

Executive Summary – Palm Oil Comparative Study

This study compares the world’s principal oil palm sustainability standards (RSPO, ISCC, ISPO, MSPO, SAN, HCS and RSB) by measuring them against a comprehensive set of over 39 social and human rights indicators within six different themes.

Methodology

The study is based on the requirements offered in each of the certification schemes tested. FPP identified a total of 39 different indicators, across six key themes, ranging from protection of human rights defenders to requirements pertaining to minimum wage for workers. Depending on the provisions of the certification standard, each of certification standards was given a score between 0 and 3 based on the depth, detail, and stringency of requirements for compliance.

KEY	POINTS
Strong and clear requirements	3
Theme is addressed but requirements less clear	2
Theme is not directly addressed and/or requirements are not clearly defined or comparatively lenient	1
Theme is not addressed and/or no clearly defined requirements	0

For example, when testing the standard strength against the indicator “Rights to water”, RSB standard scored 3 points, RSPO scored 2 points, HCS approach scored 1 point and ISPO scored 0 points.

3 points: RSB standard, criteria 9d states “*Operations shall contribute to the enhancement or maintaining of the quality of the surface and ground water resources*”, furthermore, it includes a number of minimum requirements relating to this criterion including minimum requirement 6 which asserts “*for existing operation, degradation of water resources that occurred prior to certification and for which the participating operator is directly accountable shall be reversed. Wherever applicable, operators shall participate in projects that aim to improve water quality at a watershed scale*”. Such detailed and clear requirements earned the RSB standard 3 points.

2 points: RSPO standard, criteria 4.4 states “*Practices maintain quality and availability of surface and ground water, the water management plan will aim to ensure local communities, workers and their families have access to adequate, clean water for drinking, cooking, bathing and cleaning purposes.*” Whilst the indicator has been addressed, the specific requirements put on companies is less clear. Companies should aim to provide clean water, yet, there is no requirement to enhance the quality of water. As a result, the RSPO scored 2 points.

1 point: HCS approach, module 2.1 (social and baseline study) states “*Access to water, health and education facilities and other social and economic infrastructure shall be considered...the social baseline study shall take into account the potential impacts of the proposed development of...water quality and availability...over the time frame of the development*”. Water rights are only considered there is no requirement to maintain or enhance water quality, thus it is judged that the requirement is comparatively lenient and only scores 1 point.

0 points: ISPO standard only states within it “water is to be monitored”. There are no clearly defined requirements. MSPO standard does not mention water rights either explicitly or implicitly and as a result also scores 0 points.

Themes:

Customary rights were assessed against eight different indicators including provisions for FPIC, participatory mapping, access to information and inclusive participation in negotiated agreements.

ISCC, SAN and RSB make little specific reference to indigenous peoples. Instead, they just refer to international conventions as safeguards of indigenous rights. RSPO, HCS and MSPO provisions on indigenous peoples, on the other hand, largely focus on land acquisition and on ensuring they are not taken advantage of in the process.

All standards require their members to demonstrate the legal right to use land. Critically, ISPO does not require this progress to be documented and instead it advocates one-off consultations with communities, making it the weakest standard in upholding basic customary rights. RSPO, in contrast, has the most comprehensive requirements for consultation and consent, emphasising transparency, participatory processes and strong measures for proof of consultation, thus respecting indigenous peoples’ right to self-determination.

Other standards fall between these two extremes. ISCC does not require participatory mapping. SAN only requires FPIC in critical activities when use rights are affected and not in all communications with indigenous peoples. MSPO lacks an explicit requirement to prevent coercion outside of the context of FPIC. The absence of a requirement in RSB standard for all communication with communities to be recorded makes it weaker than RSPO standard which provides the strongest safeguard for indigenous rights.

Treatment of smallholders were scored against four indicators which took into account smallholders’ access to fair credit, their ability to access markets to sell their Fresh Fruit Bunches (FFB) and whether the standard gives provisions to ensure smallholders are paid fair prices for their FFB.

Much improvement is needed across the board. HCS approach has yet to be adapted to smallholders, whilst ISPO has no requirements at all for smallholder contracts. MSPO is only slightly better in requiring all smallholders to receive training to improve productivity. Meanwhile RSB provides its own smallholder standard with its own set of restrictions which only serve to limit their access to markets and fair treatment. Alarming, none of the standards require fair credit to smallholders, where instead credit has been decided without involving farmers in a participatory manner.

Standards must also be reformed if smallholder palm oil productivity is to grow while mitigating negative social and environmental impacts. Even though RSPO has broader and more tightly defined requirements on growers’ responsibilities towards smallholders, the significant shortfall between the costs for smallholders of compliance with RSPO standards, their ability to secure fair credit, and to get access to higher premium markets creates a disincentive for smallholders to become certified or maintain their certificates.

Social and environmental safeguards were judged against eight indicators including participatory social and environmental impact assessments, rights to water, protection of human rights defenders and whether the standards offered conditions for providing community development.

