, and prairies.	P&C Review 2018
Natural vegetation	Areas where many of the principal characteristics and key elements of native ecosystems such as complexity, structure and diversity are present.	MYNI 2014
New planting	Planned or proposed planting on land not previously cultivated with oil palm.	NPP 2015
Non-hazardous work	See definition for hazardous work	
Operations	All activities planned and/or undertaken by the management unit within the boundaries of the palm oil mill and its supply base.	P&C 2013
Operator	A person or entity that runs a business, machine, facility etc.	MYNI 2014

Term	Definition	Source						
Other conservation areas	Areas (in addition to HCV, HCS forests and peatland conservation areas) that are required to be conserved by the RSPO P&C (such as riparian areas and steep slopes) and other areas allocated by the unit of certification.	P&C Review 2018						
Outgrowers	Farmers, where the sale of FFB is exclusively contracted to the unit of certification. Outgrowers may be smallholders.	P&C 2013						
Peat	<p>Histosols (organic soils) are soils with cumulative organic layer(s) comprising more than half of the upper 80cm or 100cm of the soil surface containing 35% or more of organic matter (35% or more Loss on Ignition) or 18% or more organic carbon (FAO 1998, 2006/7; USDA 2014; IUSS 1930).</p> <p>The definition of 'Histosol' (FAO 1998, 2006/7; USDA 2014) above will be used for regions without its own specific definition. In other regions, Histosols have been further sub-classified into different sub types. In Malaysia, Histosols are subdivided into muck and peat soil.</p> <p>In Malaysia, peat soils are defined as soils with an organic layer of more than 50cm in the top 100 cm of soil containing more than 65% of organic matter (more than 65% Loss on Ignition) or 35% or more organic carbon (Leamy and Panton 1966, Paramanathan 2016, drawing on IUSS 1930),</p> <table border="1" data-bbox="402 1083 1102 1251"> <tbody> <tr> <td data-bbox="402 1083 906 1136"></td> <td data-bbox="906 1083 1102 1136">Peat*</td> </tr> <tr> <td data-bbox="402 1136 906 1203">Organic matter content (Loss on ignition)</td> <td data-bbox="906 1136 1102 1203">>65%</td> </tr> <tr> <td data-bbox="402 1203 906 1251">Depth</td> <td data-bbox="906 1203 1102 1251">>50cm</td> </tr> </tbody> </table> <p><i>*Primarily for bog or dome type peat with limited mineral inputs</i></p>		Peat*	Organic matter content (Loss on ignition)	>65%	Depth	>50cm	RSPO Announcement, August 2018 (RSPO Peatlands Working Group 2 (PLWG-2) has adopted the common definition of 'Histosol' (organic soil) effective November 2018)
	Peat*							
Organic matter content (Loss on ignition)	>65%							
Depth	>50cm							
Pesticide	Substances or a mixture of substances intended for preventing, destroying, repelling or mitigating any pest. Pesticides are categorised into four main substituent chemicals: herbicides; fungicides; insecticides and bactericides.	P&C 2013						
Plan	A time-bound and detailed scheme, programme, or method for achieving objective(s) and desired outcome(s). Plans shall have clear targets with timelines for delivery, actions to be taken and a process for monitoring progress, adapting plans to changing circumstances and reporting. Plans shall also include the identification of named individuals or positions responsible for the delivery of the plan. There shall be evidence that sufficient resources are available to carry out the plan and the plan is implemented in full.	P&C 2013						

Term	Definition	Source
Plantation	The land on which oil palm is grown. (See also definition for 'managed area'.)	P&C Review 2018
Primary Forest	A primary forest is a forest that has never been logged and has developed following natural disturbances and under natural processes, regardless of its age. Also included as primary, are forests that are used inconsequentially by indigenous and local communities living traditional lifestyles relevant for the conservation and sustainable use of biological diversity. The present cover is normally relatively close to the natural composition and has arisen (predominantly) through natural regeneration. (From FAO Second Expert Meeting On Harmonizing Forest-related Definitions for Use by Various Stakeholders, 2001, http://www.fao.org/documents/show_cdr.asp?url_file=/DOCR/EP/005/Y4171E/Y4171E11.htm).	MYNI 2014
Problem and marginal soils	Problem and marginal soils may include podzols soils such as BRIS (beach ridges interspersed with swale) and kerangas soil, and potential or actual acid sulphate soils. Suitability of these soils is also influenced by other factors including rainfall, terrain and management practices. Areas with these soils within new plantations may only be developed for new plantations provided that adequate management plans based on best management practices are in place. Failing which plantings should be avoided on these soils.	MYNI 2014
Prophylactic	A treatment or course of action applied as a preventive measure.	P&C 2013
Rare, threatened or endangered (RTE) species	Species as defined by the High Conservation Value Resource Network (HCVRN).	HCVRN Common Guidance for the Identification of HCVs
Recruitment fees	Recruitment fees pertain to costs and expenses associated with the recruitment and hiring of the worker, i.e. recruiter and agent service fees, documents processing, employer-required skills and medical testing, training, documentation, visa, work permits, transportation (from sending country to point of entry, and return), administrative and overhead costs.	<u>Dhaka Principles</u> and ILO 181.
Restore	Returning degraded or converted areas within a plantation to a semi-natural state.	P&C 2013
Rights	Rights are legal, social, or ethical principles of freedom or entitlement, in accordance with the International Bill of Rights, and other relevant international human rights instruments including the UN Declaration on the Rights of Indigenous Peoples, UN Guiding Principles on Business and Human Rights, The Global Compact for Safe, Orderly and Regular Migration. 1. Customary rights: Patterns of long-standing community land and resource usage in accordance with indigenous peoples'	P&C 2013 UN Refugees & Migrants, <u>Global Compact for Safe, Orderly and Regular Migration</u> , 2018

Term	Definition	Source
	<p>customary laws, values, customs and traditions, including seasonal or cyclical use rather than formal legal title to land and resources issued by the State.</p> <p>2. Legal rights: Rights given to individual(s), entities and others through applicable local, national or ratified international laws and regulations.</p> <p>3. User rights: Rights for the use of land and resources that can be defined by local custom, mutual agreements, or prescribed by other entities holding access rights.</p> <p>4. Demonstrable rights: Indigenous peoples, local communities and users may have informal or customary rights in land that are not registered or recognised by the government or national laws. Demonstrable rights are distinguished from spurious claims by direct engagement with local communities, so they have adequate opportunities to justify their claims, and are best ascertained through participatory mapping with the involvement of neighbouring communities.</p>	<p><u>World Bank Operational Policy 4.10</u></p> <p>From <u>FSC Principles & Criteria</u></p>
Risk assessment	<p>A systematic process of identifying and evaluating the potential risks that may be involved in a projected activity or undertaking. It enables a weighing up of whether enough precautions are in place or whether more should be done to prevent harm to those at risk, including workers and members of the public.</p>	<p>Adapted from ILO, <u>A 5 step guide for employers, workers and their representatives on conducting workplace risk assessments</u>, 2014</p>
Scheme Smallholder	<p>Farmers, landowners or their delegates that <u>do not</u> have the:</p> <ul style="list-style-type: none"> ● Enforceable decision-making power on the operation of the land and production practices; and/or ● Freedom to choose how they utilise their lands, type of crops to plant, and how they manage them (whether and how they organise, manage and finance the land). <p>(See also smallholder and Independent Smallholder).</p>	SHIG
Significant pollutant	<p>Chemical or biological substances which have a substantial adverse impact on water, air or land quality including POME, sewage, and other wastewater, sediment, fertiliser, pesticides, fuels and oil, air pollutants, as guided by national regulations and international standards.</p>	P&C Review 2018

Term	Definition	Source
Site	A single functional unit of an organisation or a combination of units situated at one locality, which is geographically distinct from other units.	RSPO 2017 SCCS Standard
Smallholder	<p>Farmers growing oil palm, sometimes along with subsistence production of other crops, where the family provides the majority of labour and the farm provides the principal source of income and where the planted area of oil palm is usually below 50 ha in size.</p> <p>Scheme Smallholder: Farmers, landowners or their delegates that <u>do not</u> have the:</p> <ul style="list-style-type: none"> • Enforceable decision-making power on the operation of the land and production practices; and/or • Freedom to choose how they utilise their lands, type of crops to plant, and how they manage them (whether and how they organise, manage and finance the land). <p>Independent Smallholder: All smallholder farmers that are not considered to be Scheme Smallholders [see definition for Scheme Smallholders] are considered Independent Smallholder farmers.</p>	<p>P&C 2013</p> <p>SHIG</p> <p>SHIG</p>
Social and Environmental Impact Assessment (SEIA)	A SEIA is an analysis and planning process to be carried out prior to new plantings or operations. This process incorporates relevant environmental and social data, as well as stakeholder consultations, in order to identify potential impacts (both direct and indirect) and to determine whether these impacts can be satisfactorily addressed, in which case the proponent also defines specific actions to minimise and mitigate potential negative impacts.	P&C Review 2018
Social Impact Assessment (SIA)	<p>'Social impacts' is 'the consequence on human populations of any public or private actions - that alter the ways in which people live, play, relate to one another, organise to meet their needs and generally cope as members of society'.</p> <p>'Social Impact Assessment' is thus a process to identify, predict, evaluate and communicate information about impacts of a proposed project, policy, programme or plan on a community and their activities, and to detail mitigation measures prior to approval and implementation.</p>	Social Impact Assessment for Project Development Manual by Malaysian Association of Social Impact Assessment (MSIA)
Stakeholders	An individual or group with a legitimate and/or demonstrable interest in, or who is directly affected by, the activities of an organisation and the consequences of those activities.	P&C 2013
Steep terrain	<p>Steep terrain which shall be avoided are those that are 25 degrees or greater. Soil conservation measures (e.g. terracing, platforms, cover crop, etc.) should be applied for terrain with gradients between 9 and 25 degrees.</p> <p>Soil suitability should be determined using crop and environmental suitability criteria. Those identified as marginal and/or problematic should be avoided if the soil cannot be</p>	MYNI2014

Term	Definition	Source
	improved through agro management input.	
Trafficked labour	Trafficked labour is a form of exploitation that results from the recruitment, transport, transfer, harbouring, and receipt of individuals to perform labour or services through the use of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits.	The UN Palermo Protocols to Prevent, Suppress and Punish Trafficking in Persons.
Transmigrant	A person who migrates from one part of the country to another with a view to being employed otherwise than on his own account.	P&C 2013
Undue influence	The exertion by a third party of any kind of control such that a person signs a contract or other agreement which, absent the influence of the third party, he would not have signed.	P&C 2013
Unit of certification	The unit of certification shall be the mill and its supply base and shall include both directly managed land (and estates) and Scheme Smallholders and outgrowers, where estates have been legally established with proportions of lands allocated to each.	RSPO Certification Systems 2017
Voluntary isolation	Indigenous peoples in voluntary isolation are indigenous peoples or segments of indigenous peoples who do not maintain sustained contacts with the majority non-indigenous population, and who generally reject any type of contact with persons not part of their own people. They may also be peoples or segments of peoples previously contacted and who, after intermittent contact with the nonindigenous societies, have returned to a situation of isolation and break the relations of contact that they may have had with those societies. In line with the principle of FPIC, RSPO prohibits oil palm expansion in these peoples' territories.	Inter-American Commission on Human Rights, Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas , 2013
Vulnerable groups	Any group or sector of society that is at higher risk or being subjected to social exclusion, discriminatory practices, violence, natural or environmental disaster, or economic hardship than other groups, such as indigenous peoples, ethnic minorities, migrants, disabled people, the homeless, isolated elderly people, women and children.	P&C Review 2018
Water security	The capacity of a population to safeguard sustainable access to adequate quantities of acceptable quality water for sustaining livelihoods, human well-being, and socio-economic development; for ensuring protection against water-borne pollution and water-related disasters; and for preserving ecosystems in a climate of peace and political stability.	UN Water, Water Security Infographic

Term	Definition	Source
Whistleblower	Individuals who are employees or former employees who report on illegal, irregular, dangerous or unethical practices or actions by employers which contravene RSPO Code of Conduct and related key documents and who may potentially be at risk of reprisal. This includes individuals who are outside the traditional employee-employer relationship, such as contract workers, temporary workers, consultants, contractors, trainees/interns, volunteers, student workers and former employees.	RSPO policy on the protection of HRD, Whistleblowers, Complainants and Community Spokesmen (endorsed by BoG on 24 th Sept 2018)
Worker	Men and women, migrants, transmigrants, contract workers, casual workers and employees from all levels of the organisation.	P&C Review 2018
Workforce	The total number of workers employed by the management unit either directly or indirectly. This includes contract workers and consultants.	P&C 2013
Workforce	<p>The total number of workers employed by the management unit either directly or indirectly. This includes contract workers and consultants.</p> <ul style="list-style-type: none"> • Foreign Employee: a person who is not a citizen at the country of employment. • Temporary Worker: a person who is engaged under contract of service for a fixed duration. • Non-resident Employee: is defined as any person who does not belong to Sabah/ Sarawak as provided for under Section 71 of the Immigration Act, 1959/1963. 	MYNI 2014
Young person	<p>Young workers are aged 15, or above the minimum age of employment, but under the age of 18. According to the ILO, "these workers are considered 'children' even where they may legally perform certain jobs."</p> <p>A person who, not being a child has not completed his 18th year of age.</p> <p>Those under 18 years old should not engage in hazardous work that might jeopardise their physical, mental or moral well-being, either because of its nature or the conditions under which it is carried out. For young workers above the legal minimum age but below 18,</p>	<p>ILO Minimum Age Convention, 1973 (No. 138), Article 3</p> <p>ILO Safety and Health in Agriculture Convention, 2001 (No. 184), Article 16</p> <p>Employment Act 1955, Children & Young Persons (Employment) (Amendment) Act 2010</p> <p>ILO Minimum Age Convention, 1973 (No. 138),</p>

Term	Definition	Source
	there should be restrictions on hours of work and overtime; working at dangerous heights; with dangerous machinery, equipment and tools; transport of heavy loads; exposure to hazardous substances or processes; and difficult conditions such as night work at night.	

