Guide for Overseas Investment and Production of Sustainable Palm Oil by Chinese Enterprises

Draft Version 4.1

China Chamber of Commerce of Foodstuffs and Native Produce

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Preface

Originating from West Africa, palm oil is the most important vegetable oil in terms of global production, consumption and international trade. In 2015, global production of palm oil was 33.4 million tonnes, representing 34 percent of total production of vegetable oils. The oil palm is the most efficient oil seed in terms of oil output per unit land area compared with other major vegetable oils such as soyoil and rapeseed oil and it has contributed towards the socioeconomic development of producing countries. It is a key driver for providing employment and income in the rural areas; small farmers account for about 40 percent of the global production of palm oil.

Being a natural resource-based industry, it is critical that palm oil is produced in a responsible manner that does not contribute to deforestation and climate change and loss of biodiversity and it should not cause social injustice and conflicts.

China has been a major consumer of palm oil since 2005; in 2015 it consumed 5.8 million tonnes, representing 10 percent of total global consumption. China’s demand is expected to expand significantly and it is estimated to reach 8 million tonnes in 2020 and exceed 10 million tonnes in 2025. As China has very limited agricultural land that is suitable for cultivation of oil palm, China’s demand for palm oil has to be met by imports from producing countries, especially Malaysia and Indonesia. In the interest of ensuring security of supply, Chinese enterprises are showing an interests in overseas investments in the production of palm oil; large scale investments in plantations in Indonesia have already commenced. However, Chinese enterprises must recognize that they must produce palm oil in a sustainable manner that contributes towards the socio-economic development of the host countries and without adverse social and environmental impacts.

Recognizing the need for sustainable production, the China Chamber of Commerce of Foodstuffs and Native Produce (CFNA), in collaboration with China’s State Forestry Administration (SFA) and the Ministry of Commerce (MofCom) and the UK Department for International Development (DFID) has developed the Guide on Overseas Investment and Production of Sustainable Palm Oil by Chinese Enterprises. This Guide applies to Chinese enterprises involved in or associated with overseas investments and production of sustainable palm oil. It is a voluntary Guide with the overall objective of providing guidance to Chinese enterprises which are planning to or are engaged in overseas investments and production of sustainable palm oil. It is designed to be consistent with global standards and guides on sustainable production, especially with regard to the Roundtable on Sustainable Palm Oil (RSPO). Implementation of this Guide will prepare Chinese enterprises for international certification as well as to meet the requirements of host countries.
This Guide is presented in four parts. Part A covers China’s guiding principles and the principles for production of sustainable palm oil. The China principles include the need for unified interests of economy, society and ecology, win-win cooperation and enterprises taking responsibility voluntarily. The overarching principles for sustainable palm oil production are:

- Commitment to legal compliance and corporate governance
- Use of appropriate Best Management Practices (BMPs)
- Environmental responsibility and conservation of natural resources
- Social responsibility for employees and local communities

Part B provides guidance for planning and financing of sustainable overseas investments, covering the need for feasibility studies and assessments of potential risks, prior environmental and social impact assessments and the procedures for overseas investments in China and host countries, as well as the need for sustainable or green financing for the investment.

Part C which is the main section for guiding enterprises on the sustainable palm oil production provides guidance under the four overarching principles. Each guidance statement is supported by advice on specific actions to be taken by enterprises. Guidance provided in this section covers most of the requirements of RSPO Principles and Criteria as well as requirements of other relevant sustainability standards.

Part D is on implementation of the Guide; CFNA is responsible for promoting and implementing the Guide while Chinese enterprises, especially members of CFNA are expected to implement the Guide. Roles of CFNA and Chinese enterprises in implementation are provided.
Introduction

Background and sustainability challenges in the production of palm oil

Importance and relevance of palm oil to China

Originating from West Africa, palm oil is the most important vegetable oil in terms of global production, consumption and international trade. Together with soybean oil and rapeseed oil, they are considered the three most important vegetable oils in the world. Human beings have been using palm oil for more than 5000 years.

In 2015\(^1\), global production of palm oil was 62.6 million tonnes, representing 34 percent of the total production of vegetable oils. Soyoil and rapeseed oil production accounted for 24 percent and 13 percent respectively.

The largest producer was Indonesia accounting for 33.4 million tonnes (54 percent) followed by Malaysia with 20.0 million tonnes (32 percent). Together, they produce about 85 percent of the global output. The world’s largest consumers of palm oil in 2015 are India (7.8 Mt), Indonesia (8.8 Mt), Europe EU-28 (7.2 Mt) and China (5.8 Mt), collectively accounting for about 50 percent of total consumption. The largest producers Indonesia and Malaysia consumed about 53 and 32 percent of their national production respectively.

China has been a major consumer since 2005 and demand is expected to expand significantly; it is estimated that palm oil consumption by China could reach 8 million tonnes in 2020, and is likely to exceed 10 million tonnes in 2025.

Palm oil has many industrial uses in China, the main applications being in the food industry for the production of cooking oils with a melting point of less than 44\(^\circ\)C. Palm oil has been used increasingly for production of non-food products, oleochemical derivatives such as aliphatic acids, esters, and aliphatic alcohols and glycerin for the production of soap, detergents, epoxy palm oil, polyols, polyurethane and acrylate products. With the global concern over global warming, production of biofuels using palm oil is gaining traction in China.

As China has very limited agricultural land that is suitable for cultivation of oil palm, China’s demand for palm oil has to be met by imports from producing countries, especially Malaysia and Indonesia. In the interest of ensuring security of supply, Chinese enterprises are showing an interests in overseas investments in the production of palm oil; large scale investments in plantations in Indonesia has already commenced. However, Chinese enterprises must recognize that they must produce palm oil in a sustainable manner that contributes towards the socio-economic development of the host countries and without adverse social and environmental impacts.

Need for production of sustainable palm oil by Chinese enterprises

Although palm oil has been produced commercially for more than 100 years and oil

\(^1\) Oil World Annual 2016
palm is the most efficient oil seed in terms of oil output per unit land area compared with other major vegetable oils such as soyoil and rapeseed oil and it has contributed towards the socioeconomic development of producing countries, there are concerns over the sustainability of production, particularly with regard to social and environmental impacts if best management practices are not applied. Over the past decade or so, civil society organizations have been engaged in campaigns at the global level for the production of sustainable palm oil that does not contribute to deforestation and loss of biodiversity and does not cause any social injustice.

The issues and challenges related to the production of palm oil have been well documented. For example, Pye and Bhattacharya (2013) discussed various perspectives of the palm oil controversy in Southeast Asia while Vis et al. (2012) highlighted the negative impacts of the palm oil boom and the risks associated with unsustainable production. The World Bank Group took into consideration the major sustainability issues when developing their new global strategy for engagement in the sector.

The key sustainability challenges are summarized below.

**Economic challenges:** Large productivity gaps between actual and achievable yields, declining prices of palm oil and rising costs. The productivity gap is of major concern as the average global CPO production is below 4.0 tonnes per ha compared with an achievable yield of about 8 to 10 tonnes.

**Environmental challenges:** The key concerns are deforestation and conversion of peatland, and ensuing loss of biodiversity, climate change, fires and haze. Expansion of palm oil production has often been identified as a key driver of deforestation, particularly in Indonesia. The focus of many NGO campaigns has been on de-linking oil palm development from deforestation; future development of the crop should not destroy high conservation value (HCV) or high carbon stock (HCS) areas. It has been estimated that 56 percent of oil palm expansion between 1990 and 2005 in Indonesia was at the expense of natural forests. Use of fires for land clearing has contributed to the annual recurrence of haze pollution has caused significant environmental, social and health consequences for Indonesia and neighbouring countries, as can be seen by extreme trans-boundary haze pollution during 2015.

**Social challenges:** Land rights, land use and land acquisition, rights of indigenous peoples and local communities, welfare of smallholders and plantation workers and use of child labour. Although oil palm development has been a catalyst for socio-economic development in producing countries, it has also been a source of numerous conflicts between communities with plantation companies as well as with governments. While smallholders are key players in the global palm oil supply chain, they have usually underperformed compared to plantation companies in terms of productivity and sustainability practices. For plantation workers, concerns include the

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1. Pye, O. and Bhattacharya, J. 2013 (eds). *The Palm Oil Controversy in Southeast Asia: A Transnational Perspective.* Institute of Southeast Asian Studies, Singapore
need of a fair and safe working environment, occupational safety and health (OSH) policies and practices, freedom of association and no discrimination of any form and respect of human rights. Treatment of women who are largely employed for field operations including pesticides application deserve attention and the employment of child labour should be strictly forbidden.

**Governance challenges:** Inadequate and/or ineffective policies, planning, and legal regulatory frameworks and governance structures, particularly with regard to land ownership and development.

## Objectives of the Guide

This is a voluntary Guide with the overall objective of providing guidance to Chinese enterprises which are planning to or are engaged in overseas investments and production of sustainable palm oil.

This Guide is designed to be consistent with global standards and guides on sustainable production, especially with regard to the RSPO Principles and Criteria and implementation of this Guide by Chinese enterprises will prepare them for international certification as well as to meet the requirements of host countries.

This Guide is also relevant for other stakeholders in the sustainable palm oil supply chain, including international organizations, host country governments, processors, manufacturers, retailers, financial institutions and banks and civil society.

## Scope of application of the Guide

This Guide applies to Chinese enterprises involved in or associated with overseas investments and production of sustainable palm oil. Specifically, it applies to enterprises who are members of the China Chamber of Commerce of Foodstuffs and Native Produce (CFNA). The primary focus of application includes the following aspects.

- **To guide overseas investments and production of sustainable palm oil by Chinese enterprises**

This Guide provides specific guidance for overseas investment and the production of sustainable palm oil, covering legal and governance, economic, social and environmental aspects by Chinese enterprises.

It specifies the China legal requirements and procedure for overseas investments by Chinese enterprises, as well as advice on key legal requirements and procedures for investments in host countries.

It also addresses issues which the enterprises should pay attention to promote the industry’s self-discipline, improve the decision-making capacity, reduce transnational business risks, and build a harmonious foreign investment relationship.

- **To strengthen the industry’s self-discipline and advocate the social responsibility of enterprises**
Chinese enterprises should pay attention to ecological environmental protection and biodiversity conservation, undertake scientific and appropriate production methods and operational measures according to the local site conditions.