In terms of environmental standards, ISCC provides the most restrictive safeguards particularly when addressing peat land conversion, while RSPO is stronger on the social impact of oil palm. MSPO provides strict standards for plantation management while ISPO is based on existing Indonesian regulations that pertain to palm oil cultivation and processing and is by far the weakest at reducing the negative environmental and social impacts of oil palm.

RSPO standard, by comparison, provides some of the most restrictive requirements on land use rights, customary rights, core labour standards and the rights and wellbeing of people affected by plantations. RSB standard also has a lot of similarities with RSPO standard and is the most progressive in its approach to food security and water rights, something which should be mirrored in all the standards.

It is worth noting that RSPO is the only standard pioneering work on human rights defenders although the resolution, passed in November 2016, requiring the adoption of a mechanism to protect human rights defenders has yet to be acted on.

Core Labour Standards were assessed against eight indicators including commitments to no child labour, no slavery-like practices, as well as requirements pertaining to minimum wage, protection of migrant workers and free collective bargaining.

Almost all standards have strong provisions for employee contracts that must be fair and clearly understood, provide minimum wage requirements, support workers' rights to form trade unions and bargain collectively. However, overall relatively weak protections are offered to migrant workers, something especially troubling given the high reliance on plantations on migrant labour.

ISPO is noticeably poor on labour standards which raises concern about the exploitation of workers within Indonesia particularly considering reports of forced and child labour on plantations.¹ The standard simply states that child labour is prohibited, but offers no further details on the restrictions for different age groups or even until what age one is considered a child.

Gender and discrimination looks specifically at provisions for gender sensitive complaints procedures, the protection of reproductive rights, and no discrimination and sexual harassment commitments.

ISCC, RSB, ISPO and MSPO do not have any criteria specifically aimed at supporting women but they do include gender in their categories for which discrimination is not permitted. RSPO and HCS are the only standards that have a policy specifically aimed at protecting women from sexual harassment in the workplace and at supporting their reproductive rights. Both standards also state the need to have a company policy specifically aimed at addressing gender-based abuses.

All standards have mandatory criteria prohibiting discrimination, but definitions of what constitutes discrimination vary widely. Whilst RSPO, ISCC and HCS require publicly available equal opportunity policies, ISPO and MSPO require more generic commitments from companies which are requested not to engage or support discriminatory practices (there is no mention of whether or not these should be made public).

Quality Assurance scored certification schemes against five indicators including requirements to provide independent third-party verification of adherence to the schemes principles and criteria, to accredit certification bodies and to include formal public consultations during the audit process.

RSB, ISCC, SAN and RSPO apply a two-tiered system involving various certification and accreditation bodies. SAN and ISCC, on the other hand, do not allow for public summaries of the audit reports to be produced. ISPO and MSPO also rely upon accredited third-part certification bodies to conduct audits, but it is the ISPO and MSPO commissions respectively that issue certificates based on reviews of audit reports. Both commissions maintain an elevated level of control over the entire certification process, which does raise questions about transparency and the independence of supply chain verification.

Audit quality remains a major challenge for many certification systems. The level of ambiguity which arises in the implementation of standards is deeply concerning as well as the apparent disparity between principles and criteria and their interpretation by certification bodies.

Another serious gap across all standards is the lack of a clear requirement to include a formal public consultation during the audit process. It is vital that all key stakeholders are independently interviewed during the audit process to provide a complete picture of a company's performance.

Access to remedy scored standards against their ability to provide fair and transparent grievance and complaints mechanisms, indicators included the presence of an appeals procedure, ombudsman type processes and how the standard addressed land disputes.

¹ Amnesty International. *The Great Palm Oil Scandal: Labour Abuses Behind Big Brand Names*, Amnesty International (2016), London.

RSPO, HCS, MSPO, RSB, ISPO and ISCC have established complaints procedures. Surprisingly, SAN provides no materials how this remedy can be obtained unless at the micro- level through the farms grievance procedure. Details of the systems and timelines for resolution vary widely across the standards, where RSPO and ISCC offer appeals procedures and ombudsman type processes for mediation whilst MSPO and ISPO rely on national laws and bodies to deliver redress and compensation. In terms of land disputes, all the standards except ISCC and ISPO turn to the FPIC standard to safeguard land rights. If these two standards are to provide protection to land rights holders this process must be integrated into their certification schemes.

In general, the grievance mechanism is best defined within the RSPO system which has undergone a process of evolution based on the past decade of experience and implementation of the standards principles and criteria, providing on-line status updates of cases and a relatively high-level of transparency throughout the complaints process.

Conclusion

	RSPO	RSB	SAN	ISCC	HCS	MSPO	ISPO
Overall Total Score	102	91	79	68	66	62	34

The principal finding of the study is that the RSPO has the most robust scheme for certification whilst the ISPO has the weakest certification process and carries the least requirements on social issues. Despite the strength of elements of ISCC and SAN standards not all the criteria are mandatory, whilst RSPO, ISPO and MSPO require compliance with their principles and criteria to successfully achieve certification. These considerations have been taken into account when analysing the strength of each corresponding provision.