Annex 2 – Guidance

Principle 1: Behave ethically and transparently

Criterion new	GUIDANCE
1.1	<p>The following documents should be available at the unit of certification (but not necessarily limited to) upon request:</p> <p>a) Documents required for all unit of certification:</p> <ul style="list-style-type: none"> • Land titles/user rights (Criterion 4.4) • Occupational health and safety plans (Criterion 3.6) • Plans and impact assessments relating to environmental and social impacts (Criterion 3.4) • HCV documentation (Criterion 7.12) • Pollution prevention and reduction plans (Criterion 7.10) • Details of complaints and grievances (Criterion 4.2) • Continuous improvement plans (Criterion 3.2) • Public summary of certification assessment report • Human Rights Policy (Criterion 4.1) • Summary report of contributions to community development (criterion 4.3) <p>b) Other documents where applicable:</p> <ul style="list-style-type: none"> • Report on the progress of the smallholders support programme (criterion 5.2.5) • Procedure for negotiation on compensation (Criterion 4.6) • Results of FPIC processes (criterion 4.4 and 4.5) • HCS documentation (Criterion 7.12) <p>Examples of commercially confidential information include financial data such as costs and income, and details relating to customers and/or suppliers. Data that affects personal privacy should also be confidential.</p> <p>Ongoing disputes (within or outside of a legal mechanism) can be considered as confidential information where disclosure could result in potential negative outcomes for all parties involved. However, affected stakeholders and those seeking resolution to conflict should have access to relevant information.</p> <p>Examples of information where disclosure could result in potential negative environmental or social outcomes include information on sites of rare species where disclosure could increase the risk of hunting or capture for trade, or sacred sites which a community wishes to maintain as private. The unit of certification should ensure that sufficient objective evidence exists to demonstrate that the level of measuring and monitoring of the management plan, and information, is appropriate and made available.</p> <p>For Indicator 1.1.5: Applicable data privacy laws should be considered in the gathering, storage, use and distribution and publication of personal information.</p>
1.2	<p>All levels of the operations will include contractors (e.g. those involved in security).</p> <p>The policy should include as a minimum:</p> <ul style="list-style-type: none"> • A respect for fair conduct of business • A prohibition of all forms of corruption, bribery and fraudulent use of funds and resources • A proper disclosure of information in accordance with applicable regulations and accepted industry practices

Criterion new	GUIDANCE
	<p>The policy should be set within the framework of the UN Convention Against Corruption, in particular Article 12.</p> <p>The policy should cover elements such as: bribery; facilitation payments; guidance and procedure for gifts and hospitality; disclosure of political contributions; guidelines for charitable donations and sponsorships; respect for fair conduct of business; proper disclosure of information in accordance with applicable regulations and accepted industry practices; compliance with existing anti-corruption legislation.</p> <p>Commitment to company ethical policies is incorporated in all service contracts.</p> <p>There are due diligence procedures in place for the selection and contracting of licensed/accredited recruitment agencies and other suppliers (FFB, machineries, etc.).</p> <p>Unethical conduct includes: charging fees to workers, recovering statutory recruitment cost and transportation against workers' wages, receiving gifts and commissions from labour intermediaries or suppliers.</p>

Principle 2: Operate legally and respect rights

Criterion new	GUIDANCE
2.1	<p>Implementing all legal requirements is an essential baseline requirement for all growers whatever their location or size. Relevant legislation includes but is not limited to: regulations governing land tenure and land-use rights, labour, agricultural practices (e.g. chemical use), environment (e.g. wildlife laws, pollution, environmental management and forestry laws), storage, transportation and processing practices. It also includes laws made pursuant to a country's obligations under international laws or conventions (e.g. the Convention on Biological Diversity (CBD), ILO Core Conventions, UN Guiding Principles on Business and Human Rights).</p> <p>Furthermore, where countries have provisions to respect customary law, these will be taken into account.</p> <p>Key international laws and conventions are set out in Annex 3. Related laws, regulations and guidelines used in palm oil industry with respect to Criterion 2.1 can be referred to Annex 3.</p> <p>Contradictions and inconsistencies should be identified, and solutions suggested.</p> <p>Evidence should be incorporated as part of implementation of Criterion 2.3. See Indicator 4.4.1 for requirements on legal ownership or lease and authorised use of customary lands.</p> <p>For Indicator 2.1.2: A 'documented system for ensuring legal compliance' can take the form of physical or virtual filing cabinet of applicable laws, regulations and rules with elements of how these laws are interpreted and followed in the running of the operations.</p>
2.2	<p>Contracted parties include:</p> <ul style="list-style-type: none"> • Temporary employment, whereby workers are engaged only for a specific period of time, includes fixed-term, project- or task-based contracts, as well as seasonal or casual work, including day labour • Short-term contracts; renewable contract • Fixed-term, project, or task-based contracts are contractual employment arrangements between one employer and one employee characterised by a limited duration or a pre-specified event to end the contract • Casual work is the engagement of workers on a very short term or on an occasional and intermittent basis, often for a specific number of hours, days or weeks, in return for a wage set by the terms of the daily or periodic work agreement. Casual work is a prominent feature of informal wage employment in low-income developing countries, but it has also emerged more recently in industrialised economies, particularly in jobs associated with the "on-demand" or 'gig economy'. <p>(https://www.ilo.org/global/topics/non-standardemployment/WCMS_534826/lang--en/index.htm)</p>

Criterion new	GUIDANCE
2.3	<p>The Unit of certification should have an implementation plan with maximum duration to 14th November 2022 to secure the following information from indirect suppliers.</p> <ul style="list-style-type: none"> ● Information on geo-location of FFB origins ● Evidence* of the ownership status or the right/claim to the land, or valid use of land by the grower/smallholder ● Valid MPOB license ● One or more supporting documents for claims <p>*Evidence may include: For ownership status: grant/ land title For claim to the land : Land Application (LA); letter from Land & Survey Department; Surat Tuai Rumah/ Ketua Kampung; letter from Jabatan Kemajuan Orang Asli (JAKOA) (for Peninsular); Temporary Occupation Lease (TOL); Provisional Lease; Alienated Land For valid use of land: letter of agreement from owner; Surat Wasiat</p> <p>For Indicator 2.3.2: Timeline of three years (from 15 November 2019) to provide proof of the ownership status or the right/claim to the land by the grower/smallholder. Where the unit of certification has smallholder suppliers, for existing RSPO certified mills, the time requirement to fulfil this Criterion for all their smallholder suppliers is three years from endorsement of MYNI 2019. For mills that are not yet certified/ mills going for first year of certification, the time requirement is three years from initial point of certification for their smallholder suppliers.</p> <p>Procedural Note: RSPO is encouraged to discuss further with MPOB on quality evidence of legality.</p>

Principle 3: Optimise productivity, efficiency, positive impacts and resilience

Criterion new	GUIDANCE
3.1	<p>Whilst it is recognised that long-term profitability is also affected by factors outside their direct control, top management should be able to demonstrate attention to economic and financial viability through long-term management planning.</p> <p>For plantations on peat, a longer time frame for the projection of the annual replanting programme is needed as per Criterion 7.7.</p> <p>The unit of certification should have a system to improve practices in line with new information and techniques. For smallholder schemes, the scheme management should be expected to provide their members with information on significant improvements. This Criterion is not applicable to Independent Smallholders. The business or management plan should contain:</p> <ol style="list-style-type: none"> 1. Attention to quality of planting materials 2. Crop projection = Fresh Fruit Bunches (FFB) yield trends 3. Mill extraction rates = Oil Extraction Rate (OER) trends 4. Cost of production = cost per tonne of Crude Palm Oil (CPO) trends 5. Forecast prices 6. Financial indicators <p>Suggested calculation: Trends in 3-year running mean over the last decade (FFB trends may need to allow for low yield during major replanting programmes).</p> <p>Consideration of smallholders should be inherent in all management planning where applicable (see also Principle 5). For Scheme Smallholders, the content of the business plan may vary from that suggested. Where the specific financial details are not known, an estimate of these amounts or structures for defining those estimates will be made clear within the plan.</p> <p>Management reviews (Indicator 3.1.3) should include:</p> <ol style="list-style-type: none"> 1. Results of internal audits

Criterion new	GUIDANCE
	<ul style="list-style-type: none"> 2. Customer (internal/external) feedback 3. Process performance and product conformity 4. Status of preventive and corrective actions 5. Follow-up actions from management reviews 6. Changes that could affect the management system 7. Recommendations for improvement
3.2	<p>For the action plan for continuous improvement, indicators may include but not be limited to:</p> <ul style="list-style-type: none"> 1. Optimising the yield of the supply base. 2. Reduction in use of pesticides (Criterion 7.2) 3. Environmental impacts (Criteria 3.4, 7.6 and 7.7) 4. Waste reduction (Criterion 7.3) 5. Pollution and greenhouse gas (GHG) emissions (Criterion 7.10) 6. Impacts on communities, workers and smallholders (Principle 6) 7. Integrated management of HCV-HCS, peatland and other conservation areas (Criteria 7.7 and 7.12) <p>Where applicable, review should include Scheme Smallholders. The unit of certification should have a system to improve practices in line with new information and techniques, and a mechanism for disseminating this information throughout the workforce.</p> <p>For scheme smallholders, there should be systematic guidance and training for continuous improvement.</p>
3.3	<p>Mechanisms to check implementation could include documentation of management systems and internal control procedures (see Criterion 2.1).</p> <p>SOP and documentation for mills should include relevant supply chain requirements (see SCCS section under Principle 3).</p> <p>The unit of certification, while working with third party suppliers of FFB on traceability and legality, should use the opportunity to distribute suitable information on BMPs.</p>
3.4	<p>The terms of reference of the SEIA should be defined. Ideally, the SEIA should be carried out by accredited independent experts, in order to ensure an objective process.</p> <p>The assessment (SEIA) should include, but is not limited to:</p> <ul style="list-style-type: none"> 1. Assessment of the impacts of all major planned activities, including land clearing, planting, replanting, pesticide and fertiliser use, mill operations, roads, drainage and irrigation systems and other infrastructure 2. Assessment of the impacts on HCVs, biodiversity and RTE species, including beyond concession boundaries and any measures for the conservation and/or enhancement of these 3. Assessment of potential effects on adjacent natural ecosystems of planned developments, including whether development or expansion will increase pressure on nearby natural ecosystems 4. Identification of watercourses and wetlands and assessment of potential effects on hydrology and land subsidence of planned developments. Measures should be planned and implemented to maintain the quantity, quality and access to water and land resources 5. Baseline soil surveys and topographic information, including the identification of steep terrain, marginal and fragile soils, areas prone to erosion, degradation, subsidence, and flooding 6. Analysis of type of land to be used (forest, degraded forest, peatlands, cleared land, etc.) 7. Assessment of land ownership and user rights 8. Assessment of current land use patterns 9. Assessment of impacts on people's amenity 10. Assess impacts on employment, employment opportunities or from changes of employment terms 11. A cost-benefit analysis on social aspects 12. Assessment of potential social impacts on surrounding communities of a plantation, including an analysis of potential effects on livelihoods, and differential effects on women versus men, ethnic communities, and migrant versus long-term residents 13. Assessment of salient risk of human rights violations 14. Assessment of the impacts on all dimensions of food and water security including the right to adequate food, and monitoring food and water security for affected communities

Criterion new	GUIDANCE
	<p>15. Assessment of activities which may impact air quality or generate significant GHG emissions</p> <p>For smallholder schemes, the scheme management has the responsibility to undertake impact assessment and to plan and operate in accordance with the results.</p> <p>Additional information on SEIA can be found in various external sources such as HCSA Toolkit Module 3 and the International Finance Corporation (IFC)'s Guide to Biodiversity for Private Sector: The Social and Environmental Impact Process.</p> <p>The review of the monitoring and management plan should be done (once every two years) internally or externally.</p> <p>Management documents may comprise social programmes avoiding or mitigating adverse social impact including human rights, social programmes advancing community livelihoods and gender equality, partnership programmes for Independent Smallholders, education and health in the communities.</p> <p>Affected stakeholders are able to express their views through their own representative institutions, or freely chosen spokespersons, during the identification of impacts, reviewing findings and plans for mitigation, and monitoring the success of implemented plans.</p> <p>For Indicator 3.4.2: Documentation may include separate Social Impact Assessment (SIA) and Environmental Impact Assessment (EIA) or an integrated SEIA.</p>
3.6	Refer to Occupational Safety & Health Act and Regulation 1994
3.7	<p>Training content: Workers should be adequately trained on: the health and environmental risks of pesticide exposure; recognition of acute and long-term exposure symptoms including the most vulnerable groups (e.g. young workers, pregnant women); ways to minimise exposure to workers and their families; and international and national instruments or regulations that protect workers' health.</p> <p>The training programme should include productivity and best management practice and be appropriate to the scale of the organisation. The programme should enable everyone to fulfil their jobs and responsibilities in accordance with documented procedure.</p> <p>Training participants: Training should be given to all staff and workers regardless of gender,, within the unit of certification.</p> <p>The unit of certification should demonstrate training activities for Scheme Smallholders who provide FFB on a contracted basis.</p> <p>Workers on smallholder plots also need adequate training and skills, and this can be achieved through extension activities of the unit of certification that purchase fruit from them, by smallholders' organisations, or through collaboration with other institutions and organisations.</p> <p>For individual scheme smallholder operations, training records should not be required for their workers, but anyone working on the farm should be trained.</p>