Chinese enterprises should take effort to minimize negative impacts on biodiversity, wildlife habitat, eco-fragile zones, natural landscapes, water quality, forest and ecological environment. Furthermore, the enterprises should take appropriate measures to protect forests with high conservation values (HCVs) and High Carbon Stocks (HCS).

Chinese enterprises should fully consider the interest of local communities, adopt appropriate measures to avoid activities which might directly or indirectly violate, threaten and weaken the ownership or use rights of local communities to specific resources. Enterprises should actively participate in local public welfare activities and provide job opportunities, training and other social services to the locals.

Chinese enterprises operating overseas should endeavour to certify their production of palm oil according to international and/or national certification standards.

➢ To systematically promote the best practices for management and production

To ensure a harmonious environment and effective management, Chinese enterprises should set up management offices on the ground in the host countries, to follow up on legal compliance related issues and handle relations with the local and regional governments. Relations with the trade unions should be properly handled, to avoid conflicts arising from labor-related disputes. Chinese enterprises should conduct their business in a legitimate manner and respect the local residents and their customs.

To protect the ecological environment, Chinese enterprises must legally and reasonably manage and use overseas land resources with minimal environmental and social impacts. Appropriate measures should be carried out to avoid direct or indirect threats to ownership of land by local communities or their rights to use natural resources.

Enterprises should take the necessary social responsibility for their employees. When it is needed or allowed, enterprises could hire local workers with the required skills, to localize the enterprise as well as to take necessary social responsibility and reduce the labor costs. Enterprises should conduct safety training for employees, and invest necessary safety equipment and insurance for the employees.

Enterprises should be knowledgeable in managing relations with media and law enforcement officials. In case of major events or incidents, the enterprise should disseminate relevant information to the public on a timely basis.

When there are political conflicts and security risks, enterprises and their employees must search for legal protection and protection from local governments and the Chinese embassy. The enterprises should establish emergency response plans, and internal emergency warning mechanism for specific purposes, as well as risk management plans.
PART A: Guiding Principles for the Guide

A.1 China Guiding Principles
A.2 Principles for Production of Sustainable Palm Oil

A.1 China Guiding Principles

A.1.1 Unified interests of economy, society and ecology
The purpose of overseas palm oil investment and production by Chinese enterprises is to obtain sustainable economic benefits. Sustainable development also needs to take the social and ecological benefits into account, in other words, establishing good relations with local communities and protecting the local ecological environment. While investing abroad, enterprises should combine their own interests and interests of host countries to achieve mutual development benefits. The development of China and other countries should not sacrifice the ecological environment. The overarching aim is to achieve the unified interests of economy, society and ecology.

A.1.2 Mutual benefits and win-win cooperation
The principle of mutual benefits is also known as “the principle of reciprocity”, the Confucian value of treating others as you would want them to you. The WTO requires its members to give each other preferential treatment during international trade, emphasizes the balance of rights and obligations. In another words, while the country enjoys preferential treatment from the other party, it should also be given preferential treatment to the other party on a reciprocal basis. In the practice of multilateral trade negotiations, the agreement can only be achieved based on the principle of equality and mutual benefits. The Chinese enterprises should not sacrifice the host countries’ interests when they are engaged in overseas palm oil investment and production. They should search for the win-win strategy to achieve sustainable development.

A.1.3 Cooperation, guide and supervision between China and host country
Although Chinese enterprises operating overseas are bound by relevant Chinese laws, monitoring of their compliance overseas could be a constraint. Therefore, China should cooperate with the host country in guiding and supervising Chinese enterprises in the development of oil palm plantations and processing facilities and trading in palm oil to meet the legal and regulatory requirements of both countries.

It is critical that the development of oil palm plantations by Chinese enterprises should not contribute to deforestation in host countries.

Oil palm plantation and palm oil processing facilities should comply with related industrial policies, investment requirements and permits issued by Chinese and host country governments. Chinese enterprises are encouraged to carry out palm oil downstream processing and utilization in the host country to extend the supply chain.
and create development opportunities for the local communities.

Palm oil transportation should comply with the transportation, inspection and quarantine standards of the host country.

A.1.4 Coexistence of government guidance and market regulation

The Chinese government and the host country government should mutually communicate on development strategies for oil palm plantation and palm oil processing and trade, establish related development plan and guide the investment activities, optimize oil palm plantation and the layout for palm oil production and processing.

The host country government should provide specific requirements and standards of environmental protection and social obligations and supervise enterprises to carry out social and environmental impact assessments.

Chinese enterprises should make their own investment decisions and establish plantation, management and trade models. Relevant industry association can play a role in supporting the enterprises in complying with regulatory requirements.

Government policies and market regulation should coexist to establish and maintain a sound market and economic order.

A.1.5 Enterprise taking responsibility voluntarily

The enterprises should have dual goals of achieving the investors' interests on the one hand, on the other hand to contribute to the society in general and specifically to the host country.

The enterprises should proactively understand and study the relevant laws, regulations and standards of the host country, and meet the prescribed requirements.

The enterprises should proactively meet the requirements of local minimum salary standards and employment and hire local staff to promote localization.

The enterprises should provide fair opportunities for male and female workers; they should prohibit use of child labor.

The enterprises should communicate with local communities to establish a good relationship with them.

A.2 Principles for Production of Sustainable Palm Oil

According to the Roundtable on Sustainable Palm Oil (RSPO), “sustainable palm oil production is comprised of legal, economically viable, environmentally appropriate and socially beneficial management and operations”.\(^5\) Among the standards that specially define the principles and requirements for sustainable palm oil production,
the RSPO Principles and Criteria are most widely accepted by the market and stakeholders while the Indonesian Sustainable Palm Oil (ISPO) and the Malaysian Sustainable Palm Oil (MSPO) standards define the production requirements of the respective countries. Generic standards that are relevant to sustainable palm oil production include the Sustainable Agriculture Network (SAN) standard and the International System for Sustainability and Carbon Certification (ISCC) and the Roundtable on Sustainable Biomaterials (RSB). The latter two are relevant to certification for production of biomaterials for bioenergy and biofuels:

While all standards have a specific set of overarching principles, they vary with organizations to meet their respective objectives (See Annex IV). However, they generally cover the following basic areas:

Legal compliance – all standards stipulate the need for compliance with national laws and regulations and to relevant international conventions and agreements, for example the UN Convention on Biodiversity.

Economic viability – long term business plans and use of best management practices for optimum productivity, for example, the use of improved planting materials.

Social impacts - respecting the rights of indigenous peoples and communities and no exploitation of workers or employment of under-aged children. Companies should treat workers fairly and provide a safe and healthy environment for workers and support the development of smallholders.

Environmental impacts – ensuring that palm oil production does not contribute to deforestation and destruction of high carbon stock areas and peatlands, loss of biodiversity, air and water pollution and GHG emissions.

Being voluntary in nature, this Guide does not specify the adoption of any particular standard and its principles, the choice being left to the enterprises’ goals and objectives. For example, if a Chinese enterprise operates a plantation company in Indonesia, compliance with ISPO is mandatory but if the enterprise exports palm oil to consumers to Europe and other developed markets, compliance with RSPO principles and criteria would be strategic. If the palm oil is used as a feedstock for biofuel production or bioenergy, the enterprise would comply with ISCC principles and requirements. Instead of being prescriptive, this Guide provides generic guidance to Chinese enterprises for production of sustainable palm oil under the following four overarching principles that are consistent with the RSPO definition of sustainable palm oil.

6On 9 February, 2016, RSPO published RSPO NEXT, a set of advanced criteria for sustainable palm oil production that goes beyond the requirements of the RSPO P&C. [http://www.rspo.org/certification/rspo-next]. These voluntary add-ons to the P&C are applicable to RSPO member companies which have met the requirements of RSPO P&C and desire to achieve a higher level of sustainability performance. (See Annex IV)
Commitment to Legal compliance and corporate governance
Enterprises commit to ensure that their investments and operations are compliant with Chinese and host country laws and regulations and relevant international conventions and agreements.

Enterprises commit to ethical conduct of their business operations, maintaining high standards of corporate governance and respecting human rights and rights to land and natural resources.

Use of Appropriate Best Management Practices (BMPs)
Enterprises commit to adopt and implement best management practices in all aspects of their operation to ensure efficient use of natural resources and long term economic viability.

Environmental Responsibility and Conservation of Natural Resources
Enterprises commit to minimize their environmental impact and ecological footprint and ensure conservation of biodiversity and natural resources and reduction of pollution and greenhouse gas (GHG) emissions.

Social Responsibility for Employees and Local Communities
Enterprises commit to recognize and respect the fundamental rights of employees, local communities and indigenous peoples and ensure minimal social impact of the investment and operations and fair, ethical and transparent treatment of all stakeholders directly or indirectly associated with the enterprise, including smallholders and local businesses.
PART B: Planning and Financing of Sustainable Overseas Investments

B.1 Assessment of Potential Overseas Investments and Feasibility Study
B.2 Laws, Regulations and Policies
B.3 Overseas Investment Procedures in China and Host Countries
B.4 Contract for Overseas Investments (including E&S considerations)
B.5 Green Credit and Green Financing

B.1 Assessment of Potential Overseas Investments and Feasibility Study

B.1.1 Investment and development strategy

Enterprises should prepare an investment and development strategy which fits to the mission of the enterprise and takes into considerations domestic and global development trends in the palm oil sector. Enterprises should clearly identify the role of overseas investment in its development in terms of supply chain as well as in enhancing international competitiveness. Enterprises should assess the predicted success rate, expected benefits or risks. While selecting the host countries, the political situation, economic, environmental and social factors should be all considered. When it comes to economic field, synthesized consideration of the market access, Foreign Direct Investment (FDI) guidelines, development of related industries and the trade management system of host country and regions, the enterprises should choose to first invest in countries which encourage development of the palm oil industry, have better supporting industrial capacity, facilitated export of palm oil products and better channel of trade settlement and profit repatriation. When they select the host country, the enterprises should consider if the country has a national commitment towards production of sustainable palm oil and supports a sustainable supply chain.