MSPO and ISPO, whilst requiring compliance with their respective national legal frameworks, do not provide the same level of protection that multi-stakeholder international certification schemes offer. This is most apparent in the way in which ISPO and MSPO standards provide very weak access to remedy compared to multi-stakeholder initiatives complex multi-tiered approach to ensure that certification holders comply with criteria set out in the standards.

The RSB standard has a lot of similarities with RSPO standard, falling short on the protection of women and migrant workers. Both standards offer the most comprehensive and nuanced approach to human rights protections and social safeguards across the schemes explored, with detailed and thoroughly explained requirements for compliance, reflecting a broad consideration of the social issues facing the industry and communities affected by it.

The HCS Approach is not a stand-alone certification scheme but has been included in this review as its standard may apply to uncertified producers that are supply companies seeking to demonstrate their compliance with No Deforestation, No Peat, No Exploitation commitments. HCA Approach draws heavily on RSPO principles and criteria but to date lacks a clearly defined mechanism to ensure the calibre of social assessments. Furthermore, the approach does not yet provide standards on the treatment of smallholders, a shortcoming common across the certification scheme landscape. Standards must address this core challenge to provide credible protection and acknowledge smallholder realities.

FPP concludes that on paper the RSPO should be the standard of choice when it comes to Palm Oil certification. Building on its experience over the last ten years of implementation, RSPO now provides the most robust standard for oil palm certification, although as the study reveals there are still some gaps. The main challenges for RSPO are ensuring RSPO members actually apply the standard in practice and the unreliability of challenge and remedy procedures when non-compliances are identified.

What next?

These differences caution against drawing conclusions about the impact of different standards on the ground. Forest Peoples Programme notes that there is a significant shortfall in practice of certification schemes upholding and enforcing their standards. Despite RSPO being the most outspoken on the issue of gender, for

instance, evidence from analysis of RSPO audits and NGO investigations suggest that abuses regarding terms and conditions of oil palm plantation workers, including gender discrimination, continue to be widespread.²

The RSPO NEXT, a set of 'add on' criteria to bolster RSPO standard, and the development of the POIG certification are encouraging steps forward for the industry. POIG outlines specific requirements to strengthen food security and more detailed indicators related to workers' rights in order to address the rising incidence of forced or child labour. RSPO NEXT, on the other hand, tackles the growing inequalities faced by migrant workers and offers a forward-looking approach to eradicating gender discrimination and harassment.

Both these new standards attempt to address the question of protecting smallholders' rights whilst ensuring that they also respect human rights. POIG articulates specific guidance on smallholder support, including the development of a group certification plan, something echoed in the RSPO NEXT through its outreach program. POIG crucially requires companies to develop a strategy for smallholder inclusion in the supply chain which is a positive step forward for the development of smallholders.

Recommendations for RSPO

In view of the next revision in RSPO Principles and Criteria and accompanying Certification Systems document, which is to be concluded in 2018, Forest Peoples Programme highlights some key areas of needed improvement:

- **Audits:** To avoid the current conflict of interest experienced by auditors who are directly paid by the companies they are verifying, audits should be paid out of an ESCROW fund into which the companies seeking certification pay their contributions. RSPO or a fourth party should choose which audit teams are allocated to which companies and arrange for them to be paid from the ESCROW account.
- **Remedy:** The provision of remedy to the communities remains elusive for the loss of lands taken or damaged and their resulting economic and environmental losses. To bring itself into compliance with the norms for non-judicial remedies set out by the UN Guiding Principles on Business and Human Rights, a mechanism to hold RSPO certified companies accountable for human rights violations and other damages (even if the company ceases to be RSPO-certified) is required. We recommend the use of a bond. The bond would act as an agreement between the certificate holder and RSPO to uphold the standard's principles and to provide remedy to a third party in circumstances where these are violated.
- **Human rights defenders:** By using RSPO complaints procedures, communities have been able to expose land grabbing, violations of standards and human rights abuses. This has allowed dialogues between companies and the communities, but has also resulted in the harassment and criminalisation of community spokespersons and complainants. Proper protection mechanisms must be put in place to avoid escalations of violence.
- **Smallholder protection:** Promote the development of support mechanisms to reduce the barriers for smallholders to adopt sustainable production practices and RSPO certification.
- **RSPO governance:** Indigenous people are poorly represented in RSPO scheme's governance, we recommend the establishment of a Permanent Indigenous Peoples Committee which liaises with RSPO's Board of Representatives to mirror similar structures found in FSC and the Aluminium Sustainability Initiative.

² Amnesty International. *The Great Palm Oil Scandal: Labour Abuses Behind Big Brand Names*, Amnesty International (2016), London.

Disclaimer: This review has been carried out as a desk-based study of the documents that are available through the websites of the various schemes. Some schemes' websites are quite hard to navigate and so this review may have omitted reviewing some documents. We also recognise that all the schemes examined are constantly evolving, so the findings soon go out of date. The views expressed are those of FPP and do not imply any endorsement of the findings by other parties or by the sources cited. FPP would welcome any comments on this report. Comments should be sent to:

info@forestpeoples.org with the subject line: comparative study.