Principle 4: Respect community and human rights and deliver benefits

Criterion new	GUIDANCE
4.1	<p>All levels of operations will include contractors (e.g. those involved in security).</p> <p>The UN Guiding Principles on Business and Human Rights notes that: "The responsibility of business enterprises to respect human rights refers to internationally recognised human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the</p>

Criterion new	GUIDANCE
	<p>principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.”</p> <p>The UN Guiding Principles on Business and Human Rights also note that the responsibility of business enterprises to respect human rights exists independently of nation states’ abilities and/or willingness to fulfil their own human rights obligations and exists over and above compliance with national laws and regulations protecting human rights. (See “The corporate responsibility to respect human rights” in Guiding Principles on Business and Human Rights).</p> <p>The RSPO Human Rights Working Group will provide additional guidance to identify, prevent, mitigate and address human rights issues and impacts.</p> <p>The resulting guide will identify the relevant issues on human rights to all RSPO members.</p> <p>Details on requirements to protect the rights of HRDs, including complainants, whistleblowers and community spokespersons, are set out in the RSPO Policy on the Protection of Human Rights Defenders, Whistleblowers, Complainants and Community Spokespersons.</p>
4.2	<p>Dispute resolution mechanisms should be established through open and consensual agreements with relevant affected parties.</p> <p>Complaints should be dealt with by mechanisms such as Joint Consultative Committees (JCC), with gender representation and, where relevant, migrant worker representation.</p> <p>Grievances may be internal (employees) or external.</p> <p>Where a resolution is not found mutually, complaints can be brought to the attention of the RSPO Complaints System.</p> <p>Refer to helpful texts for guidance, such as the Human Rights Commission (HRC) endorsed ‘Guiding Principles on Business and Human Rights: Implementing the UN “Protect, Respect and Remedy” Framework’, 2011.</p>
4.3	<p>Contributions to local sustainable development should be based on the results of consultation with local communities and should have long term economic, social and/or environmental benefits. Such consultation should be based on the principles of transparency, openness and participation, and should encourage communities to identify their own priorities and needs, including the different needs of men, women and minority/vulnerable groups.</p> <p>The unit of certification may also seek partnerships from non-governmental organisations (NGOs) and civil society organisations (CSOs) to identify key environmental and/or social issues that are prevalent in the community and develop and implement solutions to address these issues as part of their contributions to sustainable development.</p> <p>Some examples of contributions to local sustainable development could be, but are not limited to:</p> <ul style="list-style-type: none"> a) Poverty reduction b) Access to health and wellbeing c) Access to quality education d) Access to clean water and sanitation e) Conservation or restoration of natural resources f) Gender equality programmes g) Support/enhance/secure food and water security <p>Where candidates for employment are of equal merit, preference should always be given to members of local communities. Positive discrimination should not be recognised as conflicting with Criterion 6.1.</p>
4.4	<p>All indicators will apply to current operations, but there are exceptions for long established plantations which may not have records dating back to the time of the decision making.</p>

Criterion new	GUIDANCE
	<p>Where there are legal or customary rights over land, the unit of certification should demonstrate that these rights are understood and are not being threatened or reduced. This Criterion should be considered in conjunction with Criterion 4.5, 4.6 and 4.7. Where customary rights areas are unclear these should be established through participatory mapping exercises involving affected parties (including neighbouring communities and local authorities).</p> <p>Further guidance on determining validity on claims over land and natural resources by people living in areas being developed for oil palm plantation is given in Annex 6.</p> <p>This Criterion allows for sales and negotiated agreements to compensate other users for lost benefits and/ or relinquished rights. Negotiated agreements should be non-coercive and entered into voluntarily, carried out prior to new investments or operations, and based on an open sharing of all relevant information. The representation of communities should be transparent and in open communication with other community members.</p> <p>Negotiated agreements should be binding on all parties and enforceable in the courts. Establishing certainty in land negotiations is of long-term benefit for all parties.</p> <p>Companies should be especially careful where they are offered lands acquired from the State by its invoking the national interest (also known as ‘eminent domain’).</p> <p>Unit of certification should refer to the RSPO approved FPIC guidance ‘Free Prior and Informed Consent Guide for RSPO Members, 2015’. [Correction to be made on the referencing to criterion/principle by RSPO Secretariat in the FPIC Guidance]</p> <p>Unit of certification should also refer to the guidance on consultation in Malaysia in Annex 6 of this document.</p>
4.5	<p>The unit of certification can, through compliance with RSPO criteria demonstrate its commitment to support the global Sustainable Development Goals (especially SDGs 2, 6 and 15). The Global Sustainable Development Goals information can be obtained from https://www.un.org/sustainabledevelopment/sustainable-development-goals/</p> <p>The unit of certification should support affected local communities to achieve food and water security in line with guidance and strategies specified under SEIA, FPIC, land use planning, etc. This guidance should take into account as appropriate the existing national policies/strategies.</p> <p>The unit of certification should proactively identify risks to food and water security such as floods, droughts, and other natural or human made disasters and provide warning and support/ assistance as necessary to affected communities.</p> <p>This activity should be integrated with the SEIA required by Criterion 3.4. Separate EIA and SIA document is acceptable.</p> <p>Within the FPIC process, measures to balance potential negative impacts on food and water security for local communities should be discussed and agreed between the unit of certification and the local communities. These measures and their proposed implementation features (what, how, how long, recipients, threats and opportunities to implementation) are documented as part of the resource management planning. Reference can be made to the ‘RSPO approved FPIC guidance Free Prior and Informed Consent Guide for RSPO Members, 2015’. [Correction to be made on the referencing to criterion/principle by RSPO Secretariat in the FPIC Guidance].</p> <p>In cases where the availability, access, quality and stability of food and water is negatively affected by the planned operations, mitigation and relief measures should be agreed.</p> <p>Where applicable, in communities resettled in accordance with FPIC, the unit of certification should monitor the food and water security situation through a screening process and, for example, through continuous dialogue, to ensure local food and water security.</p>

Criterion new	GUIDANCE
	<p>Efforts should be made to consider population dynamics. The set of measures is to be reviewed regularly (proposed biannually) to reflect on changes in needs and capacities and the resources available.</p> <p>The unit of certification should not restrict access to markets for local communities through its operations.</p> <p>The unit of certification should assess water catchments in order to identify key water risks or shared challenges (see HCV 4). The unit of certification should regularly monitor their operations' impacts on water availability and quality.</p> <p>Where new plantings are considered to be acceptable, management plans and operations should maintain sacred sites.</p> <p>Agreements with indigenous peoples, local communities and other stakeholders should be made without coercion or other undue influence (see Guidance for Criterion 4.4).</p> <p>Relevant stakeholders include those affected by or concerned with the new plantings. Customary and user rights will be demonstrated through participatory user mapping as part of the FPIC process.</p> <p>FPIC is a guiding principle and should be applied to all RSPO members throughout the supply chain. Refer to RSPO approved FPIC guidance ('FPIC and the RSPO; A Guide for Members', October 2015). [Correction to be made on the referencing to criterion/principle by RSPO Secretariat in the FPIC Guidance].</p>
4.6	<p>Where there is a conflict on the condition of land use as per land title, the unit of certification should show evidence that necessary action has been taken to resolve the conflict with relevant parties.</p> <p>A mechanism should be in place to resolve any conflict (Criteria 4.2 and 4.6). Where operations overlap with other rights holders, the unit of certification should resolve the issue with the appropriate authorities, consistent with Criteria 4.2 and 4.6.</p> <p>Evidence of mutually agreement include minutes of meeting, signed agreements, videos, etc.</p>
4.7	<p>Evidence of mutually agreement include minutes of meeting, signed agreements, videos, etc.</p>

Principle 5: Support smallholder inclusion

Criterion new	GUIDANCE
5.1	<p>Fair prices for FFB will be equal to or above the prices as established by MPOB FFB Pricing Mechanism subject to agreed adjustment according to FFB quality and transportation. .</p> <p>Smallholders should have access to the grievance procedure under Criterion 4.2 if they consider that they are not receiving a fair price for FFB, whether or not middlemen are involved.</p> <p>If the unit of certification requires smallholders to change practices to meet the RSPO P&C, consideration should be given to the costs of such changes, and the possibility of advance payments for FFB can be considered.</p>
5.2	<p>RSPO will develop guidance on smallholder support (reference to the RSPO Independent Smallholder Standard, currently in development).</p> <p>For Indicator 5.2.1: The consultation may include collection centres or other parties like representative organisations, where applicable. In particular for Scheme Smallholders, support programmes are based on long term relations.</p>

Criterion new	GUIDANCE
	<p>When the unit of certification assesses the eligibility of the requested support by Independent Smallholders, the following factors can be taken into account and are explained to and understood by the smallholders:</p> <ul style="list-style-type: none"> ● Expected continued supply of FFB to the mill ● Readiness of smallholders to implement the improvement programmes <p>Specific elements on RSPO certification may include:</p> <ul style="list-style-type: none"> ● Socialisation on RSPO ● H&S training ● FPIC ● HCV <p>The delivery of the support services can include but is not limited to cooperatives, agents, collection centres and representative organisations.</p> <p>Information should be collected on soil suitability by the unit of certification if planning to purchase FFB from potential developments of Independent Smallholders in a particular location.</p> <p>The unit of certification should assess this information and provide information to Independent Smallholders on soil suitability, and/or in conjunction with relevant government/public institutions and other organisations (including NGOs) in order to assist Independent Smallholders to grow oil palm sustainably.</p>

Principle 6: Respect workers' rights and conditions

Criterion new	GUIDANCE
6.1	<p>The non-discriminatory requirements are applied to all workers, regardless of contractual status.</p> <p>Examples of compliance can be appropriate documentation (e.g. job advertisements, job descriptions, appraisals, etc.), and/or information obtained via interviews with relevant stakeholders such as affected groups which may include women, local communities, foreign workers, migrant workers, etc.</p> <p>Notwithstanding national legislation and regulation, medical conditions should not be used in a discriminatory way.</p> <p>The grievance procedures detailed in Criterion 4.2 apply. Positive discrimination to provide employment and benefits to specific communities is acceptable as part of negotiated agreements.</p> <p>Examples of evidence for Indicator 6.1.2 could include contract between employer and agency; contract between worker and agency; clear company policy and recruitment procedures. Evidence is available that all statutory payments have been made by the employer.</p> <p>Note: Reference to be made to the Malaysian government's recruitment policy for foreign workers (Pekerja Asing).</p> <p>Foreign and migrant workers should not pay anything that a local worker is not required to pay, unless mandated by law.</p> <p>Requirement for pregnancy testing is covered under Foreign Workers' Medical Examination (FOMEMA).</p>

Criterion new	GUIDANCE
6.2	<p>For Indicator 6.2.3: To refer to Section 60A(c) Employment Act 1955 (Spread Over Period).</p> <p>For Indicator 6.2.4: For Peninsular Malaysia, Workers Minimum Housing & Amenities Act 1990. For Sabah & Sarawak, in the absence of any State enactment/ ordinance, the Unit of certification should follow the provision under the Workers’ Minimum Housing & Amenities Act.</p> <p>Elements in the calculation of a decent standard of living should include food, water, housing, education, healthcare, transport, clothing and other essential needs, including provision for unexpected effects, in accordance with the GLWC methodology.</p> <p>The list of essential needs (that will be considered for the non-food, non-housing element), and the costs/values associated with these elements, will be provided by the RSPO.</p> <p>Where a GLWC living wage standard, or one that fulfils the basic requirements of the RSPO-endorsed living wage methodology, has been established in the country or region of operation, this should be used as benchmark.</p> <p>Where there are industry-established benchmarks of living wage, these can be used as a basis, as long as the elements of the DLW definition or their equivalencies have been considered.</p> <p>For countries where no living wage standard is established, the RSPO-endorsed benchmark should be followed, until such time that a GLWC-developed benchmark for the country is in place (see procedural note in Indicator 6.2.6).</p> <p>A written policy, committing to payment of a living wage should be in place.</p> <p>The implementation plan should have specific targets, and a phased-implementation process should be in place, including the following:</p> <ul style="list-style-type: none"> ● An assessment is conducted to determine prevailing wages and in-kind benefits already being provided to workers ● There is annual progress on the implementation of living wages ● Where a minimum wage, based on equivalent basket of goods, is stipulated in Collective Bargaining Agreements (CBAs), this should be used as the foundation for the gradual implementation of the living wage payment ● The unit of certification may choose to implement the living wage payment in a specific section as a pilot project; the pilot will then be evaluated and adapted before an eventual scale-up of the living wage implementation <p>Without disrupting the wage distribution, employers can provide more or better in-kind benefits to increase the living standards of their workers, as long as it is agreed upon by the trade union/worker representatives.</p> <p>Temporary/ seasonal activities include loose fruit collection during peak season, construction and sundries.</p>
6.3	<p>The right of staff and workers, including migrant workers and contract workers, to form associations and bargain collectively with the unit of certification should be respected in accordance with the Employment Act 1955, Industrial Relations Act 1967, Labour Ordinance (including Sabah Labour Ordinance & Sarawak Labour Ordinance), and Trade Unions Acts 1959.</p> <p>Labour laws and union agreements, or in their absence direct contracts of employment detailing payments and other conditions, should be available in the languages understood by the workers or explained carefully to them by a management official.</p> <p>In the Malaysian context, migrant workers are known as Foreign Employees under Section 2 of the Employment Act 1955 (Act 265). With regards to permits, visit pass & etc., it is covered under the Immigration Act 1959/1963, and also the Immigration Regulation 1963.</p>