B.1.2 Consideration for environmental and social issues during planning, design and feasibility study

Enterprises should undertake a comprehensive feasibility study before the investment, with serious consideration for potential environmental and social impacts. Enterprises should conduct an integrated assessment of economic and social benefits as well as environmental impacts on the host country and related stakeholders (See Part C). During the preparation of the project plan, the enterprises should place emphasis on improvement of industrial supporting infrastructure, extending the value chain of palm oil industry and mitigation of adverse environmental impacts. Enterprises must strictly obey the laws and regulation of host country, follow the international conventions to achieve sustainable development based mutual benefits and avoid damage to the natural environment of the host country.
B.1.3 Environmental and social impact assessments by third parties

Enterprises should follow the procedure of host country government to select qualified, independent organizations to undertake the environmental and social impact assessments of the prospective investment. Enterprises should give due consideration to the potential problems or risks found in assessment and try to reduce the adverse impacts as much as they can. The assessment report should be relevant to requirements of authorities in the host country. A summary of the assessment report should be disclosed to stakeholders through suitable media channels, except for commercially sensitive information. The main objective is to give stakeholders a better understanding of the prospective investment, with regard to their respective interests.

B.1.4 Risk assessment and management

Enterprises should endeavour to identify the risks in the whole investment process, evaluate the scale of intended operations, trigger conditions and adverse impacts on the sustainable investment. Enterprises should be aware of Chinese and host country’s related laws and regulations, important events and risk indicators, and make full use of the publicly available information. Enterprises should understand that overseas investment is more risky than domestic investment. Enterprises should carry out business activities strictly based on related laws and regulation of the host country and international conventions. In addition, multi-measures should be applied to reduce negative impacts of related risks. Furthermore, enterprises should develop appropriate risk management programs to respond quickly and appropriately to reduce the adverse impacts, including requiring protection under the inter-governmental protection mechanisms provided for under the Bilateral Investment Treaty and using relevant financial services, etc.

B.2 Laws, Regulations and Policies

Chinese enterprises investing in or involved in the production of palm oil and related activities overseas are expected to comply with relevant international conventions and agreements, Chinese laws and regulations and the regulatory requirements of the host countries.

B.2.1 International Conventions and Related Agreements

Many international conventions and related agreements and guiding principles are of relevance to the palm oil industry and should be given due consideration by Chinese enterprises in their overseas investments. Some of the relevant conventions and agreements/principles are as follows, a summary of which is given in Annex II.

- UN Convention on Biological Diversity (CBD)
- UN Forum on Forests (UNFF) –Forestry principles.
- UN Framework Convention on Climate Change (UNFCCC)
- Kyoto Protocol
- New York Declaration on Forests 2014
- Paris Agreement on Climate Change
- UN Voluntary Guideline on Responsible Governance of Tenure of Land, Fisheries and Forests
- International Labor Organization (ILO) conventions – particularly fundamental conventions No. 29 (1930) on forced labour, No 105 (1957) on abolition of forced labour, No. 138(1973) on minimum age, No.182(1999) on worst forms of child labour, No. 87 (1948) on freedom of association and protection of rights to organize and No.98 (1948) on right to organize and collective bargaining, No. 100 (1951) on equal enumeration and No.111 (1958) on discrimination (employment and occupation).
- UN Global Compact
- Principles for Responsible Agricultural Investments (PRAI)
- Equator Principles

B.2.2 China Policies, Laws and Regulations for Overseas Investments

China National Policies

- The Twelve-Five Plan of national economic and social development (2011). The Plan requires expeditiously implementing the "going-out" strategy. Also, the plan will guide various forms of ownership enterprises to orderly engage in overseas investment and cooperation according to market-oriented and self - decision making principles. On legality and government levels, they should accelerate the improvement of overseas investment laws and regulations, and actively sign bilateral agreements in terms of investment protection, avoidance of double taxation.

- Notice of Encouraging and Guiding Private Enterprises to Actively Conduct Overseas Investment ([2012]1905). The notice is jointly issued by the National Development and Reform Commission, (NDRC) the People’s Bank of China and related ministries. It emphasizes the important role of private enterprises in overseas investment. It aims to promote private capital participating in international cooperation and competition. Moreover, the notice requires related authorities to simplify the approval procedures of overseas investment for private enterprises; improving foreign exchange management policy; withdraw the verification and approval procedure of overseas loans and foreign exchange purchasing and payment; implement financial taxation supporting policies, and increase financing and insurance support.

- The National Development and Reform Commission published the "Twelve-Five" planning for the use of overseas investment (released on July 17, 2012). The planning focuses on guiding the overseas investment, including studying and developing the overall strategies for overseas…
investment; providing financial support to overseas investment projects through syndicated loans, export credit and project finance; expanding the scale of domestic insurance agency, developing the new insurance products, and intensifying insurance support for overseas investment.

- The Ministry of Commerce and the Ministry of Foreign Affairs published the Catalogue of Countries and Industries for Guiding Investment Overseas. The catalogue aims to encourage, support and guide enterprises to make full use of domestic and foreign markets, to optimize the allocation of resources, and to participate in international economic and technological cooperation and competition in broader areas and on a higher level. Enterprises which conform to the catalogue and hold a certificate of approval for overseas investment have the priority to enjoy the financial, foreign exchange, taxation, customs, immigration and other preferential policies.

- The National Development and Reform Commission, the Ministry of Commerce, in conjunction with relevant departments formulated the Guidance of Industries for Overseas Investment and the Guiding Catalogue of Industries for Foreign Investment ([2006]1312). The State encourages and supports enterprises with comparative advantages to invest in overseas areas. The state will not approve prohibited investment projects and will take measures to stop such projects.

- The Ministry of Commerce, the National Development and Reform Commission, and the Ministry of Foreign Affairs issued the National Guide of Industries for Overseas Investment (2011 version) ([2011]767). The guide introduces prior investment areas, major industrial development goals, and the key developing areas in relevant countries. Besides, the guide is based mainly on national economic development planning; the information provided by overseas investment administrations and other government departments, temporarily introducing the investment environments in 115 countries with constant adjustment.

**China Laws and Regulations related to Overseas Investments**

**The Pre-operational stage.**

- Within the existing legal framework in China, the early stage of overseas investments developed by domestic enterprises should be approved and reviewed by the National Development and Reform Commission, the Ministry of Commerce and the State administration of foreign exchange. Given that State-owned enterprises carry out overseas investments, they will be supervised by the State-owned assets supervision and administration commission of the state (SASAC).
The Operational stage.

- The relevant regulations of the National Development and Reform Commission: *Interim Measures for the Administration of Examination and Approval of the Overseas Investment Projects*\(^{13}\) and the *Notice Issued by the National Development Reform Board Office for the Record of Overseas Investment*\(^{14}\) have regulations on the changes of construction scale, and main construction content and the main products; the changes of construction locations; the changes of investors or stock equity; the situation that Chinese investment is over 20 per cent of the original approved Chinese investment and the above.

- The regulations of the Ministry of Commerce: *The measures of overseas investment and the notice of concerning the Joint Annual Inspection of Overseas Investment*\(^{15}\) stipulate the enterprises' qualification and annual assessment.

- The regulations of the administration of foreign exchange: In the *Provisions on the Foreign Exchange Administration of the Overseas Direct Investment of Domestic Institutions*\(^{16}\), domestic enterprises need to register, change and record information of overseas investment at the local Foreign Exchange administration.

- The regulation of SASAC is the *Interim Measures for the Supervision and Administration of Overseas Investment of Central Enterprises*\(^{17}\). In the implementation process of important investment projects, if there are substantial changes in projects' contents, the amount of investment, the shareholding structures, and other significant situations, the state-owned enterprises should promptly report to the SASAC.

Environmental responsibility:

- The State Council and other ministries of China have released some rules and regulations that directly or indirectly involve overseas investment environment protection. For instance, *Decision of the State Council on Reforming the Investment System (2004)*, *Verification and Approval of Overseas Investment Projects Tentative Administrative Procedures (2004)*, *views on encouraging and regularizing overseas investment and cooperation of Chinese Enterprises (2006)*, *Measures for Overseas Investment Management (2009)*, *Administrative Regulations on Contracting Foreign Engineering (2008)*, and the *Guidelines for Social Responsibility in Foreign Project Contracting (2012)*. These regulations stress that investors must comply with local environmental standards. Also, enterprises should identify the main environmental effects, systematically improve the environmental performance, and introduce independent...
third-party certification systems into operation. Moreover, these regulations emphasize the supervisory role of non-governmental organizations for overseas investment in environmental protection.

**Social responsibility**

- To encourage investors to implement self-regulation through codes of conduct and contracts.
- In the era of globalization, the multinational corporations are growing stronger, which means they need to take more responsibility to stakeholders. Multinational corporations should consider the requirements of all stakeholders and take more social responsibility. The prosperity of multinationals depends on the company's ability to process relationships with different stakeholders.
- Qualified enterprises should actively implement a variety of laws and code of conducts relating to social responsibility. The codes of conducts should emphasize the communication with stakeholders. In practice, the mining industry and other industries have introduced the international environmental standards for Chinese enterprises. But it is also important to make an appropriate regulatory framework to make them really work.

**B.2.3 Policies and Regulatory Requirements of Host Countries**

Besides compliance with the China national policies and laws and regulations pertaining to foreign investments, Chinese enterprises would have to be complaint with the legal and regulatory requirements host countries for investment in the palm oil sector and specifically for the development of plantations and palm oil processing facilities. Laws and regulations of host countries vary considerably and it critical that Chinese enterprises have a clear understanding of the legal requirements of the prospective country they intend to invest in. These would have to be given serious consideration during the planning stage of the investment. The key legal and regulatory requirements for obtaining the license to operate in Indonesia and Malaysia, the world’s largest producers, are summarized in Annex III. Requirements for other host countries will be included in subsequent editions of this Guide.

**B.3 Overseas Investment Procedures in China and Host Countries**

Enterprises should complete the overseas investment application procedures both in China and host country based on the requirements of related regulations. The enterprises should submit project application to relevant authorities in the host country according to the prescribed procedures. They should also submit related assessment reports conducted by the third party. They can only start investment with a qualification certificate. It is encouraged for the enterprises cooperate with local companies to provide employment opportunities for the local peoples.

**B.3.1 Overseas Investment Procedure in China**
Except for sensitive countries or regions that has not yet established diplomatic relationship with China or is currently under United Nations sanctions, Chinese enterprises should submit related information to relevant commercial administrations for recording. Enterprises can only purchase foreign currency and process other procedures after receiving the Enterprise Overseas Investment Certificate. The enterprises should report to the Counselor office in the host country and fulfill its obligation to submit the FDI-related statistics. The main process steps in the China procedure are listed below.