Criterion new	GUIDANCE
	<p>Collective bargaining is encouraged to include terms and conditions relevant to workers' rights, but also to the workers and families' rights to access health care, education, and where appropriate safety/protection equipment, and could include a clear mechanism of grievances and remedy.</p> <p>Foreign workers should be encouraged to join unions. Where the right to freedom of association and collective bargaining are restricted under law, the unit of certification publishes a statement that facilitates parallel means of independent and free association and bargaining for all such personnel.</p>
6.4	<p>Service contracts and supplier agreements refer to those that the unit of certification enters into and has influence over; rather than for agreements that cover services of infrastructure set up, such as telephone or electricity.</p> <p>The unit of certification should clearly define the minimum working age, together with working hours. Only workers above the minimum school leaving age in the country or who are at least 15 years old may be employed. The minimum age of workers will not be less than stated under national regulations. Any hazardous work should not be done by those under 18, as per ILO Convention 138.</p> <p>Work in family farms, when the farm is contracted to or provides business to another entity is prohibited. Farm work is only accepted when it is for the family's own consumption.</p> <p>Child labour is not exacted only by employers, and children do not have to be in an employment relationship with a third-party employer to be in child labour and to suffer its consequences.</p> <p>Age verification documents include a government recognised photographic identification document, where available.</p> <p>Examples of remediation are: procedures to assist underage workers found to be working; to ensure the children are taken out of the work site, parents/guardians are informed, medical testing to assess physical and mental health is conducted; and the unit of certification ensures that the children are enrolled in school.</p>
6.5	<p>There should be a clear policy developed in consultation with staff and workers, contract workers and other relevant stakeholders, and the policy should be publicly available. Progress in implementing the policy should be regularly monitored, and the results of monitoring activities should be recorded.</p> <p>These policies should include education for women and awareness of the workforce.</p> <p>There should be programmes provided for particular issues faced by women, such as violence and sexual harassment in the workplace. This committee, which should include representatives from all areas of work, will consider matters such as: training on women's rights; counselling for women affected by violence; child care facilities to be provided by the unit of certification; women to be allowed to breastfeed up to nine months before resuming chemical spraying or usage tasks; and women to be given specific break times to enable effective breastfeeding.</p> <p>For Indicator 6.5.3: The Gender Committee can support the assessment.</p> <p>Adequate space and paid breaks should be provided to enable mothers with infants 24 months or younger to breastfeed or express and store breast milk with privacy.</p>
6.6	<p>Migrant workers should be legalised, and a separate employment agreement should be drawn up to meet immigration requirements for foreign workers and international standards. Any deductions made should not jeopardise a DLW.</p> <p>Workers may voluntarily want to have their passports or identity documents held by the management for safekeeping purposes. In such cases, the documents should be returned to the workers upon request.</p> <p>There should be evidence of due diligence in applying this to all sub-contract workers and suppliers.</p> <p>National guidance should be used on contract substitution.</p> <p>Workers should enter into employment voluntarily and freely, without the threat of a penalty, and should have the freedom to terminate employment without penalty given reasonable notice or in line with the</p>

Criterion new	GUIDANCE
	<p>requirements in the agreement. . This is in accordance with ILO conventions: Forced Labour Convention, 1930 (No. 29); Protocol of 2014 to the Forced Labour Convention, 1930 (P029); Abolition of Forced Labour Convention, 1957 (No. 105) ; Forced Labour Recommendation, 2014 (No. 203). Relevant Malaysian laws are as follow;</p> <ul style="list-style-type: none"> • Industrial Relations Act 1967 • Employment Act 1955 • Immigration Act 1959/63 • Sabah Labour Ordinance 1950 • Sarawak Labour Ordinance 1952 <p>The specific labour policy and/or procedure should include:</p> <ul style="list-style-type: none"> • Statement of the non-discriminatory practices • No contract substitution • Post-arrival orientation programme to focus especially on language, safety, labour laws, cultural practices etc. • Decent housing to be provided in accordance with Workers’ Minimum Standards of Housing and Amenities Act 1990 • Statutory fees related to recruitment and hiring of migrant workers

Principle 7: Protect, conserve and enhance ecosystems and the environment

Criterion new	GUIDANCE
7.1	<p>The unit of certification should apply recognised IPM techniques, incorporating cultural, biological, mechanical and physical methods to minimise the use of chemicals. Native species should be used in biological control where possible.</p> <p>In specific cases for the control of pests and diseases by fire, as per regulations, there should be evidence of prior approval of the controlled burning as specified by the relevant authorities in the ‘Guidelines for the Implementation of the ASEAN Policy on Zero Burning’ 2003, or comparable guidelines or regulations in other regions.</p>
7.2	<p>For Indicator 7.2.1: Measures to avoid the development of resistance should be applied e.g. pesticide rotations. The justification should consider less harmful alternatives and IPM.</p> <p>For Indicator 7.2.5: Pesticides Act 1974(Act 149), Pesticides (Highly Toxic Pesticide) Regulation 1996 describes the protocol for handling and use of highly toxic pesticides. Justification of the use of such pesticides will be included in the RSPO public summary audit report.</p> <p>For Indicator 7.2.7 :Recognised best practice includes: Storage of all pesticides as prescribed in the FAO International Code of Conduct (see Annex 3) or to the Occupational Safety and Health Act 1994 (Act 514) and Regulations and Orders and Pesticides Act 1974 (Act 149) and Regulations. On the distribution and use of pesticides and its guidelines, and supplemented by relevant industry guidelines in support of the International Code (see Annex 3).</p> <p>For Indicator 7.2.10: Reference shall be made to CHRA (Chemical Health Risk Assessment).</p> <p>Unless participating in established recycling programmes or with expressed permission from the authorities, triple rinsed containers shall be pierced to prevent misuse. Disposal or destruction of containers shall be in accordance with the Pesticide Act 1974 (Act 149) and Environmental Quality Act 1974 (Scheduled Wastes) Regulations 2005.</p> <p>The RSPO has identified some examples of alternatives to pesticide and herbicide use, which include those listed in the ‘Research project on Integrated Weed Management Strategies for Oil Palm’, CABI, April 2011.</p>

Criterion new	GUIDANCE
	<p>The justification should consider less harmful alternatives and IPM. Justification of the use of such pesticides will be included in the public summary report. Measures to avoid the development of resistance (such as pesticide rotations) should be applied.</p> <p>The nature and extent of due diligence will be affected by factors such as the size of the area where the pesticides should be applied, the context and location of the application, the nature of products or services, and the severity of actual and potential adverse impacts which will be caused by the use of the high hazardous pesticides.</p>
7.3	<p>Scheduled waste to be disposed as per EQA 1974 (Scheduled Wastes) Regulations 2005.</p> <p>Reference to be made to the national programme on recycling of used HDPE pesticide containers. Municipal waste disposal as per local authority or district council in accordance to the Ministry of Health guidelines (i.e. specifications on landfills, licensed contractors, etc.) or Workers' Minimum Standards of Housing and Amenities Act 1990 (Act 446).</p> <p>POME should be discharged in compliance with the Environmental Quality (Prescribed Premises) (Crude Palm Oil) Order 1977. For Sabah and Sarawak, POME should be discharged according to the respective state policies.</p> <p>The waste management and disposal plan should include measures for:</p> <ul style="list-style-type: none"> ● Improving the efficiency of resource utilisation and recycling potential wastes as nutrients or converting them into value-added products (e.g. through animal feeding programmes). ● Appropriate management and disposal of hazardous chemicals and their containers. Surplus chemical containers should be reused, recycled or disposed of in an environmentally and socially responsible way using best available practices (e.g. returned to the vendor or cleaned using a triple rinse method), in such a way that there is no risk of contamination of water sources or risk to human health. <p>The disposal instructions on the manufacturers' labels should be adhered to.</p> <p>The unit of certification is encouraged to improve the waste management in surrounding neighbourhoods.</p> <p>Where there are no options for non-toxic and non-hazardous domestic waste collection by local government services, landfills may be required as a solution for disposal.</p> <p>Where landfills are used, these should follow appropriate guidelines, which includes being:</p> <ul style="list-style-type: none"> ● Only for domestic and household waste, where inorganic waste is minimised ● Located away from water sources, people and communities, and outside conservation areas ● Properly covered, with clear demarcation and signage to avoid disturbance.
7.4	<p>Long-term fertility depends on maintaining the structure, organic matter content, nutrient status and microbiological health of the soil. Nutrient efficiency should take account of the age of plantations and soil conditions. The nutrient recycling strategy should include any use of biomass for by-products or energy production and should drive to minimise in-organic fertiliser use.</p> <p>Companies without internal SOPs for Good Agricultural Practices (GAP) to make reference to the MPOB Codes of Practices i.e.</p> <ol style="list-style-type: none"> 1. Code of Good Nursery Practice for Oil Palm Nurseries 2. Code of Good Agricultural Practice for the Oil Palm Estates and Small Holdings 3. Code of Good Milling Practice for Palm Oil Mills
7.5	<p>For Indicator 7.5.2: Replanting on sloping land must be in compliance with MSGAP Part 2: OP (4.4.2.2). (See Annex 4).</p> <p>Prior to replanting, Unit of certification to prepare a map to show slope of terrains and identify contiguous areas of steep terrain (greater than 25 degrees) larger than 25 Ha within the estate/ unit of certification. These individual, contiguous areas greater than 25 Ha shall not be replanted.</p> <p>There is no restriction for replanting other areas.</p>

Criterion new	GUIDANCE
	<p>For Sarawak, steep slopes above 25 degrees are considered high risk erosion areas and cannot undergo replanting unless approved by the Natural Resources and Environment Board (NREB).</p> <p>For Sabah, slopes 25 degrees and steeper are considered high risk erosion areas and cannot undergo replanting unless approved by the Environmental Protection Department (EPD).</p> <p>Slope determination methodology (slope analysis) should be based on average slope using topographic maps and/or topographical surveys.</p> <p>Techniques that minimise soil erosion are well-known and should be adopted, wherever appropriate. These may include practices such as:</p> <ol style="list-style-type: none"> 1. Expediting establishment of ground cover upon completion of land preparation for new replant. 2. Maximizing palm biomass retention/ recycling. 3. Maintaining good non-competitive ground covers in mature areas. 4. Encouraging the establishment/regeneration of non-competitive vegetation to avoid bare ground. 5. Construction of conservation terraces for slopes >15o 6. Advocating proper frond heap stacking such as contour/L-shaped stacking. For straight line planting and stacking along the terrace edges for terrace planting. 7. Appropriate road design and regular maintenance. 8. Diversion of water runoff from the field roads into terraces or silt pits. 9. Construction of stop bunds to retain water within the terrace. 10. Maintaining and restoring riparian areas in order to minimize erosion of stream and river banks. <p>For those areas of steep slopes above 25 degrees but not replanted, natural regeneration or restoration of the area shall follow..</p>
e7.6	<p>These activities can be linked to the SEIA (see Criterion 3.4) but need not be done by independent experts.</p> <p>Soil suitability maps or soil surveys should be appropriate to the scale of operation and should include information on soil types, topography, hydrology, rooting depth, moisture availability, stoniness and fertility to ensure long-term sustainability of the development. Soils requiring appropriate practices should be identified (see Criteria 7.6 and 7.7). This information should be used to plan planting programmes, etc.</p> <p>Measures should be planned to minimise erosion through appropriate use of heavy machinery, terracing on slopes, appropriate road construction, rapid establishment of cover, protection of riverbanks, etc.</p> <p>Areas located within the plantation perimeters that are considered unsuitable for long-term oil palm cultivation should be delineated in plans and included in operations for conservation or rehabilitation as appropriate (see Criteria 7.6 and 7.7).</p> <p>Assessing soil suitability is also important for scheme smallholders, particularly where there are significant numbers operating in a particular location..</p>
7.7	<p>The unit of certification is encouraged to map the peatlands within the supply base to enable monitoring and promotion of BMPs.</p> <p>For Indicator 7.7.3: For existing plantings on peat, the water table should be maintained at an average of 50 cm (between 40 cm and 60 cm) below ground surface unless required to be higher by national regulations, measured with groundwater piezometer readings, or an average of 60 cm (between 50 cm and 70 cm) below ground surface as measured in water collection drains, through a network of appropriate water control structures (e.g. weirs, sandbags, etc.) in fields, and watergates at the discharge points of main drains.</p> <p>For Indicator 7.7.3: Monitoring of subsidence should be undertaken in all drained peat areas in the plantation including where appropriate, areas adjacent to the plantation (e.g. conservation area) where water tables may be impacted by drainage associated with the plantation.</p> <p>For Indicator 7.7.6: To refer to the latest audit guidance published by the RSPO Secretariat.</p> <p>For Indicator 7.7.7: To exclude utilities (e.g. powerlines, roads, etc.) constructed by government agencies.</p>

Criterion new	GUIDANCE
7.8	<p>The water management plan should include:</p> <ul style="list-style-type: none"> • Consideration of relevant stakeholders, their water use, and water resource availability • Taking account of the efficiency of use and renewability of sources. • Ensuring that the use and management of water by the unit of certification does not result in adverse impacts on other users within the catchment area, including local communities and customary water users. • Aiming to ensure local communities, workers and their families have access to adequate, clean water for drinking, cooking, bathing and cleaning purposes. • Avoiding contamination of surface and ground water through runoff of soil, nutrients or chemicals, or as a result of inadequate disposal of waste including POME. <p>☒ Aim to ensure that the plantation activities do not cause adverse impacts to the water sources of local communities, workers and their families.</p> <p>☒ No construction of bunds/weirs/dams across the main rivers or waterways passing through an estate.</p> <p>☒ Outgoing water into main natural waterways should be monitored at a frequency that reflects the estates and mills current activities which may have negative impacts (Cross reference to C 3.2 and 3.4).</p> <p>☒ Monitoring rainfall data for proper water management.</p> <p>☒ Water drainage into protected areas is avoided wherever possible. Appropriate mitigating measures will be implemented following consultation with relevant stakeholders.</p> <p>Requirement for discharge of mill effluent are set by the respective mill’s license issued by the Department of Environment (DOE).</p>
7.9	<p>Renewable energy use per tonne of CPO or palm product in the mill should be monitored and documented.</p> <p>Direct fossil fuel use per tonne of CPO or FFB should be monitored.</p> <p>Energy efficiency should be taken into account in the construction or upgrading of all operations. The unit of certification should assess the direct energy use of their operations, including fuel and electricity, and energy efficiency of its operations. This should include estimation of fuel use by on-site contract workers, including all transport and machinery operations.</p> <p>The feasibility of collecting and using biogas should be studied where relevant.</p>
7.10	<p>The unit of certification should only establish new plantings on mineral soils, in low carbon stock areas, and cultivated areas (including rubber and tree crops), which the current users are willing to develop into oil palm.</p> <p>Plans prepared by the unit of certification should specify actions to be taken to reduce GHG emissions including for example, adopting low-emission management practices for both mills (e.g. better management of palm oil mill effluent (POME), efficient boilers etc.) and plantations (e.g. optimal fertiliser use, energy efficient transportation, good water management, restoration of peatlands and conservation areas).</p> <p>Reference can be made to the RSPO Compilation of BMPs to Reduce Total Emissions from Palm Oil Production. This Criterion covers plantations, mill operations, roads and other infrastructure including access and perimeter canals and roads.</p>
7.11	<p>Extension/training programmes for smallholders may be necessary.</p>
7.12	<p>For details of transitional measures, refer to Annex 5: RSPO transition from HCV assessments to HCV-HCSA assessments (for indicators 7.12.2 and 7.12.8)</p> <p>For Indicator 7.12.2: HCV assessments conducted as part of integrated HCV-HCS assessments, should follow the HCVRN procedures, using HCVRN ALS approved assessors for HCV assessments for new plantings, in line with the current version of the Common Guidance on HCV Identification provided by the HCVRN or national HCV toolkits.</p> <p>NIs of the globally-applicable HCV definitions may be used to assist with implementation of the HCVA. The globally-applicable HCV definitions provided in the Common Guidance take precedence in any cases where a conflict is perceived with a NI.</p>

Criterion new	GUIDANCE
	<p>Where landscape level HCV and/or HCS maps have been developed, these should be taken into account in project planning, whether or not such maps form part of government land use plans.</p> <p>Further guidance for implementation of ‘wider landscape-level considerations’ and other natural ecosystems will be developed by the BHCV WG. This will include reference to Key Biodiversity Areas (KBAs), which are identified under a Global Standard (IUCN 2016) and should be identified through an HCV assessment.</p> <p>Reference to be made to RSPO No Deforestation Taskforce’s periodic announcement/ guidance related to HCV/HCS assessment. [To be modified after RSPO announcement expected by end May 2019].</p> <p>For Indicator 7.12.4: Refer to relevant guidance documents on RSPO and HCVRN websites.</p> <p>The integrated management plan should be developed in collaboration with other stakeholders active in that landscape before and during the project implementation. It should be adaptive to changes in HCVs. Evidence of attempted collaboration efforts should be documented and available. Such collaborative plans and areas should include but are not limited to:</p> <ul style="list-style-type: none"> ● Identifying, protecting and/or enhancing forest connectivity important for biodiversity, ecosystem services, or watershed protection ● Minimising hydrological impacts to the landscape related to or arising from drainage systems and access roads or canals linked to the plantation ● Ensuring that any legal requirements relating to the protection of species or habitats are met ● Avoiding damage to and deterioration of HCV habitats, for example by ensuring that HCV areas are connected, corridors are conserved, and buffer zones around HCV areas are created ● Protecting and managing other conservation areas including watercourses and wetlands, peatlands, riparian zones, steep slopes ● Controlling any illegal or inappropriate hunting, fishing or collecting activities, and encroachment ● Developing responsible measures to resolve human-wildlife conflicts (e.g. incursions by elephants). <p>For Indicator 7.12.5: Decisions will be made in consultation with the affected communities. Areas required by affected communities to meet their basic needs, taking into account potential positive and negative changes in livelihoods resulting from proposed operations, should be identified in consultation with the communities and incorporated into HCV and HCS assessments and management plans.</p> <p>The unit of certification should consider a variety of land management and tenure options to secure HCV management areas in ways that also secure local peoples’ rights and livelihoods. Some areas are best allocated to community management and secured through customary or legal tenures; in other cases, co-management options may be considered.</p> <p>Where communities are asked to relinquish rights so that HCVs can be protected or enhanced by the companies or state agencies, then great care needs to be taken to ensure that communities retain access to adequate land and resources to secure their basic needs; all such relinquishment of rights must be subjected to their free, prior and informed consent.</p> <p>For Indicator 7.12.7: Refer to HCVRN Common Guidance for HCV Management and Monitoring document</p>

Annex 3 – Key international laws and conventions applicable to the production of palm oil

The following is a listing of the key international laws and conventions applicable to the production of palm oil which with the ratification/signatory status for Malaysia. The RSPO P&C strive to achieve international best practice so all RSPO members must comply with the relevant parts of the P&Cs where they refer to the standards and/or conventions even if they have not been ratified nationally. Nonetheless, the following listings are strictly non-exhaustive and merely serve as guidance. Each member shall conduct their own research in respect of laws currently in force in ensuring compliance with the same and in meeting the obligations expected of a Member under the RSPO Principal and Criteria.

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
Ethical Business Conduct	1.1 1.2 2	United Nations Convention against Corruption (2003)			Art 12	Promoting the development of standards and procedures to safeguard the integrity of private entities, including codes of conduct, for business activities and preventing conflict of interest. Promoting transparency. Ensuring that companies have sufficient internal auditing controls to prevent corruption.	Malaysia (R)
	1.2 2.1 2.2	Private Employment Agencies Convention 1997 (No 181)				Covers protection for workers who are employed through third party and/or private employment agencies.	Not ratified
Respect for Human Rights	4.1 4.2		Declaration on the Rights of Human Rights Defenders			Contains human rights standards enshrined in other international instruments that are legally binding for the protection of human rights, including HRDs.	
	4 5 6			United Nations Guiding Principles on Business and Human Rights (2011)	Principles 11-24	Respect Human rights, by avoiding and/or mitigating negative impacts regardless of their organisation size, sector of operation or ownership.	Adopted by Malaysia

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
	4 5 6	<p>Core International Human Rights Treaties:</p> <ul style="list-style-type: none"> - Covenant on Civil and Political Rights (ICCPR) - Covenant on Economic, Social and Cultural Rights (ICESCR) - Convention on the Elimination of All Forms of Racial Discrimination (CERD) - Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) - Convention on the Rights of the Child (CRC) - International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICMRW) - Convention for the Protection of All Persons from Enforced Disappearance 			All core human rights treaties	Respect for human rights regardless of age, nationality, gender, race, ethnicity, religion, ability, marital status, sexual orientation and gender identity, political opinion or affiliation, etc.	

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
		(CPED) - Convention on the Rights of Persons with Disabilities (CRPD)					
Just Land Acquisition	4	ILO Convention 169 (1989) on Indigenous and Tribal Peoples			Art 13-19	Respect and safeguard rights to lands and natural resources traditionally occupied and used; respect for customs of inheritance; no forced removals; compensation for loss and injury.	Not ratified by Malaysia
	4		UN Declaration on the Rights of Indigenous Peoples (2007)		Art 25-26	Right to distinctive relationship with land; right to own, use, develop and control their lands, territories and other resources.	Adopted by Malaysia
	4	UN Convention on Biological Diversity (1992)			Art 10(c)	Protect and encourage customary use of biological resources in accordance with traditional practices.	Malaysia (R)
Public Participation of Affective Communities	4.5 4.5			Rio Declaration on Environment and Development (1992) and Agenda 21	Principle 10	Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. Principle 10 combines public participation with public access to information and access to remedial procedures. According to Agenda 21, one of the fundamental principles for the achievement of sustainable development is broad public participation in decision-making. Both Agenda 21 and the Rio	

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
						Declaration emphasise the importance of the participation of all major groups, and special emphasis has been given, including in legally binding international instruments, to ensuring participation in decision-making of those groups that are considered to be politically disadvantaged, such as indigenous peoples and women.	
Fair Representation and Participation of Indigenous and Tribal People	4.2 4.4 4.5. 4.6	ILO Convention 169 (1989) on Indigenous and Tribal Peoples			Art 6-9	Self-representation through institutions; consultations with objective of achieving agreement or consent; rights to decide their own priorities, retain their own customs and resolve their offences according to customary law (compatible with international laws).	Not ratified by Malaysia
	4.4-4.8		UN Declaration on the Rights of Indigenous Peoples (2007)		Art 3	Indigenous peoples have the right to self-determination and to freely pursue their economic, social and cultural development.	
	4.4 4.5 4.7		UN Declaration on the Rights of Indigenous Peoples (2007)		Art 10, 11(2), 19, 28(1), 29(2) and 32(2)	Right to free, prior and informed consent to any project affecting their lands as expressed through their own representative institutions.	

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
	4.4 4.5 4.7	Convention on the Eliminations of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, Inter American Human Rights System.			UN CERD Committee, UN Committee on Social Culture and Economic Rights, Inter American Commission on Human Rights	Free Prior Informed Consent for decisions that may affect indigenous people. (This standard has been widely accepted as 'best practice' standard by bodies such as World Commission on Dams, Extractive Industries Review, Forest Stewardship Council, UNDP, CBD, IUCN, WWF).	
No Forced Labour	2.2 6.6	ILO Convention 29 (1930) Forced Labour			Art 5	No concession to companies shall involve any form of forced or compulsory labour.	Malaysia (R)
	6.6		Protocol of 2014 to the Forced Labour Convention 1930		Art 1, 2,4	Provides the measures which should be taken for the avoidance of forced or compulsory labour.	Not ratified by Malaysia
	6.6	ILO Convention 105 (1957) Abolition of Forced Labour			Art 1	Not make use of any form of forced or compulsory labour.	Not in force. Denounced on 10.1.1990
Protection of Children	6.4	ILO Convention 138 (1973) Minimum Age			Arts 1-3	Abolition of child labour and definition of national minimum age for labour not less than 15-18 years (depending on occupation).	Malaysia (R)

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
	6.4	ILO Convention 182 (1999) Worst Forms of Child Labour			Arts 1-7	Abolition of child slavery, debt bondage, trafficking and procurement for prostitution; suitable methods to monitor and enforce compliance.	Malaysia (R)
	6.4	Minimum Age (Agriculture) Convention 1921 (No.10)			Art 1-2	Applicable to children under the age of 14 outside the hours of attendance in school.	Not ratified
	6.4	Convention on the Rights of the Child (CRC), 1989			Article 32	Right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.	Malaysia (R)
	6.4 6.5		UN Declaration on the Rights of Indigenous Peoples (2007)		Art 17(2), 21, 22(2)	No exploitation or exposure to hazard or discrimination against indigenous women and children.	Adopted by Malaysia
Freedom of Association and Collective Bargaining	6.3	ILO Convention 87 (1948) Freedom of Association and Protection of Right to Organise			Art 2-11	Freedom to join organisations, federations and confederations of their own choosing; with freely chosen constitutions and rules; measures to protect the right to organise.	Not ratified by Malaysia

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
	6.3	ILO Convention 98 (1949) Right to Organise and Collective Bargaining			Art 1-4	Protection against anti-union acts and measures to dominate unions; establish means for voluntary negotiation of terms and conditions of employment through collective agreements.	Malaysia (R)
	6.3	ILO Convention 141 (1975) Rural Workers' Organisations			Art 2-3	Right of tenants, sharecroppers and smallholders to organise; freedom from association; free from interference and coercion.	Not ratified by Malaysia
	6.3	International Covenant on Economic, Social and Cultural Rights (1966)			Art 8 (1)	The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.	
	6.3	Collective Bargaining Convention, 1981 (No 154)			Art 1, 2, 3(2), 4, 5, 7, 8	Promotion of the right to collective bargaining.	Not ratified by Malaysia

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
	6.3	Workers Representative Convention 1971 (No 135)			Art 1-3	Workers' representatives in the undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.	Not ratified by Malaysia
Non-discrimination and Equal Remuneration	6.1	ILO Convention 100 (1951) Equal Remuneration			Art 1-3	Equal Remuneration for men and women for work of equal value.	Malaysia (R)
	6.1	ILO Convention 111 (1958) Discrimination (Employment and Occupation)			Art 1-2	Equality of opportunity and treatment in respect to employment and occupation; no discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin.	Not ratified by Malaysia
	6.1		UN Declaration on the Rights of Indigenous Peoples (2007)		Articles 2, 8(e), 9, 15(2), 16(1), 21(2), 22, 24(1), 29(1), 46(3)	No discrimination based on origin or identity; free to express identity based on custom; special attention to and full protection of rights of indigenous women.	