**Procedure for overseas investment application in China**

<table>
<thead>
<tr>
<th>Enterprises recording for general investment</th>
<th>For the general investment, enterprises should submit investment application to provincial authorities, to record related information, and apply for the overseas investment certificate.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enterprises recording for special investment</td>
<td>For sensitive countries or regions that have not yet established diplomatic relationship with China or currently under United Nations sanctions, enterprises should submit application to Ministry of Commerce.</td>
</tr>
<tr>
<td>Documentation for investment project</td>
<td>For general investment over CNY300million to CNY1billion, application will be submitted to the provincial development and reform authority for documentation.</td>
</tr>
<tr>
<td>Verification of investment project</td>
<td>For general investment over CNY 1 billion, the application should be submitted and approved by National Development and Reform Commission (NDRC).</td>
</tr>
<tr>
<td>Foreign exchange purchasing</td>
<td>With the approved documents, Chinese enterprises can go to State Administration of Foreign Exchange for foreign exchange purchasing and complete the payment</td>
</tr>
<tr>
<td>Overseas investment operation</td>
<td>Chinese enterprises should go to Chinese commercial authorities based in the host country for documentation. It is their duty to submit related data for official data statistics collation.</td>
</tr>
</tbody>
</table>
B.3.2 Overseas Investment Procedure in Host Countries

The major process steps required for obtaining the legal license to operate in selected host countries are summarized in Annex III.

B.4 Contract for Overseas Investments (including E&S considerations)

Based on relevant regulations and laws in the host country and international conventions, enterprises should sign a commercial contract with the local partners to define the privileges and obligations of each party. Enterprises are encouraged to incorporate environmental and social considerations in the contract. These should include requirements for avoiding deforestation and damage to biodiversity. The contract should also require enterprises and their partners to incorporate relevant Corporate Social Responsibilities (CSR) activities to contribute to the sustainability of the natural and social environment.

The commercial contract should also the responsibilities of supply chain parties associated with the enterprise to ensure sustainable development of the investment.

B.5 Green Credit and Green Financing

According to the Guideline on Green Credit issued by China Banking Regulatory Commission (CBRC), it is encouraged that banks and other financial institutions play a more important role in the sustainable investment by Chinese enterprises overseas. The green credit principles should be clearly defined to extend its application to overseas investments. Banks and financial institutions should give the priority to sustainable palm oil enterprises and provide preferential treatment such as lower requirements on mortgage and guarantee, provide better facilitation financing services.

The criteria for green financing should be developed. Higher priority should be given to sustainable palm oil investors with regard to listing procedures and encourage them to list in the capital markets in China, host countries and other countries to increase influence of the brand and access to capital.

Chinese enterprises should also take cognizance of initiatives and products by Equator Principles financial intuitions with regard sustainable financing for the palm oil sector. An example is the Bank Environment Initiative (BEI) Sustainable Shipment Letter of Credit which is a financial tool for banks to incentivize the international trade of sustainably produced commodities, including palm oil. The International Finance Corporation (IFC) has confirmed it will offer preferential terms for this type of shipment to its partner banks.

Among major banks which are involved in the palm oil sector, HSBC has a revised Agricultural Commodities Policy which stipulates that “HSBC will not knowingly


19.
provide financial services to growers and mills involved in: illegal operations; land clearance by burning; the conversion of areas (often forests) necessary to protect high conservation values; harmful or exploitative child labour or forced labour; the violation of the rights of local communities, such as the principle of free prior and informed consent; and operations where there is significant social conflict.” As a condition of doing business, the bank requires its clients in the palm oil sector to be members of the RSPO and adopt a tie-bound plan for 100 sustainability certification of their processing facilities and supply base by the end of 2018.
PART C: Guidance for Overseas Production of Sustainable Palm Oil by Chinese Enterprises

C.1 Commitment to Legal compliance and corporate governance

C.1.1 Compliance to all applicable laws and regulations

C.1.1.1 Enterprises should comply with all applicable Chinese and host country laws and regulations and relevant international conventions and agreements. Where there are no provisions for specific issues in the host country laws and regulations, enterprises should be guided by requirements under relevant international conventions and agreements.

- Develop a system to document all legal and regulatory requirements and communicate them to all relevant personnel throughout the enterprise. Changes in legal and regulatory requirements should be tracked on a regular basis and communicated to all concerned.

C.1.2 Ethical business practices – Organizational governance

C.1.2.1 Enterprises should develop and implement policies and systems to ensure sound corporate governance and ethical conduct of all business operations and transactions with regard to the environmental, social and governance (ESG) goals of the enterprise.

- Develop an overarching written ESG policy and communicate to all internal and external stakeholders.
- Implement a management system to ensure continuing compliance with the ESG policy, including effective risk management and internal control mechanisms.
- Appoint a high-level ESG co-ordinating body or committee to oversee and monitor the implementation of the ESG policy and management system.

C.1.2.2 Enterprises should commit to zero tolerance for all forms of corruption. Enterprises should not, directly or indirectly, offer, give, or demand a bribe or any other undue advantage in order to obtain or retain business or other improper advantage.

- Develop and implement a written policy on anti-corruption which should be communicated to all employees and business partners.
- Establish a mechanism to allow reporting of corrupt or unethical practices, as defined in the anti-corruption policy to the ESG co-ordinating body or
C.1.3 Commitment to transparency

C.1.3.1 Enterprises should disclose on a timely basis, information on their ESG performance that are relevant to the implementation of these Guide, either in the public domain (e.g. in corporate websites) and/or to specific requests from stakeholders, except in situations prevented by commercial confidentiality.

- Document actions taken by the ESG co-ordinating body or committee on reports of corrupt or unethical practices.

C.1.3.2 Enterprises should provide open and transparent channels of communication (electronic and physical) with their internal and external stakeholders, including local communities.

- Develop procedures for communications, including contact details of the management representative responsible for stakeholder communications.
- Maintain a record of communications with stakeholders.

C.1.4 Respect of human rights

C.1.4.1 Enterprises should pledge to uphold the UN Guiding Principles on Business and Human Rights.

- Develop and implement a policy on respect of human rights with regard to all investments and operations of the enterprise. The policy should be documented and communicated to all levels of employees.

C.1.4.2 Enterprises should not use any form of forced or trafficked labour and/or condone the use of such labour by their contractors.

- Where migrant workers are employed by the enterprise or its contractors, maintain documented evidence to verify that they are legalised workers and have entered into the employment on their own free will.

C.1.4.3 Enterprises should prohibit the employment of children below the legal minimum age or condone the use of under-aged children by their contractors.

- Maintain evidence that children below the legal minimum age specified by host countries are not employed by the enterprise or its contractors. Where the host country does not prescribe the minimum age, do not employ children below 15 years old.
- Do not employ children between 15 and 18 years to undertake physically
demanding or hazardous work.

**C.1.5 Respect of rights to land and natural resources and cultural heritage**

C.1.5.1 Enterprises should recognize and respect existing rights to land and associated natural resources and cultural heritage sites by indigenous peoples and local communities.

- Prior to commencement of the project, assess and document the existing land rights and land use rights, both formal and informal, using a participatory mapping process that involves affected communities.
- The Free, Prior, and Informed Consent (FPIC) principle (See Definitions) should form the basis for all negotiated agreements for any compensation, acquisition, or voluntary relinquishment of rights by land users or owners for use by the enterprise.
- Ensure that indigenous peoples and local communities have continuing access to use customary spiritual or cultural heritage sites.

C.1.5.2 Enterprises should demonstrate their ownership and/or the right to use the land.

- Maintain documentary evidence such as land titles, maps and land tenure history to define legal ownership of the land by the enterprise.
- Ensure that there are no competing claims to legal ownership or rights to use of the land by indigenous peoples or local communities.

**C.1.6 Commitment to continuous improvement**

C.1.6.1 Enterprises should put in place a systematic process to monitor the performance of key activities and operational processes and develop and implement an action plan to achieve continuous improvement.

- Develop and implement an enterprise-wide plan for continuous improvement in key activities and processes.
- Monitor and document improvements in key activities and operational processes and reduction in environmental and social impacts.

**C.2 Use of appropriate Best Management Practices (BMPs)**

**C.2.1 Plantation development**

C.2.1.1 Prior to establishing new plantations or expanding existing ones, enterprises should conduct a comprehensive, participatory social and environmental impact assessment (SEIA) and results are incorporated into the project development plan and the operational plan.

- Conduct a participatory social and environmental impact assessment (SEIA) with the willing participation of affected stakeholders.
- Document and take into consideration results of the SEIA when developing the project development plan and operational plan, giving priority to avoid or
mitigate potential negative social and environmental impacts identified.

- Do not develop High Conservation Value (HCV) or High Carbon Stock (HCS) areas identified by the SEIA. (See Definitions)

C.2.1.2 Enterprises should assess the suitability of the soils and topography of the prospective plantation area to ensure that they are suitable of cultivation of oil palm. Indicators:

- Use available maps showing soil types and topographic features (e.g. slopes and water bodies) to guide the enterprise in identifying suitable areas for cultivating oil palm and for planning of infrastructure development (e.g. roads and drainage systems). If maps are not available, conduct a soil suitability survey before establishing new plantations.
- Do not plant oil palm on marginal or fragile soils (e.g. very sandy or acid sulphate soils) or peat soil of any depth.
- Do not plant oil palm on steep terrain exceeding the maximum slopes prescribed by the laws of host countries. Where host countries do not specify the maximum slope, do not develop land with slopes exceeding 25° in an area larger than 25 hectares.

C.2.1.3 Before work on the land selected for the plantation development can proceed, enterprises should demonstrate that they have secured the land use rights and obtained the necessary approvals or licences to operate from relevant authorities. For native customary lands, enterprises should demonstrate they have obtained the agreement of indigenous peoples and/or local communities to use the land through the Free, Prior, Informed Consent (FPIC) process.

- Maintain documentary evidence of land ownership (land titles), rights to land use and necessary approvals or licenses from relevant authorities.
- Document negotiations between the enterprise and indigenous peoples and/or local communities following the FPIC process.

C.2.1.4 Enterprises should conduct feasibility studies or assessments and develop appropriate management plans to ensure the long term economic and financial viability of the proposed investment.

- Conduct economic feasibility studies or assessments covering the full investment cycle from development of the plantation to replanting and non-commercially sensitive information should be made available to relevant stakeholders.

C.2.2 Soil management and conservation

C.2.2.1 Enterprises should implement an integrated soil management plan to maintain or enhance soil fertility and prevent or control soil erosion or prevent land degradation.