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
	6.1	ILO Convention 156 (1981) Workers with Family Responsibility			Art 1-5,7-10	No discrimination of any form against a worker, whether male or female with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.	Not ratified by Malaysia
	2.2	ILO Convention on Private Employment Agencies 1997 (No. 181)			Art 1,2,4-12	Concerns the protection of workers which are employed with the intention of making the services of these workers available to third parties.	Not ratified by Malaysia
	6.1	ILO Convention on Vocational Rehabilitation and Employment (Disabled Persons) 1983 (No. 159)			Art 1-4,		Not ratified by Malaysia
	6.1	International Covenant on Economic, Social and Cultural Rights (1966)			Art 7	Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work. Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;	Not ratified by Malaysia

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
Elimination of Harassment and Abuse in Workplace	6.5	Convention on the Elimination of All Forms of Discrimination against Women			General Recommendation 35	of the private sector, including businesses and transnational corporations, in efforts to eradicate all forms of gender-based violence against women; developing protocols and procedures addressing all forms of gender-based violence that may occur in the workplace or affect women workers, including effective and accessible internal complaints procedures.	Malaysia (R)
Just Employment for Migrants	2.2 6.6	ILO Convention 97 (1949) Migration for Employment				Provision of information; no obstacles to travel; provision of healthcare; non-discrimination in employment; accommodation, social security and remuneration; no forced repatriation of legal migrant workers; repatriation of savings.	Not ratified by Malaysia
	6.6	ILO Convention 143 (1975) Migrant Workers (Supplementary Provisions)			Art 1-12	Respect basic human rights; protection of illegal migrants from abusive employment; no trafficking in illegal migrants; fair treatment of migrant labour.	Not ratified by Malaysia
	2.2 6.6	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)			Art 11; 21; 25; 26	Prevention of slavery; forced and compulsory labour; on confiscation of identity documents; conditions of work and contractual terms; and freedom of association and right to join trade unions.	Not ratified by Malaysia
Protection of Plantation Workers	6.1	ILO Convention 97 (1949) Migration for Employment			Art 5-91	Protection of members of families of recruited workers' rights during recruitment and transport; fair employment contracts; abolition of penal sanctions; fair wages and conditions of work; no coercion	Not ratified by Malaysia

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
						or obligation to use company stores; adequate accommodation and conditions; maternity protection; compensation for injuries and accidents; freedom of association; right to organize and collective bargaining; proper labour inspection; decent housing and medical care.	
	6.2	ILO Convention No 11 Rights of Association (Agriculture) 1921			Art 1	All those who work in the agricultural sector to be accorded the same rights of association and combination as to industrial workers.	Malaysia-Peninsular (R) Malaysia-Sarawak (R)
	6	ILO Convention on Plantation (1958) (No. 110)			Art 1,2,5,7,8, 11,12-15	This convention relates to rights of workers and their families (including migrant workers) who have been recruited to work on plantations.	Not ratified by Malaysia
Working Time for Workers	6.2	ILO Convention No 101 Holidays with Pay (Agriculture) 1952			Art 1,3,5,7-9	Workers employed in agricultural undertakings and related occupations shall be granted an annual holiday with pay after a period of continuous service with the same employer.	Not ratified by Malaysia
	6.2	ILO Convention No 47 Forty Hour Week			Art 1	Requires that member adopt a 40 hour week in a manner that the standard of living is not reduced as a consequence.	Not ratified by Malaysia

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
Protection of Women's Rights to Work	6.1	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)			Art 11	<p>Right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;</p> <p>Right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work.</p>	Malaysia (R)
	6.1	Maternity Protection Convention 2000 (No. 183)			Art 9	Prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work.	Not ratified by Malaysia
	6.5 6.7	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)			Art 11 (f)	The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.	
	6.5	Maternity Protection Convention 2000 (No. 183)			Art 10	<p>A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.</p> <p>These breaks or the reduction of daily hours of work shall be</p>	Not ratified by Malaysia

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
						counted as working time and remunerated accordingly.	
Protection of Tenants and Sharecroppers	4.2			ILO Recommendation 132 (1968) Tenants and Sharecroppers	Art 4-8	Fair rents; adequate payment for crops; provisions for well-being; organisation; fair contracts; procedures for the settlement of disputes.	Not ratified by Malaysia
Protection of smallholders	5	ILO Convention 117 (1962) Social Policy (Basic Aims and Standards)			Art 4	Alienation with due regard to customary rights; assistance to form cooperatives; tenancy arrangements to secure highest possible living standards.	Not ratified by Malaysia
Health and Safety	3.6 6.7	ILO Conventions 184 (2001) Safety and Health in Agriculture			Art 7-21	Carry out risk assessments and adopt preventive and protective measures to ensure health and safety with respect to workplaces, machinery equipment, chemical tools and processors; ensure dissemination of information, appropriate training, supervision and compliance; special protection for youth and women workers; coverage against occupational health and disease.	Not ratified by Malaysia
	3.6 6.7	ILO Convention on Occupational Cancer 1974 (No 139)				Members shall make every effort to have carcinogenic substances and agents to which workers may be exposed in the course of their work replaced by non-carcinogenic substances or agents or by less harmful substances or agents; in the choice of substitute substances or agents account shall be taken of their carcinogenic, toxic and other	Not ratified by Malaysia

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
						properties.	
	3.6 6.7	ILO Convention on Invalidity Insurance (Agriculture) 1933 (No. 38)			Art 1-6, 13, 17, 20,23	Maintenance of a scheme for invalidity Insurance for workers.	Not ratified by Malaysia
	6.1 6.2	Convention on Maternity Protection 2000 (No. 183)			Art 2-4	Maternity Protection and benefits	Not ratified by Malaysia
Control or Eliminate the use of Dangerous Chemicals and Pesticides	7.2	Stockholm Convention on Persistent Organic Pollutants (2001)			Arts 1-5	Prohibit and/or eliminate production and use of chemicals listed in Annex A (e.g. Aldrin, Chlordane PCB); restrict production and use of chemicals in Annex B (e.g. DDT); reduce or eliminate releases of chemicals listed in Annex C (e.g. Hexachlorobenze).	Malaysia (S)
	7.2	Rotterdam Convention on Prior and Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998)			Art 1, 5, and 6	Curb trade banned and hazardous chemicals and pesticides; develop national procedures for control of their use and trade; list banned and hazardous chemicals and pesticides.	Malaysia (R)
			UN Declaration on the Rights of Indigenous Peoples (2007)		Art 21(1), 23, 24, 29(3)	Improvement of livelihood and sanitation, health and housing, participate in health delivery; maintain traditional health systems; effective monitoring of health.	

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
		ILO Convention No 148 on Working Environment (Air, Pollution, Noise and Vibration) 1977			Art 1-3	Provides for measures which should be taken to	Not ratified by Malaysia
		ILO Convention No 170 on Chemical Convention 1990			Art		Not ratified by Malaysia
Right to Food	6.2	International Covenant on Economic, Social and Cultural Rights (1966)			Art 11	Right to adequate standard of living, including right to food.	
Environmental Protection	3.4	UN Convention on Biological Diversity (1992)			Art. 14	Environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimising such effects and, where appropriate, allow for public participation in such procedures.	Malaysia (R)
Conservation of Biodiversity	2.1	UN Convention on Biological Diversity (1992)			Art 1 – 18	Conservation of biological diversity and the sustainable use of its components.	Malaysia (R)

Theme	Referenced in following P&C	International Standards			Key Provisions	Summary of Protection	Malaysia Signatory (S) Or Ratified (R)
		Convention	Declaration	Guiding Principles/ UN Outcome Documents			
GHG Emissions	7.10				Art 1-4	Aimed at stabilising atmospheric concentrations of greenhouse gases to avoid “dangerous anthropogenic interference, including in agricultural sector.	

(R) – Ratification

(S) – Signatory

Annex 4 – Related laws, regulations & guidelines used in Malaysian palm oil industry in relation to respective Principles and Criteria

Note: The following listings are strictly non-exhaustive and merely serve as guidance. Each member shall conduct their own research in respect of laws currently in force in ensuring compliance with the same and in meeting the obligations expected of a Member under the RSPO Principal and Criteria.

Criterion	Related Laws, Regulations & Guidelines
1.2	<ul style="list-style-type: none"> • Malaysia Anti-Corruption Commission (MACC) Act 2009 • Anti-Corruption Act 1997 • Penal Code • Anti-Money Laundering and Anti-Terrorism Financing Act 2001 • Financial Services Act 2013 • Whistleblower Protection Act 2010

2.1	<ul style="list-style-type: none"> • National Land Code 1965 • Federal Territory Land Rules, 1975 • Johore Land Rules 1966 • Kedah Land Rules 1966 • Kedah Provisional Titles (Transitional) Rules 1967 • Kelantan Land Rules 1966 • Malacca Land Rules 1966 • Land Titles Rules (Malacca) 1966 • Negeri Sembilan Land Rules 1966 • Pahang Land Rules 1966 • Pahang Land Rules 1986 • Penang Land Rules 1965 • Land Titles Rules (Penang) 1965 • Perak land Rules 1966 • Perlis Land Rules 1987 • Sabah Land Ordinance 1930 • Sarawak Land Code (Sarawak Cap.81) • Selangor Land Rules 1966 • Terengganu Land Rules 1966 • Town and Country Planning Act, Act 172
2.1.3	<p>Sabah</p> <ul style="list-style-type: none"> • Land (Subsidiary Title) Enactment 1972 – Sabah No. 9 of 1972 • Land Acquisition Ordinance (Cap.69) Together with the subsidiary legislation made thereunder • Land Ordinance Cap.68 Together with the subsidiary legislation made thereunder • Sabah Town and country Planning Ordinance (Caps 141) <p>Sarawak</p> <ul style="list-style-type: none"> • Sarawak Land Code (Sarawak Cap.81) • Sarawak Land Code (Caps 81) planning
3.3	<ul style="list-style-type: none"> • MPOB Code of Good Agricultural Practice for Oil Palm • MSGAP Part2: OP [Malaysian Standard Good Agricultural Practice (GAP) Part 2: Oil Palm (<i>Elaeis Guineensis</i> Jacq.)]
3.4	<ul style="list-style-type: none"> • (Ref: Women & Family Development Ministry)
3.4	<ul style="list-style-type: none"> • Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 1987)

	<p>Sabah</p> <ul style="list-style-type: none"> • Environment Protection Enactment 2002 • Environment Protection (Prescribed Activities) Order 2005 • (Environmental Impact Assessment) Order 2005 <p>Sarawak</p> <ul style="list-style-type: none"> • Natural Resources and Environment (Prescribed Activities) Order 1994 (Incorporating all amendments up to May 1997) • The Natural Resources & Environment Ordinance (Cap.84-Laws of Sarawak 1958 ed.) • Natural Resources and Environment (Amendment) Ordinance, 1997 <p>*Cross reference to table under Criterion 3.4 of Annex 3.</p>
--	--

3.4.2	<ul style="list-style-type: none"> • ISO 14001 Environmental Management System (EMS) 			
	Region/ Regulation	Peninsular Malaysia (Source: Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 1987	Sabah (Source: Environment Protection Enactment (Prescribed Activities) (Environmental Impact Assessment) Order 2005	Sarawak (Source: The Natural Resources and Environment Ordinance The natural resources and environment (Prescribed Activities) order, 1997)
	List of Prescribed Activities Requiring Environmental Impact Assessment Report (EIA) for Agriculture	<p>1. Agricultural programmes necessitating the resettlement of 100 families or more</p> <p>2. Development of agricultural estates covering an area of 500 hectares or more involving changes in types of agricultural use</p> <p>3. Drainage of wetland, wild-life habitat or of virgin forest covering an area of 100 hectares or more.</p>	<p>List of Prescribed Activities Requiring Environmental Impact Assessment Report (EIA) for agriculture -</p> <p>(i) Development of agricultural estates or plantations covering an area of 500 hectares or more;</p> <p>(ii) Development of agricultural estates or plantations involving change in type of crops covering an area of 500 hectares or more;</p> <p>(iii) Conversion of wetland forests into agricultural estates or</p>	<p>(i) Development of agricultural estates or plantations of an area exceeding 500 hectares-</p> <p>(a) from land under secondary or primary forests, or</p> <p>(b) which would involve the resettlement of more than 100 families; or</p> <p>(c) Which would involve modification in the use of the land.</p>

		plantations covering an area of 50 hectares or more; or (iv) Agricultural programmes involving the settlement of 100 families or more.	(ii) Conversion of mangrove swamps into agricultural estate having area exceeding 50 hectares.
List of Prescribed Activities Requiring Environment Management Plan EMP (Peninsular Malaysia) or Proposal for Mitigation Measures Report (PMM) – Sabah or Environmental Mitigation measures (Sarawak)		(i) Development of agricultural estates or plantations covering an area of 100 hectares or more but less than 500 hectares; (ii) Development of agricultural estates or plantations involving change in type of crops covering an area of 100 hectares or more but less than 500 hectares; or (iii) Conversion of wetland forests into agricultural estates or plantations covering an area of 20 hectares or more but less than 50 hectares.	For Sarawak, Environmental Mitigation Measure (EMM) is applicable for replanting and new planting when ordered by the Environmental Controller of Sarawak.
Requirement for registration of consultants	An EIA study has to be conducted by competent individuals who are registered with the Department of Environment (DOE) under the EIA Consultant Registration Scheme. The list of registered EIA consultants and details on the registration scheme are available at the DOE website, http://www.doe.gov.my	Preparation of EIA reports shall be undertaken by environmental consultants that are registered with the Sabah Environment Protection Department and hold valid certificates of practice.	Pursuant to Article 3 of the Natural Resources and Environment (Prescribed Activities) Order 1994, (Sarawak. L.N. 45/94) the EIA report must be prepared by such expert or authority as may be approved by the Natural Resources and Environment Board).
Written Permission to Construct a Palm Oil Mills	Any person intending to construct on any land or any building; or carrying out work that would cause the land or building to become prescribed premises (crude palm oil mills, raw natural rubber processing mills, and treatment and disposal facilities of scheduled wastes), as stipulated under Section 19 of the Environmental Quality Act, 1974 must obtain prior written permission from the Director-General of Environmental Quality. (Applies to whole of Malaysia.)		