- Develop and implement a soil and conservation management plan.
C.2.2.2 Enterprises should implement good agricultural practices to maintain or enhance soil fertility and control or prevent soil erosion or soil degradation, as documented in Standard Operating Procedures (SOPs).

- Develop and implement SOPs on best management practices that include:
  - Construction and maintenance of contour terraces, soil conservation bunds and silt pits to control surface water run-off and prevent soil erosion
  - Planting of legume cover crops to protect the ground cover, prevent soil erosion and enhance soil organic carbon and natural fixation of nitrogen.
  - Planting of plants such as Vetiver grass to protect slopes and prevent soil erosion.
  - Recycling of plant nutrients and mulching with pruned fronds, empty fruit bunches (EFB) and partially treated palm oil mill effluent (POME)
  - Regular foliar analyses to monitor the palm nutrient status and formulate appropriate fertilizer recommendations to achieve optimal and sustained yields.

C.2.3 Water management

C.2.3.1 Enterprises should implement a water management plan to maintain the quality and availability of surface and ground water.

- Develop and implement a water management plan
- Ensure that use of natural water resources by the enterprise does not affect the right of other users, including local communities in the catchment area.
- Prevent contamination of surface water bodies or ground water by discharge of water from effluent treatment ponds or application of chemical fertilizers or agrochemicals.
- Monitor and document the usage of water by the palm oil mill per tonne of FFB processed.

C.2.3.2 Enterprises should put in place a drainage and irrigation system in flat or low lying areas and in existing plantings on peat to maintain an optimal water table level and prevent flooding during wet seasons and shortage of water of optimal plant growth and productivity during dry seasons.

- Develop and implement a drainage and irrigation system
- In existing plantings on peat, maintain the water table at an average depth of 50 cm (between 40-60 cm) below the ground surface.

C.2.4 Integrated pest management (IPM)

C.2.4.1 Enterprises should implement an Integrated Pest Management (IPM) strategy and plan incorporating cultural, biological, physical and chemical control techniques to manage pests, diseases and weeds in plantations.

- Develop and implement an IPM strategy and management plan.
- Ensure that proper and adequate training has been given to those involved in IPM implementation.
C.2.4.2 Enterprises should give priority to use of available biological control approaches with the view of minimizing chemical interventions.

Indicators
- Use appropriate biological control methods to control pests, diseases and weeds, including:
  - Use of barn owls (*Tyto alba*) to control rats
  - Planting of beneficial plants (e.g. *Tunerasubulata*, *Cassia cobanensis*) to augment the populations of natural enemies of leaf eating pests
  - Use of the fungus, *Metarhiziumanisopliae* and baculovirus to control rhinoceros beetle (*Oryctes rhinoceros*)
  - Inoculation of oil palm seedlings with *arbuscularmycorrhizal* fungi (AMF) against *Ganoderma* disease infection

C.2.4.3 When chemical control is deemed necessary, enterprises should ensure that pesticides are used in a judicious and safe manner with minimal impact to humans and the environment.
- Justify and record of all pesticides used, including the active ingredients, toxicity (LD$_{50}$ values) and quantities used.
- Do not use pesticides classified as World Health Organization Class 1A or 1B or those listed by the Stockholm or Rotterdam Conventions and paraquat unless permitted by laws of the host countries.
- Ensure that workers employed in pesticides application have been given adequate training on safe handling of pesticides and have been provided appropriate personal protective equipment (PPE).
- Storage of pesticides and disposal of used pesticides containers should be in accordance with requirements of the law of host countries or relevant international regulations.
- Ensure that pesticides operators undergo annual medical surveillance.
- Do not employ pregnant or breast feeding women application of pesticides.

C.2.5 Ensuring operational efficiency

C.2.5.1 Enterprises should develop, document and implement Standard Operating Procedures (SOPs) for all aspects of their operations to optimize productivity and financial viability and minimize environmental and social impacts.
- Develop and implement Standard Operating Procedures (SOPs) on all aspects (economic, environmental and social)

C.2.5.2 Enterprises should put in place a formal mechanism or system of monitoring the implementation of all Standards Operating Procedures (SOPs).
- Set up a system or mechanisms to check the implementation of all SOPs, including documentation management systems and internal control procedures.
C.2.5.3 Enterprises should provide appropriate training for all employees, contract workers and associated smallholders on implementation of procedures prescribed in the SOPs.

- Develop and implement a training program covering all operational procedures specified in the SOPs, including occupational health and safety (OSH)
- Maintain training activities/courses and training received by each employee.

C.3 Environmental responsibility and conservation of natural resources

C.3.1 Assessment of environmental impacts and mitigation

C.3.1.1 Enterprises should assess the potential environmental impacts from all aspects of their operations (including plantation development, replanting and palm oil processing) and develop and implement appropriate management plans to mitigate the negative environmental identified.

- Conduct and document a formal environmental impact assessment that meets the regulatory requirements of host countries.
- Implement an environmental management plan to mitigate the negative impacts.

C.3.2 Biodiversity conservation

C.3.2.1 Enterprises should assess the presence and status of rare, threatened or endangered species (RTE) and other High Conservation Value (HCV) habitats within their plantation areas and in the immediate surrounding landscape and take appropriate management actions to maintain and/or enhance the status of these species.

- Conduct an assessment of RTE species within the plantation areas and the surrounding landscape.
- Where RTE species are present or found to be affected by the plantation or milling operations, implement a management plan to maintain and/or enhance the status of these species.
- Where appropriate, demarcate and maintain set-aside areas to protect/conserve RTE species and HCV habitats.

C.3.2.2 Enterprises should raise the awareness of their employees on the importance of biodiversity conservation and prohibit them from capturing, rearing or killing identified RTE species.

- Conduct training or awareness raising activities on conservation of RTE species habitats and HCV areas.
- Clearly communicate to employees (including signboards in set-aside areas, RTE species habitats and HCV areas) punitive actions/sanctions for capturing, rearing or killing RTE species.
C.3.3 Integrated waste management

C.3.3.1 Enterprises should develop and implement an integrated waste management strategy towards achieving zero wastes through reduction of generation of wastes at source and reusing and recycling wastes and dispose residual wastes in a responsible manner.

- Develop and implement an integrated waste management strategy.
- Identify, quantify and document all sources of wastes and sources of pollution.
- Take appropriate action to reduce generation of wastes and reuse and recycling of wastes or converting wastes into value-added products.
- Dispose wastes, including hazardous wastes according to regulatory requirements of host countries.

C.3.4 Reduction of pollution and GHG emissions

C.3.4.1 Enterprises should develop and implement plans to reduce pollution and emissions, including greenhouse gases (GHG)

a. Develop and implement a plan to reduce pollution and GHG emissions

b. Identify, quantify and monitor all sources of air pollution, including GHG emissions and water pollution, using appropriate tools such as the RSPO PalmGHG tool\(^{20}\).

C.3.4.2 Enterprises should strive to reduce their consumption of fossil fuels though better operational efficiency and substitution with use of renewable energy

- Develop a plan to minimize fossil fuel consumption and maximise use of renewable energy from biomass and biogas produced in the mill and effluent treatment plant should be available.

C.3.4.3 Enterprises should implement improvements in existing processing and effluent treatment plants (ETPs) to minimize greenhouse gas (GHG) emissions, especially the emission of methane gas from effluent treatment plants (ETPs)

- Take appropriate action to reduce the generation of palm oil mill effluents.
- Capture methane gas released from anaerobic effluent treatment ponds and use it for generation of renewable energy.

C.3.4.4 Enterprises should not use fire for land clearing and disposal of solid wastes.

- Do not use fire for land clearing for new plantations and replanting except in specific situations prescribed in the ‘Guidelines for the implementation of the ASEAN Policy on Zero Burning’ 2003 or equivalent regulations in host countries.
- Do not use fire for disposal of domestic wastes.

C.3.4.5 Enterprises should design new plantations and palm oil mills and associated

\(^{20}\) [http://www.rspo.org/certification/palm-ghg-calculator](http://www.rspo.org/certification/palm-ghg-calculator)
infrastructure to minimize greenhouse gas emissions.

- Prepare a plan for new developments that would minimise GHG emissions through avoidance of use of land with high carbon stocks and avoidance/reduction of biogas and particulate emissions from palm oil processing.

C.4 Social responsibility for employees and local communities

C.4.1 Assessment of social impacts and mitigation measures

C.4.1.1 Enterprises should assess the potential social impacts from all aspects of their operations (including plantation development, replanting and palm oil processing) and develop and implement appropriate management plans to mitigate the negative social impacts identified and promote positive ones.

- Conduct and document a participatory social impact assessment (SIA) in consultation with affected communities, smallholders and relevant stakeholders.
- Develop and implement plans for mitigating negative social impacts and maintaining or enhancing positive impacts identified, in consultation with affected stakeholders.
- Follow the free, prior, informed consent (FPIC) principle and process for acquiring land from indigenous peoples and local communities for new plantation development.

C.4.2 Pay and conditions of employment

C.4.2.1 Enterprises should ensure that pay and conditions of employment for employees and for contract workers are compliant with legal requirements of host countries and/or relevant ILO conventions and where applicable, the terms of Collective Agreements between the enterprise and employees.

- Document pay and terms of employment, contracts or Collective Agreements in languages understood by employees and these are explained to them to ensure their full understanding.
- Pay and conditions of employment should include details on working hours, payment of overtime, entitlements to days of rest/public holidays, sick, medical and maternity leave, health and other benefits and termination and grievance procedures.
- Main details of all employees and records of their employment with the enterprise.

C.4.2.2 Enterprises should provide adequate housing, water and electricity supplies, medical, welfare and educational facilities and places of worship.

- Provide employees appropriate and decent housing and access to facilities such as schools, clinics and places of worship, if public facilities are not available.
C.4.3 Freedom of association

C.4.3.1 Enterprise should respect the rights of employees to Freedom of Association (see Definitions), form trade unions or collective bargaining and negotiations with management.

- Publish a policy statement recognizing rights to freedom of association and collective bargaining in languages understood by employees and communicated to them.
- Maintain records of meetings and negotiations with management and collective agreements.

C.4.4 No discrimination or harassment of any form

C.4.4.1 Enterprises should not practice or condone any forms of discrimination based on gender, race, nationality, religion, age, social status, membership in unions or political affiliation.