	Licence to occupy and operate a crude palm oil mill	A separate licence from DOE is required to occupy and operate crude palm oil mills (Applies to whole of Malaysia).	
3.6		<ul style="list-style-type: none"> Occupational Safety & Health Act and Regulation 1994 	
3.7		<ul style="list-style-type: none"> Factories & Machinery Act 1967 (Act 139) & Regulations and Rules 	
4		<ul style="list-style-type: none"> Aboriginal People Act 1954 (Revised 1974) Human Rights Commission Malaysian Federal Constitution is a dynamic document with several provisions that protects orang Asli's rights, including Articles 5, 6, 8, 10, 11 and 12. Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements: <ul style="list-style-type: none"> - Wildlife Conservation Act 2010 (Act 716) - Sabah Wildlife Conservation Enactment 1997 - Sarawak Wildlife Protection Ordinance 1998 <p>Sarawak</p> <ul style="list-style-type: none"> Sarawak Native Code 1992 	
4.5		<ul style="list-style-type: none"> Land Acquisition Act 1960 Land Acquisition Ordinance (Sabah Cap. 69) Sarawak Land Code (Cap. 81) 	
5.1		<ul style="list-style-type: none"> Sales Tax Act 1972 (Act 64) & Regulations Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 1987) <p>Sabah</p> <ul style="list-style-type: none"> Environment Protection Enactment 2002 Environment Protection (Prescribed Activities) Order 2005 (Environmental Impact Assessment) Order 2005 	

	<p>Sarawak</p> <ul style="list-style-type: none"> • Natural Resources and Environment (Prescribed Activities) Order 1994 (Incorporating all amendments up to May 1997) • The Natural Resources & Environment Ordinance (Cap.84-Laws of Sarawak 1958 ed.) • Natural Resources and Environment (Amendment) Ordinance, 1997
6.2	<ul style="list-style-type: none"> • Employment Act (1955) • Employment Acts & Regulations (Act 265) 2003 • Employment (Restriction) Act 1968 • Private Employment Agency Act 1981 • Employees Provident Fund Act 1951(Act 272) • Immigration Act 1959/1963 (Act 155) • Workers' Minimum Standards of Housing & Amenities Act 1990 (Act 446) • Employment Information Act 1953 • Employees Social Security Act 1969 (Amended 2003) • Workmen's Compensation Act 1952 (Act 273) • Estate Workers Minimum Standards Housing Act (1966) • Employment (Restriction)(Exemption) Order 1983 • Employment Provident Fund Rules 1991 • Workmen's Compensation Regulations 1953 • Wages Council Act 1947 • Minimum Wage Order 2018 • Employment Insurance System (EIS) 2017 • Workers Union Act 1959 • Minimum Retirement Age Act 2012 (Act 753) • Passport Act 1966 <p>Sabah</p> <ul style="list-style-type: none"> • Sabah Labour Ordinance 1950 (Amended 2004) <p>Sarawak</p> <ul style="list-style-type: none"> • Labour Ordinance of Sarawak 1952 (Amended 2005)

6.3	<ul style="list-style-type: none"> • Trade Unions Act 1959 • Employment Act 1955 • Industrial Relation Act 1967 • Immigration Regulation 1963 <p>Sabah</p> <ul style="list-style-type: none"> • Sabah Labour Ordinance 1950 (Amended 2004) <p>Sarawak</p> <ul style="list-style-type: none"> • Labour Ordinance of Sarawak 1952 (Amended 2005)
6.4	<ul style="list-style-type: none"> • Children & Young Persons (Employment) Act 1966
6.4	<ul style="list-style-type: none"> • Factory and Machinery Act 1967, section 28 • Children and Young Person (Employment) Act 1966, section 2 (2), (4) & (5). [Applicable to Peninsular Malaysia only] • Labour Ordinance (Sarawak) 1952, section 73 (2), (3),(4) & (5) • Sabah Labour Ordinance 1950, section 72(2), (3), (4) & (5) • Pesticides (Highly Toxic Pesticides) Regulation 1966, section 3 (a) • Electricity Ordinance (Sarawak) 1956, section 31 (1) • Electricity Act 1949, section 50 (1) – Applicable to Peninsular Malaysia & Sabah only
6.5	<ul style="list-style-type: none"> • Sexual Harassment in The Workplace (Guidelines) • Code of Practice on Sexual Harassment In The Workplace (A Guide to the Malaysian)
6.6	<ul style="list-style-type: none"> • Industrial Relations Act 1967 • Employment Act 1955 • Immigration Act 1959/63 • Sabah Labour Ordinance 1950 • Sarawak Labour Ordinance 1952
6.7	<ul style="list-style-type: none"> • OSH Act 1994 • Factories & Machinery Act 1967 (Act 139) & Regulations and Rules
7.1	<ul style="list-style-type: none"> • Destruction of Disease-Bearing Insects (1975)

	<ul style="list-style-type: none"> ● IPM definition in accordance to FAO (2013) <p><i>IPM is the careful consideration of all available pest control techniques and subsequent integration of appropriate measures that discourage the development of pest populations and keep pesticides and other interventions to levels that are economically justified and reduce or minimize risks to human health and the environment. IPM emphasizes the growth of a healthy crop with the least possible disruption to agro-ecosystems and encourages natural pest control mechanisms. (FAO 2013: http://www.fao.org/agriculture/crops/core-themes/theme/pests/ipm/en/)</i></p>
7.2	<ul style="list-style-type: none"> ● WHO Type 1A or 1B or Stockholm & Rotterdam Conventions ● Pesticides Act 1974 (Act 149) and Regulations ● Food Act 1983 (Act 281) ● Food Regulations, 1985 ● OSH Act 1994 (Act 514) Regulations and Orders ● Environment Quality (Scheduled Wastes) Regulations 2005 ● Use & Standards Exposure of Chemicals Hazardous to Health (USECHH) Regulations 2000 - Chemical Health Risk Assessment (CHRA) ● Poison Act & Regulations 1952 (Act 366) (Revised 1989) ● Malaysian Laws on Poisons & Sale of Drugs ● Estate Hospital Assistants (Registration) Act 1965 (Revised 1990) ● Pesticides (Highly Toxic Pesticide) Regulation 1996 ● Environmental Quality Act 1974(Act 127) and Regulations
7.3	<ul style="list-style-type: none"> ● Environmental Quality Act 1974 (Scheduled Wastes), Regulations, 2005 ● Environmental Quality Act 1974(Act 127) and Regulations ● Ministry of Health Guidelines-Municipal Waste Disposal ● Local Government Act 1976 ● Workers' Minimum Standards of Housing and Amenities Act 1990 (Act 446) ● Environmental Quality (Prescribed Premises) (Crude Palm Oil) Order 1977. For Sabah and Sarawak, POME should be discharged according to the respective state policies.
7.4	<ul style="list-style-type: none"> ● MPOB Codes of Practices i.e. <ul style="list-style-type: none"> ● Code of Good Nursery Practice for Oil Palm Nurseries ● Code of Good Agricultural Practice for the Oil Palm Estates and Small Holdings ● Code of Good Milling Practice for Palm Oil Mills

7.5	<ul style="list-style-type: none"> MSGAP Part2: OP (4.4.1.3 – All new oil palm plantings should not be cultivated on land more than 300 m above sea level & 4.4.1.4 – All new oil palm plantings should not be cultivated on land of more than 25° slope unless as specified by local legislation.) Garis Panduan Pembangunan di Kawasan Tanah Tinggi, Kem. Sains, Teknologi dan Alam Sekitar, 22 Jun 2002. 																
7.5 7.7	<ul style="list-style-type: none"> Street, Drainage & Building Act 1974 (Act 133) MSGAP-Part 2 OP (4.4.2.2 – Where oil palm is grown on sloping land within the permissible level, appropriate soil conservation measures shall be undertaken to prevent soil erosion and siltation of drains, waterways and contamination of surface and groundwater through run-off of soil, nutrients or chemicals.) <p>Sabah</p> <ul style="list-style-type: none"> Environmental Impact Assessment (Order 2005) <p>Sarawak</p> <ul style="list-style-type: none"> Natural Resources and Environment (Amendment) Ordinance, 1997 Natural Resources and Environment Board (NREB) Natural Resource and Environment (Prescribed Activities) Order 1994 (Incorporating all amendments up to May 1997) 																
7.8	<ul style="list-style-type: none"> Irrigation Areas Act 1953 (Revised 1989) Garis Panduan Pembangunan Melibatkan Sungai dan Rizab Sungai, Department of Irrigation and Drainage Malaysia Environmental Quality (Prescribed Premises) (Crude Palm Oil) Order 1977 <table border="1" data-bbox="558 1013 1608 1325"> <thead> <tr> <th rowspan="2">Summary of Requirements Related to Width of Rivers River Width (m)</th> <th colspan="2">Minimum Width of River Reserve (m)</th> </tr> <tr> <th>For Peninsular Malaysia and Sarawak</th> <th>For Sabah</th> </tr> </thead> <tbody> <tr> <td>1-5</td> <td>5</td> <td rowspan="5">(for River Width > 3 metres)</td> </tr> <tr> <td>5-10</td> <td>10</td> </tr> <tr> <td>10-20</td> <td>20</td> </tr> <tr> <td>20-40</td> <td>40</td> </tr> <tr> <td>>40</td> <td>50</td> </tr> </tbody> </table> <p>Sabah</p>	Summary of Requirements Related to Width of Rivers River Width (m)	Minimum Width of River Reserve (m)		For Peninsular Malaysia and Sarawak	For Sabah	1-5	5	(for River Width > 3 metres)	5-10	10	10-20	20	20-40	40	>40	50
Summary of Requirements Related to Width of Rivers River Width (m)	Minimum Width of River Reserve (m)																
	For Peninsular Malaysia and Sarawak	For Sabah															
1-5	5	(for River Width > 3 metres)															
5-10	10																
10-20	20																
20-40	40																
>40	50																

	<ul style="list-style-type: none"> • Drainage & Irrigation Ordinance 1956 (Sabah No.15 of 1956) • Sabah Water Resources Enactment 1998 <p>Sarawak</p> <ul style="list-style-type: none"> • Natural Resources and Environment (Prescribed Activities) Order 1994 (Incorporating all amendments up to May 1997)
7.10	<ul style="list-style-type: none"> • Road Transport Act 1987(Act 334) • Street, Drainage & Building Act 1974 (Act 133) • Water Act 1920 (Act 418) • Environmental Quality (Clean Air Regulation) 1978 • Environmental Quality (Control of Emission from Diesel Engines) Regulation 1996 • Environmental Quality (Control of Emission from Petrol Engines) Regulation 1996 • Environmental Quality (Control of Emission from Motorcycles Engines) Regulation 1996
7.11	<ul style="list-style-type: none"> • Guidelines for implementation of ASEAN policy on zero-burning, 2003 • Environment Quality (Declared Activities) (Open Burning) Order 2003
7.12	<ul style="list-style-type: none"> • IUCN 2007 Red List of Threatened Species • Wildlife Protection Act 1972 (Revised 1976) & State Ordinances related to this Act • Wildlife Conservation Act 2010 • HCV Guidelines : “The HCVF Toolkit” available from www.proforest.net • National Parks Act 1980 • State Forestry Enactments (particularly Section 10 on protection forests) • National Parks (Johor) Corporation Enactment 1989 • Perak State Parks Corporation Enactment 2001 • Parks Enactment (Sabah) 1984 • National Forestry Act 1984 <p>Sabah</p> <ul style="list-style-type: none"> • Enakmen Biodiversiti Sabah 2000 • Sabah Wildlife Conservation Enactment 1997