- Publish a policy prohibiting discrimination of any form should be documented in relevant languages and communicated to all employees.
- Put in place a complaints or grievance process for employees or affected stakeholders to report cases on discrimination. (See C.6.1)
- Maintain a record of reports on discrimination cases and actions taken by management communicate the results to the complainant(s) concerned.

C.4.4.2 Enterprises should ensure that there is no harassment in the workplace.

- Adopt a policy to prevent harassment, including sexual harassment and communicate it to all employees.

C.4.5 Occupational Health and Safety (OHS)

C.4.5.1 Enterprises should provide a safe and healthy work environment that takes into account inherent risks and hazards in the workplace, including physical, chemical and biological hazards and specific threats to women.

- Develop an occupational health and safety (OSH) policy and communicate it to all employees
- Put in place an implementation plan that meets the legal requirements of host countries and/or international conventions or standards. Implementation of the OSH policy and plan should be monitored and documented, including records of workplace accidents and occupational injuries and corrective actions taken by management.
- Provide adequate training to workers exposed to specific workplace hazards and maintain records of training of each worker.

C.4.5.2 Enterprises should conduct a comprehensive risks and hazards assessment for workplace safety following a systematic approach for prevention and control of physical, chemical, biological, and radiological health and safety hazards and develop appropriate accident and emergency response plans (ERPs).

- Conduct a risks and hazards assessment and use the results for development
of accident and emergency response plans.

- Do not compromise the reproductive rights of women; pregnant or lactating women should not be subject to physically heavy work or exposure to pesticides.

C.4.5.3 Enterprises should assign the responsibility for health and safety at the workplace to specific senior management level personnel and establish a joint health and safety committee to co-ordinate and monitor implementation of the OHS policy and plan.

- Communicate names and contact details of the senior management personnel responsible for OSH and members of the joint OSH committees to all employees.
- Maintain records of meetings of OSH committees and investigations on workplace accidents.

C.4.6 Complaints and grievance process

C.4.6.1 Enterprises should establish a formal grievance mechanism for workers and affected stakeholders (and their organizations, where applicable) to raise issues or complaints relating to the workplace or relationships with local communities.

- Establish and document a grievance mechanism and communicate it to all employees. It is important that they fully understand the process.
- The grievance mechanism should also be available to external stakeholders who may be affected by operations of the enterprise.
- Maintain records of complaints (including anonymous ones) and discussions/meetings between the complainant and management regarding handling and resolution of complaints.

C.4.7 Training

C.4.7.1 Enterprises should ensure that employees and contract workers receive appropriate training to enable them to undertake work assigned to them in a competent and safe manner.

- Implement a formal training programme covering all aspects in this Guide, including occupational safety and health.
- Maintain records of training received by each employee or contract worker.

C.4.8 Fair and ethical dealing with smallholders and local businesses

C.4.8.1 Enterprises should deal with smallholders and local business in a fair and transparent manner.

- Make payment of fresh fruit bunches (FFB) supplied by smallholders according to minimum prices set by local authorities or according to published market prices, if the former is not available. The FFB pricing mechanism should be documented and accepted by smallholders.
- Contracts for supply of goods and services by local dealers should be fair, transparent and legal.
• Payment for goods and services received should be done in a timely manner, in accordance with the contract, where applicable

C.4.9 Contribution to local economy and sustainable development

C.4.9.1 Enterprises should endeavour to contribute to the local economy and sustainable development, in collaboration with local communities as part of its corporate social responsibility (CSR) to society.

• Enterprises should consult with local communities on their development needs and implement appropriate CSR programs jointly with them.
• Enterprises should support training and capacity building of smallholders associated with them or independent smallholders supplying FFB to their mills; the priority being to improve smallholder productivity in a sustainable manner.
PART D: Implementation of the Guide

D.1 Implementing Body and Stakeholders

D.1.1 Implementing Body

CFNA is responsible for promoting and monitoring the implementation of the Guide. The Guide should be implemented by Chinese enterprises which have investment in cultivation of oil palm and processing of palm oil. This Guide is also relevant to supply chain players associated with upstream production of palm oil, such as financial institutions and banks financing Chinese enterprises.

Implementation of the Guide by Chinese enterprises should be done at two levels:

- Corporate or top management level, to provide leadership, strategy direction and overall implementation of the Guide.
- Operational level at the plantation and mills, to implement the guidance for overseas production of sustainable palm oil (as detailed in Part C).

D.1.2 Various stakeholders in the palm oil supply chain can play a role to support implementation of the Guide.

Stakeholders include:

- Government of the Peoples’ Republic of China and relevant ministries including the National Development and Reform Commission (NDRC), Ministry of Commerce, Ministry of Environment, State Forestry Administration
- Governments and regulatory bodies of host countries at the national, regional and local levels
- International institutions including relevant United Nations agencies, World Bank Group etc.
- International financial institutions and banks that provide financing of overseas oil palm investments by Chinese enterprises
- Processors, traders, manufacturers of consumer goods and retailers, individually and collectively, for example, through the Consumer Goods Forum (CGF)
- Oil palm industry organizations in host countries such as Indonesian Palm Oil Association (GAPKI) and the Malaysian Palm Oil Association (MPOA)
• Development, social and environment Non-Government Organizations (NGOs) and organizations representing the rights and interests of workers, local communities and indigenous peoples

As specific stakeholders would vary with host countries, Chinese enterprises should under stakeholder analyses as part of the planning process for investments in a host country.

D.2 Roles of CFNA and Chinese Enterprises in Implementation of the Guide

D.2.1 CFNA

The activities of CFNA in promoting and implementing the Guide could include, but not limited to:

• Disseminating and promoting the guide to various stakeholders in China. For instance, establishing a media platform to disseminate Guide-related information to the public and Chinese enterprises and facilitating regular exchange of information about the implementation of the Guide among enterprises.

• Promoting the mutual recognition with international standards/principles, such as the mutual recognition with RSPO on a global level.

• Establish a monitoring system to track implementation of the Guide.

• Support or assist Chinese enterprise in capacity building for implementation of the Guide.

• Establish multi-stakeholder mechanisms and platforms, and inviting stakeholders to participate in the activities to promote adoption of the Guide. For example, organizing forums and round tables, establishing the publication platform of members’ CSR reports, and setting up communication mechanisms.

• Communicate the progress of implementation of the Guide periodically, including publishing reports on the production of sustainable palm oil by Chinese enterprises such as progress in gaining international certification.

• Regularly evaluating and improving the Guide about every three years, taking into consideration results of stakeholder consultations.

D.2.2 Chinese enterprises

Chinese enterprises, especially members of CFNA, engaged in overseas palm oil investments should actively support the implementation of this Guide, responsibilities and activities include but not limited to:

• Put in place monitoring and evaluation systems to ensure effective implementation of the guidance for sustainable production of palm oil
prescribed in this Guide. Results of the monitoring reports should be accessible by relevant government agencies, industry organizations and civil society organizations, expect for the release of commercially sensitive information. Results of the monitoring reports should also be reviewed by the top management of the Chinese enterprise.

- Disclose the social, economic and environmental impacts resulting from their investment, and communicate with stakeholders in a clear, accurate, timely and honest way

- Set up an information dissemination mechanism regarding corporate social responsibility, timely prepare and publish CSR reports. It is helpful for them to accurately publish the information about company management and socio-environmental impact, and react to the concerns of stakeholders.

- Establish mechanisms or channels of communication with internal stakeholders (principally employees) and external stakeholders including governments, users, suppliers, business partners, media and NGOs.

- Develop stakeholder participatory mechanisms (including public participation), and clarify the participation principles, scope, channels and supporting measures. Moreover, they should provide resources and create opportunities for the stakeholders’ participation.

- The stakeholders’ participation, especially public participation should be achieved through interactive communications, such as meetings, seminars, public hearings, round-table discussions, advisory committee, regular communications and consultation procedures.

- Actively participate in community development.

### D.3 Assessment and Improvement

The effectiveness of implementation of the Guide should done by CFNA as implementing body and Chinese enterprises engaged in overseas investments in palm oil production.

#### 3.1 CFNA

CFNA, as the implementing body for the Guide should regularly assess the effectiveness and relevance of the Guide in promoting production of sustainable palm oil by Chinese enterprises. It should continue to consult with stakeholders, domestically and globally and solicit suggestions for improvement to the Guide, taking developments on ESG issues in the sector. CFNA should review the Guide every three years.

#### 3.2 Chinese enterprises

Enterprises should conduct a performance evaluation on the implementation of this Guide and sustainable operation and management of the enterprises. This evaluation should be incorporated into the management system of sustainable palm oil
investment. Enterprises should take reasonable and effective measures to ensure the quality of evaluation, and accept the supervision and inspection by relevant institutions and stakeholders.

Through these assessments, enterprises could readily identify gaps between the actual implementation process and required standards and criteria prescribed in the Guide. Considering the overall sustainable development strategy, enterprises should develop suitable measures to improve implementation of the Guide and strengthen their sustainable and market competitiveness.
Definitions:

**Biodiversity.** The variety of life on the planet. This includes the diversity within species, between species and of ecosystems.

**Chinese enterprises.** Private or publicly listed companies and State-owned enterprises (SOEs) in China

**Freedom of association,** as set out in the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), is the “right for workers and employers to establish and join organizations of their own choosing without previous authorization. Workers' and employers' organizations shall organize freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliate with international organizations of workers and employers.”

**Free Prior Informed Consent (FPIC)**. Free, Prior and Informed Consent (FPIC) is the right of indigenous peoples and other local communities to give or to withhold their consent to any project affecting their lands, livelihoods and environment. This consent should be given or withheld freely, meaning without coercion, intimidation or manipulation, and through communities' own freely chosen representatives such as their customary or other institutions. It should be sought prior to the project going ahead, meaning sufficiently in advance of any authorisation or commencement of activities and respecting the time requirements of indigenous consultation processes. It should be informed, meaning that communities must have access to and be provided with comprehensive and impartial information on the project, including the nature and purpose of the project, its scale and location, duration, reversibility, and scope; all possible economic, social, cultural and environmental impacts, including potential risks and benefits, resulting from the project and that the costs and benefits of alternative development options can be considered by the community with, or offered by, any other parties who wish to do so, with whom the community is free to engage. Key to respecting consent is iterative processes of collective consultation, the demonstration of good faith in negotiations, transparent and mutually respectful dialogue, broad and equitable participation, and free decision by the community to give or withhold consent, reached through its self-chosen mode of decision making.