	<p>Sarawak</p> <ul style="list-style-type: none"> • Biodiversity Centre Ordinance, 1996 • Sarawak Wildlife Protection Ordinance, 1998 • National Parks and Nature Parks Ordinance (Sarawak) 1998 												
	<p>Environmentally Sensitive Areas (ESAs) Ranking in National Physical Plan (NPP)</p> <p>ESA Categories and Criteria:</p> <table border="1" data-bbox="373 529 1759 1162"> <thead> <tr> <th data-bbox="373 529 575 561">Rank</th> <th data-bbox="575 529 1299 561">Environmentally Sensitive Areas</th> <th data-bbox="1299 529 1759 561">Management Criteria</th> </tr> </thead> <tbody> <tr> <td data-bbox="373 561 575 781"> ESA Rank 1 </td> <td data-bbox="575 561 1299 781"> <ul style="list-style-type: none"> • Existing and proposed Protected Areas (PA). • Important small habitats outside the PA system: turtle landing sites, salt licks, important plant areas, limestone outcrops and natural wetlands of high conservation value. • Catchments of existing and proposed dams. • Areas above 1,000m contour. </td> <td data-bbox="1299 561 1759 781"> No development, agriculture or logging shall be permitted except for ecotourism¹, research and education. </td> </tr> <tr> <td data-bbox="373 781 575 911"> ESA Rank 2 </td> <td data-bbox="575 781 1299 911"> <ul style="list-style-type: none"> • All other forests and wetlands outside Protected Areas. • 500m buffer zone around Rank 1 areas². • Areas between 300m-1,000m contour. </td> <td data-bbox="1299 781 1759 911"> No development or agriculture. Sustainable logging and eco-tourism may be permitted subject to local constraints. </td> </tr> <tr> <td data-bbox="373 911 575 1162"> ESA Rank 3 </td> <td data-bbox="575 911 1299 1162"> <ul style="list-style-type: none"> • Marine park islands. • 500m buffer zone around Rank 2 areas². • Catchments of water intake and groundwater recharge zones. • Areas between 150m-300m contour, all areas with erosion risk above 150ton/ha/year, all areas experiencing critical or significant coastal erosion. </td> <td data-bbox="1299 911 1759 1162"> Controlled development whereby the type and intensity of the development shall be strictly controlled depending on the nature of the constraints. </td> </tr> </tbody> </table> <p data-bbox="373 1195 1988 1279">¹ The National Ecotourism Plan (Ministry of Culture, Arts and Tourism 1997) adopts the World Conservation Union (IUCN) definition for ecotourism, i.e.: “Environmentally responsible travel to relatively undisturbed natural areas in order to enjoy and appreciate nature (and any other accompanying cultural features). One that promotes conservation, one that has low visitor impact and one that provides for beneficially active socioeconomic involvement of local populations.”</p> <p data-bbox="373 1279 1988 1312">² The widths of these buffer zones may be revised at the local level to take into consideration site-specific constraints.</p>	Rank	Environmentally Sensitive Areas	Management Criteria	ESA Rank 1	<ul style="list-style-type: none"> • Existing and proposed Protected Areas (PA). • Important small habitats outside the PA system: turtle landing sites, salt licks, important plant areas, limestone outcrops and natural wetlands of high conservation value. • Catchments of existing and proposed dams. • Areas above 1,000m contour. 	No development, agriculture or logging shall be permitted except for ecotourism ¹ , research and education.	ESA Rank 2	<ul style="list-style-type: none"> • All other forests and wetlands outside Protected Areas. • 500m buffer zone around Rank 1 areas². • Areas between 300m-1,000m contour. 	No development or agriculture. Sustainable logging and eco-tourism may be permitted subject to local constraints.	ESA Rank 3	<ul style="list-style-type: none"> • Marine park islands. • 500m buffer zone around Rank 2 areas². • Catchments of water intake and groundwater recharge zones. • Areas between 150m-300m contour, all areas with erosion risk above 150ton/ha/year, all areas experiencing critical or significant coastal erosion. 	Controlled development whereby the type and intensity of the development shall be strictly controlled depending on the nature of the constraints.
Rank	Environmentally Sensitive Areas	Management Criteria											
ESA Rank 1	<ul style="list-style-type: none"> • Existing and proposed Protected Areas (PA). • Important small habitats outside the PA system: turtle landing sites, salt licks, important plant areas, limestone outcrops and natural wetlands of high conservation value. • Catchments of existing and proposed dams. • Areas above 1,000m contour. 	No development, agriculture or logging shall be permitted except for ecotourism ¹ , research and education.											
ESA Rank 2	<ul style="list-style-type: none"> • All other forests and wetlands outside Protected Areas. • 500m buffer zone around Rank 1 areas². • Areas between 300m-1,000m contour. 	No development or agriculture. Sustainable logging and eco-tourism may be permitted subject to local constraints.											
ESA Rank 3	<ul style="list-style-type: none"> • Marine park islands. • 500m buffer zone around Rank 2 areas². • Catchments of water intake and groundwater recharge zones. • Areas between 150m-300m contour, all areas with erosion risk above 150ton/ha/year, all areas experiencing critical or significant coastal erosion. 	Controlled development whereby the type and intensity of the development shall be strictly controlled depending on the nature of the constraints.											
	<p>That all new mills obtaining MPOB licensing will be required to have methane capture facilities. For increase of capacity for existing mills, methane capture or methane avoidance is compulsory. For existing mills, there are no requirements enforced yet.</p>												

Annex 5 – Transition from HCV to HCV–HCS Assessment

Criterion 7.12 requires that new land clearing after 15 November 2018 (i.e. adoption of the P&C at GA 15) must be preceded by an HCV-HCS assessment. The Task Force recognizes that there is an array of scenarios, in which HCV assessments have previously been undertaken and have been approved or are in the process of approval. This Annex shows how the new requirements apply in different scenarios of existing and new certifications, with and without new land clearing.

NO NEW LAND CLEARING SCENARIOS:

- Existing certified plantations, with valid HCV assessment approved before 15 November 2018
 - o Going for recertification → HCV assessment is acceptable
 - o Replanting → HCV assessment is acceptable
- Existing plantations, not yet certified at 15 November 2018, going for initial certification
 - o Without existing ALS Approved HCV Assessment → New combined HCV-HCS required
 - o With valid ALS Approved HCV assessment → ALS Approved Assessment acceptable
 - Where certification is pending, as of 15 November 2018, because it has been held up by RACP or HGU processes, previous approved HCV assessment (RSPO and ALS approved), if they are not older than January 2009¹, will be accepted.
 - o HCV assessment submitted to ALS but pending approval before 15 November 2018
 - If passes ALS process, then the approved HCV assessment is acceptable;
 - If fails ALS process, new combined HCV-HCS assessment required
 - o Replanting → ALS approved HCV is acceptable

NEW LAND CLEARING SCENARIOS:

- In new plantations and in existing uncertified units, land clearing after 15 November 2018
 - o Without existing HCV assessment → New combined HCV-HCS required
 - o HCV assessment conducted, but not yet submitted to ALS before 15 November 2018 → New combined HCV-HCS required
 - o HCV Assessment submitted to ALS but pending approval before 15 November 2018
 - If passes ALS process, then the approved HCV assessment is acceptable;
 - If fails ALS process, new combined HCV-HCS assessment required
 - o NPP initiated by 15 November 2018 and HCV assessment conducted and passes ALS before 15 November 2018 → ALS Approved HCV assessment is acceptable
- In existing ~~certified~~ plantations (certified before 15 November 2018), with land clearing after 15 November 2018 → New combined HCV-HCS required
 - o If area to be cleared is exclusively pasture, infrastructure, agriculture or monocrop tree plantations which have not been abandoned for more than three years → valid HCV assessment + LUCA to demonstrate that no clearing of native vegetation occurred without prior HCV assessment is acceptable.

¹ The date for first published list of RSPO-approved HCV assessors.

Annex 6 – Guidance notes for determining validity of claims over land and natural resources by people living in areas being developed for oil palm plantation

Preamble

The main purpose of this Guidance is to assist plantation managers to determine which claims of customary or user rights that affect plantations are valid, and which are not. Although consultation to address customary and user rights in existing plantations is required by RSPO, the precise details presented in this Annex are to be regarded as guidelines and not as the only way to address the issues, this guidance can also be used in the context of the RSPO New Planting Procedure. Only once this has been determined, can progress be made on addressing customary and user rights that have been made in plantations. This Guidance takes the view that the definitions of “customary rights” used in current legislation do not cover all valid claims. Accordingly, this Guidance suggests a procedure that may be followed to determine valid claims, and also suggests some possible approaches to resolve valid claims.

This Guidance may be used in conjunction with addressing the following RSPO Criteria which touch on customary and user rights in plantations: 4.4, 4.6 and 4.7. The Guidance may also be relevant to some other Criteria, notably 1.1, 4.2 and 4.3, as well as 4.5 (customary and user rights in new plantations).

The Guidance aims to be fair to all parties involved.

Description of customary and user rights

For the purpose of RSPO, “customary” and “user right” claims include but are not limited to those listed in the relevant State or national legislation, and in addition cover the following types of claims:

Water catchment areas (where land within a plantation unit represents part of a water catchment that flows into land occupied by an indigenous community).

Swidden agriculture [traditional farming system, usually with non-irrigated rice or tapioca as the main crop, where farm fields are abandoned to regeneration of natural vegetation, and the same fields are used again years later, after weeds have been suppressed by woody plants and natural soil fertility soil has recovered. Known by a variety of names including shifting or rotational agriculture, and nomulok (Sabah). The regenerating farms are known by a variety of names such as ko-umoh (Sabah) and temuda (Sarawak).]

Old settlements (where signs exist of past occupation, known locally by various names including tambawai, pogun)

Land included in the traditional tenure system of nomadic people

Areas traditionally used for hunting and harvesting of forest products

Orchard gardens of a mix of fruit trees, usually visited only for weeding and fruit harvesting; known as (dusun/kebun, Tumoh)

Criteria for claims of customary and user rights

Customary and user rights claims will be potentially accepted for investigation only if the claimants fulfil all three of the following criteria:

Citizen of Malaysia or persons meeting the criteria to be a Malaysian Citizen by registration; the persons involved, or their parents, grand-parents or great-grand-parents, were born within Malaysia before Malaysia Day (16 September 1963); member of an ethnic group indigenous to the State within which they are claiming rights (refer to Article 160 of the Federal Constitution for Orang Asli (“Aborigine”) in Peninsular Malaysia, Article 161A(6)(b) for Sabah; Article 161(A) for Sarawak).

Their lineage must be provable, that is: the individuals making claims must be able to demonstrate a geographical, historical and cultural connection to the specific area over which their claim is made.

Claimants must demonstrate that they maintain either regular, or periodic, or seasonal, or repeated or intermittent use of the land area over which the claims are made.

Procedure

The initial onus to investigate claims of customary or user rights lies with the company which holds title to the land over which the claims are made.

The company will initiate a process, or support any existing formal, equitable and mutually agreeable existing process, to investigate the claims.

The company will make an initial listing of persons who may have or appear to have valid claims. The listing will include, at minimum, the following details of each individual making a claim: name, Mykad or birth certificate number if available, usual place of residence, and summary details of their claims, stressing that recording of claims does not necessarily indicate acceptance of any claim.

The listing will be presented to two authorities, (a) the District Officer of the District within which the claims are being made (who may delegate follow-up to the most relevant district-level government officer), and to (b) the senior native chief of the district or sub-district or community within which the claims are being made (Batin in Peninsular Malaysia; Ketua Daerah in Sabah; Temenggong in Sarawak).

One designated person from each of these two authorities (State governmental and indigenous community) will be the two contact persons for subsequent follow-up by the company.

All steps, information and conclusions of the procedure must be documented.

Both authorities will be requested to form an ad hoc joint committee or joint working group to investigate the claims.

The joint committee or working group may include relevant representatives of native communities, such as penghulu, ketua kampung, ketua anak negeri, pemanca and members of the village security and development committees.

The work of the committee or working group and the interests of the claimants and/or the plantation may be assisted or guided by a relevant independent third party that is mutually agreed on.

Participatory mapping of the areas claimed will be done as an important basis for identifying and settling valid claims. Key tasks of the committee or working group include to: (a) distinguish between claims which are valid and which are not valid, according to the criteria outlined above in this Guidance, and (b) identify the details of the claims which are valid.

Claimants will be notified by the company of the initiation of the procedure, and will be advised that all steps, information and conclusions of the procedure must be documented if claims are to be accepted and resolved. The results of the investigations may be used by the committee or working group to suggest an appropriate resolution. Alternatively, if the committee or working group is unable or unwilling to suggest a means to resolution, the resolution will have to be made between the company and the claimants.

Additional notes

Court decisions (including – where relevant - native court, district court, high court, federal court and court of appeal) relating to claims of customary or user rights shall be taken into cognisance when following this guidance.

Hunting (a) Hunting of wild animals for non-commercial purposes may be recognised as a user right, but must accord with current legislation, (b) human safety and security take precedence over individual hunting right claims, (c) where appropriate, valid claimants or their community leaders are encouraged to liaise with State Wildlife Department or relevant authorities to develop an agreed (sustainable) hunting system.

New plantings claims Companies about to embark on new plantings where there may be customary or user rights claims are advised to proactively call for claims to be made, stating that claims should be made of local announcement, and that only valid claims will be accepted for resolution.