**Greenhouse gas.** A gas that contributes to the natural greenhouse effect. The Kyoto Protocol covers a basket of six greenhouse gases (GHGs) produced by human activities: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride.

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High Conservation Value (HCV)\textsuperscript{23}. The areas necessary to maintain or enhance one or more High Conservation Values (HCVs):

**HCV 1** – Species diversity. Concentrations of biological diversity including endemic species, and rare, threatened or endangered species, that are significant at global, regional or national levels.

**HCV 2** - Landscape-level ecosystems and mosaics. Large landscape level ecosystems and ecosystem mosaics 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.

**HCV 3** - Ecosystems and habitats. Rare, threatened, or endangered ecosystems, habitats or refugia.

**HCV 4** - Critical ecosystem services. Basic ecosystem services in critical situations, including protection of water catchments and control of erosion of vulnerable soils and slopes.

**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.

**HCV 6** - Cultural values. Sites, resources, habitats and landscapes of global or national cultural, archaealogical or historical significance, and/or of critical cultural, ecological, economic or religious/sacred importance for the traditional cultures of local communities.

High Carbon Stock (HCS)\textsuperscript{24} forest is above the level (threshold) between natural regenerating secondary forest and degraded forest lands. “The HCS approach distinguishes natural forest from degraded lands with only small trees, scrub, or grass remaining. It separates vegetation into 6 different classes (stratification) through the combination of analyzing satellite images and field plots. The Indonesian descriptions of these are: High Density Forest (HK3), Medium Density Forest (HK2), Low Density Forest (HK1), Old Scrub (BT) 3, Young Scrub (BM), and Cleared/Open Land (LT). HCS forest includes the vegetation classes of BT and above (HK1, 2 & 3). The HCS threshold between BT and BM is largely determined by the vegetation structure and density difference, where BT can be described as - Mostly young re-growth forest, but with occasional patches of older forest within the stratum, and BM as - Recently cleared areas, some woody re-growth and grass-like ground cover. Below this, BM (young scrub) and LT (cleared/open land) would be considered of low carbon stock and potentially suitable for oil palm plantation development”.

Impact\textsuperscript{25}.Disturbance, consequence, repercussion or similar permanent effect of a human or natural cause. Impacts may be positive or negative. They may affect a natural system, the environment, an animal or plant population or individuals (environmental impacts), or human individuals or populations (social impacts).

Integrated Pest Management (IPM)\textsuperscript{26}: IPM is the careful consideration of all available pest control techniques and subsequent integration of appropriate measures that discourage the development

\textsuperscript{23}RSPO 2013. RSPO Principles and Criteria for the Production of Sustainable Palm Oil 2013: Definitions
\textsuperscript{25}RSPO, 2013. RSPO Principles and Criteria for the Production of Sustainable Palm Oil 2013: Definitions
\textsuperscript{26}FAO 2013: http://www.fao.org/agriculture/crops/corethemes/theme/pests/ipm/en/
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.

**Oil palm smallholder.** Farmers owning and/or cultivating oil palm areas of less than 50 hectares. They can be scheme or associated smallholder which are associated with a company or independent smallholders.

**Plan**²⁷. A time-bound and detailed scheme, programme, or method for achieving objective(s) and desired outcome(s). Plans should have clear targets with timelines for delivery, actions to be taken and a process for monitoring progress, adapting plans to changing circumstances and reporting.

**Stakeholders.** An individual or group with a legitimate and demonstrable interest in, or who is directly affected, either positively or negatively by the activities of an organization and the consequences of those activities.

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²⁷RSPO, 2013. RSPO Principles and Criteria for the Production of Sustainable Palm Oil 2013: Definitions
Annexes

I. Process for development of the Guide
II. International conventions and related agreements
III. Laws, regulations and procedures of selected host countries
IV. Production of certified sustainable palm oil
Annex I. Process for development of the Guide

Background on InFIT Programme

The China-UK Collaboration on International Forest Investment and Trade (InFIT) Programme is an initiative between China’s State Forestry Administration (SFA), the Ministry of Commerce (MofCom) and the UK Department for International Development (DFID). It is part of a global programme - Forest Governance Markets and Climate (FGMC).

The objective of the InFIT Programme is to reduce impacts of China’s international trade in timber products and other commodities grown on forest land whose production affects forest degradation, through:

- measures aimed at eliminating illegally harvested timber from its trade;
- codes of practice that promote environmentally and socially sound resource management practices in developing countries

One component under the InFIT Programme is the development and application of a Guide for Overseas Investment and Production of Sustainable Palm Oil by Chinese Enterprises.

InFIT-Palm Oil Project Implementation Structure

NDRC= National Development and Reform Commission
SFA= State Forestry Administration
Organization for preparation of the guide

China Chamber of Commerce of Foodstuffs and Native Produce (CFNA) is the leading party responsible for development and application of Guide for Overseas Investment and Production of Sustainable Palm Oil by Chinese Enterprises. Development of the guide was undertaken by a core team by officials from CFNA and InFIT Project Management Office (PMO) and a technical core team comprising the following:

- Teoh Cheng Hai, International Specialist - Palm Oil
- Zhang Jianping, Director, Dept of International Economic Cooperation, NDRC
- Zhou Mi, Deputy Director, Institute of World Economy, MofCOM
- Liu Aimin, Researcher, Institute of Geographic Sciences and Natural Resources Research, Chinese Academy of Science (CAS)
- Zhang Hongfu, Senior Manager, SynTao Sustainability Solutions

Milestones in the development of the Guide

The project commenced in October 2014 after the formation of a Technical Core Team, comprising experts from the National Development and Reform Council (NDRC), Chinese Academy of Science (CAS), MofCom Institute of World Economy, SynTao Co. Ltd and an international specialist on palm oil. The structure of the guidelines that was approved by the InFIT Program Steering Committee (PSC) covered the entire palm oil supply chain, from upstream production by Chinese enterprises overseas to trade and consumption of sustainable palm oil in China. However, this scope was considered too broad and following a review by InFIT PMO and CFNA and with the consent of PSC, it was decided to focus on the production of the guidance for overseas investment and production of sustainable palm oil by Chinese enterprises. Production of guidelines on promotion of trade and consumption of sustainable palm oil could be considered at a later stage.

Relevant stakeholders in China and internationally were consulted in the process of preparation of the Guide. The first consultation was conducted in November 2014 in Beijing when Chinese stakeholders representing government, business and civil society organizations were invited to review the draft structure and scope of the Guide. The second national stakeholder was held in October 2015 to review draft Version 2.0 of the Guide. Draft Version 3.0 which had incorporated feedback from the second consultation was presented to international stakeholders at a special workshop during the RSPO 13th Roundtable Meeting on Sustainable Palm Oil (RT13) in November, 2015 in Kuala Lumpur. In order to solicit comments from a wider audience, Version 3.0 was posted on the RSPO website from 20 November to 31 December 2015. Feedback and suggestions from RT13 and the on-line consultation were taken into consideration when finalizing the Guide.

Version 3.0 was also field-tested in an oil palm plantation and mill operated by a Chinese enterprise in Indonesia. The field testing took the form of:
• Self-assessment against the requirements of the Guide by Julong Group which is the first Chinese enterprise to develop oil palm plantations in Kalimantan in Indonesia
• Field assessments of the performance of Julong Group plantations in Kalimantan by members of the InFIT core team in March 2016.
Annex II. International conventions and related agreements

Introduction
Some international conventions and related agreements and guiding principles that are of relevance to the palm oil industry are highlighted in this annex. Further information is available from the hyperlinks provided.

Convention on Biological Diversity (CBD)
Created during the 1992 Earth Summit (UNCED), the CBD is a comprehensive, binding agreement covering the use and conservation of biodiversity. Its three main objectives are to conserve biological diversity, sustainably use the components of biological diversity, and fairly and equitably share the benefits resulting from the use of genetic resources. ([www.cbd.int](http://www.cbd.int))

Signed by more than 190 countries, the Conference of the Parties (COP) meets every 2 years to look at new issues and adopt targets and work programmes to address biodiversity loss. Signatory governments are required to develop national strategies and action plans based on COP decisions and report back on their implementation. Biological diversity or biodiversity covers all forms of life on earth, from microscopic organisms to the largest animals existing in a wide range of ecosystems.

The CBD is the most significant global effort to address loss of biodiversity. While the CBD applies to all sectors, it is particularly relevant to resource-based industries such as mining, oil and gas, forestry and agriculture (including palm oil). As palm oil producing countries are also home to about 12 mega diversity centers in the world, it is critical that development of the industry is not at the expense of biodiversity.

Besides signatory governments, business and civil society play a key role in meeting the objectives of the CBD. Numerous publications provide advice on how business can integrate biodiversity conservation in the conduct of their business, an example is the IUCN/WBCSD publication ‘Business & Biodiversity: The handbook for corporate action’. Other references are available from [http://www.businessandbiodiversity.org/](http://www.businessandbiodiversity.org/)

United Nations Forum on Forests (UNFF)
A major outcome of 1992 Earth Summit (UNCED) was a ‘non-legally binding authoritative statement of principles’ to guide the management, conservation and sustainable development of all types of forests which are commonly known as the Forestry Principles.
Objectives of the Forestry Principles include:

- Countries have the right to use forests for their social and economic development needs, based on policies consistent with sustainable development;
- The sustainable use of forests will require sustainable patterns of production and consumption at a global level; and
- Forestry plans should count both the economic and non-economic values of forests, and the environmental costs and benefits of harvesting or protecting forests. Policies that encourage forest degradation should be avoided.

In October 2000, the Economic and Social Council of the United Nations (ECOSOC), in its Resolution 2000/35 established the United Nations Forum on Forests (UNFF) with the main objective to promote “… the management, conservation and sustainable development of all types of forests and to strengthen long-term political commitment to this end…” based on the Rio Declaration, the Forestry Principles, Chapter 11 of Agenda 21 and other forestry-related processes. UN member states are members UNFF and China currently sits in the UNFF Bureau (represented by the State Forestry Administration). (http://www.un.org/esa/forests/about.html)

In December 2007, the UN General Assembly adopted the landmark Non-Legally Binding Instrument on All Types of Forests. This was a milestone, as it was the first time Member States have agreed to an international instrument for sustainable forest management.

Under the UNFF, member states agreed to four shared Global Objectives on Forests, which include the reversal of the loss of forest cover worldwide through sustainable forest management (SFM) and the enhancement of forest-based economic, social and environmental benefits.

Since UNCED, concern over loss of the world’s forests has intensified and it has galvanized various players – international organizations, national governments, business and civil society organizations to address this global problem. The discussion has included inter-related issues over loss of biodiversity, impact on indigenous peoples and in the wider context of climate change. The urgency of tackling this problem is reflected in the outcome of the UN Climate Summit in 2014, a key achievement being the New York Declaration on Forests.

**United Nations Framework Convention on Climate Change (UNFCCC)**

The UNFCC was negotiated at the Earth Summit in Rio de Janeiro from 3 to 14 June 1992 and entered into force on 21 March 1993. The treaty’s main goal is the “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.” (newsroom.unfccc.int)
The convention divides countries into 3 main groups:

- **Annex I countries** – members of OECD and countries with economies in transition (EIT Parties)
- **Annex II countries** – OECD members but not EIT Parties
- **Non-Annex countries** – mainly developing countries, including China

China is rated the world’s largest GHG emitter, followed by USA. Together, they account for more 45 percent of global carbon emissions. However, both countries made a historic deal in November 2014 to lead the effort against climate change. China has committed to GHG emissions by 2030 and increases the share of non-fossil fuels in the national energy mix to 20 percent by 2030.

**Kyoto Protocol**
The Kyoto Protocol was adopted on 11 December 1997 and entered into force on 16 February 2005. It is an international agreement linked to the UNFCC that sets internationally binding emission reduction targets for its parties. ([http://unfccc.int/kyoto_protocol/items/2830.php](http://unfccc.int/kyoto_protocol/items/2830.php)). The first commitment period ended in 2012 and the Annex 1 countries agreed to a second commitment period from 1 January 2013 to 31 December 2020.

Under the Protocol, countries must meet their targets primarily through national measures. However, the Protocol also offers them an additional means to meet their targets by way of three market-based mechanisms. These are

- Joint implementation (JI)
- Clean development mechanism (CDM)
- International emissions trading (IET)

Among these mechanisms, CDM has been highly relevant to the oil palm sector and numerous projects have been undertaken to reduce GHG emissions, for example capture of methane gas from effluent treatment plants for production of renewable energy.

**New York Declaration on Forests 2014**
The New York Declaration on Forests ([http://www.un.org/climatechange/summit/action-areas/](http://www.un.org/climatechange/summit/action-areas/)) is a non-legally binding declaration that was endorsed by more than 150 governments, major business enterprises and civil society and indigenous peoples organizations at the UN Climate Summit in September 2014. The declaration endorses a global timeframe to cut loss of natural forests by 50 percent by 2020 and strive to end it by 2030. Meeting these
goals would cut between 4.5 and 8.8 billion tonnes of carbon pollution per year globally.

In the associated voluntary Action Plan, governments, companies and civil society organizations have announced diverse actions and partnerships to support their commitment to the Declaration. Some examples of relevance to the palm oil industry are as follows:

- The United Kingdom, Germany, Norway, France and The Netherlands pledged to work on new procurement policies to limit the consumption of commodities associated with deforestation.
- The Consumer Goods Forum (CGF), a global alliance of 400 large companies with global sales of $3 trillion, has pledged to eliminate deforestation from consumer goods supply chains by 2020 and called for a legally binding climate agreement, including provisions for REDD+ implementation.
- More than 20 global food companies have committed to deforestation-free sourcing policies of palm oil. These included Unilever, L’Oreal, Cargill, Procter & Gamble, Kellog’s, General Mills, Dunkin’ Donuts.
- Three palm oil companies - Wilmar International, Golden Agri-Resources and Cargill have committed to work together the Indonesian Business Council on implementation of zero deforestation policies. Collectively, these commitments cover about 60 percent of global trade in palm oil and they have the potential to reduce 400 million to 450 million tonnes of CO2 emissions annually by 2020, or 2 billion tonnes in the period through 2020.
- Several international banks under the umbrella of the Banking Environment Initiative (BEI) have made public commitments to using the banking industry’s services to help end deforestation in commodity supply chains by 2020. This has triggered the banking industry to work to stimulate trade in sustainably sourced commodities through trade finance instruments, and to explore supporting banking standards.

**Paris Agreement on Climate Change**

At COP 21 in December 2015 in Paris, Parties to the UNFCCC reached a landmark agreement, called the Paris Agreement, to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future. For the first time in the history of the Convention, Parties agreed to legally binding and universal commitment to address climate change. Under Article 2, the Paris Agreement “reaffirms the goal of limiting global temperature increase to well below 2 degrees Celsius, while pursuing efforts to limit the increase to 1.5 degrees”.

In Article 4, “the Paris Agreement establishes binding commitments by all Parties to prepare, communicate and maintain a nationally determined contribution (NDC) and to pursue domestic measures to achieve them. It also prescribes that Parties shall...
communicate their NDCs every 5 years and provides information necessary for clarity and transparency. To set a firm foundation for higher ambition, each successive NDC will represent a progression beyond the previous one and reflect the highest possible ambition.”

The full text of the Paris Agreement is available from

The Paris Agreement which was opened for signature on 22 April 2016 (Earth Day) would come into force after at least 55 countries which represent at least 55 percent of global GHG emissions have ratified the agreement. Before 3 September, 2016 only 24 countries representing about one percent of global emissions have ratified the agreement. The prospects of the agreement becoming a reality early was enhanced by the announcements by China and USA which together account for about 38 percent of global emissions on 3 September 2016 (the eve of the G20 Summit in Hangzhou, China) that they would ratify the Paris Agreement28. On 5 October 2016, the threshold for entry into force of the Paris Agreement was achieved following the ratification by 77 Parties. The Paris Agreement will enter into force on 4 November 201629.

UN Voluntary Guideline on Responsible Governance of Tenure of Land, Fisheries and Forests

The Guidelines are voluntary in nature and are not legally binding. Nor do they replace any existing relevant national or international laws, treaties or agreements. However, they are regarded as ‘soft laws’ which could enable countries to implement best practices in governance of tenure.

https://www.theguardian.com/environment/2016/sep/03/breakthrough-us-china-agree-ratify-paris-climate-change-deal
http://unfccc.int/paris_agreement/items/9444.php
The general principles require States to:

- RECOGNIZE AND RESPECT all legitimate tenure rights and the people who hold them
- SAFEGUARD legitimate tenure rights against threats
- PROMOTE AND FACILITATE the enjoyment of legitimate tenure rights
- PROVIDE access to justice when tenure rights are infringed upon
- PREVENT tenure disputes, violent conflicts and opportunities for corruption

Non-state actors (including business enterprises and civil society) have a responsibility to respect human rights and legitimate tenure rights.

Investors should ensure their investments do not cause people to be dispossessed of their tenure rights. When they propose to acquire tenure rights to land, fisheries and forests, they should ensure that all relevant people are informed and engaged in the negotiations.

**International Labour Organization (ILO) Conventions**

Founded in 1919, the International Labour Organization (ILO) ([http://www.ilo.org/global/about-the-ilo/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/lang--en/index.htm)) promotes rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues. ILO works through a tripartite approach involving governments, employers and workers' organizations to set labour standards, develop policies and devise programmes.

The ILO develops labour standards, in the form of conventions, which are legally binding international treaties that may be ratified by member states, or recommendations, which serve as non-binding guidelines. Conventions are grouped under fundamental, governance and technical conventions. The ILO’s Governing Body has identified eight core conventions as "fundamental", covering subjects that are considered as fundamental principles and rights at work. There are four governance conventions which are “priority” instruments to ensure functioning of the international labour standards system. There are 177 technical conventions covering the full range of topics under ILO’s mandate.

Ratification of the ILO conventions varies considerably with member countries. Of the total of 189 conventions, China has ratified 25 (4 fundamental, 2 governance and 19 technical). By comparison, USA has ratified only 14 ILO conventions.

Conventions of direct relevance to the palm oil industry include fundamental conventions No. 29 (1930) on forced labour, No 105 (1957) on abolition of forced labour, No. 138(1973) on minimum age, No.182(1999) on worst forms of child labour, No. 87 (1948) on freedom of association and protection of rights to organize and
No.98 (1948) on right to organize and collective bargaining, No. 100 (1951) on equal enumeration and No.111 (1958) on discrimination (employment and occupation).

Another important convention is Convention No. 169 dealing with the rights of indigenous and tribal peoples which came into force in September 1991. However, only 20 countries have ratified it to-date, but not including China nor palm oil producing such as Indonesia and Malaysia.

**UN Global Compact**

The UN Global Compact is a strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption (https://www.unglobalcompact.org/AboutTheGC/index.html)

The 10 principles

- **Human Rights:** Businesses should support and respect the protection of internationally proclaimed human rights (Principle 1) and make sure that they are not complicit in human rights abuses (Principle 2).
- **Labour:** Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining (Principle 3); the elimination of all forms of forced and compulsory labour (Principle 4); the effective abolition of child labour (Principle 5) and the elimination of discrimination in respect of employment and occupation (Principle 6).
- **Environment:** Businesses should support a precautionary approach to environmental challenges (Principle 7), undertake initiatives to promote greater environmental responsibility (Principle 8) and encourage the development and diffusion of environmentally friendly technologies (Principle 9)
- **Anti-Corruption:** Businesses should work against corruption in all its forms, including extortion and bribery (Principle 10).

Since its official launch in July 2000, the Global Compact has become the world’s largest voluntary corporate and sustainability initiative with more than 12,000 participants, including over 8,000 businesses in about 145 countries around the world, with the United Nations serving as the convenor and facilitator. Numerous companies in the palm oil supply chain are signatories to the Global Compact, including plantation companies, processors, manufacturers of consumer goods, retailers and banks/financial institutions.

Any company or organization that embraces and commits to the 10 principles can participate in the Global Compact. Signatories are expected, among other commitments, to submit an Annual Commitment of Progress (COP) on their progress in operationalizing the 10 principles and implementation of partnership projects to
support the broad UN goals. Non-business and civil society organizations participate in the Global Compact through various mechanisms such as policy dialogues and partnership projects with companies.

**Principles for Responsible Agricultural Investments (PRAI)**

UNCTAD, FAO, IFAD and the World Bank have jointly developed the following set of Principles for responsible agricultural investment that respects rights, livelihoods and resources (PRAI).


- **Principle 1**: Existing rights to land and associated natural resources are recognized and respected.
- **Principle 2**: Investments do not jeopardize food security but rather strengthen it.
- **Principle 3**: Processes relating to investment in agriculture are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal, and regulatory environment.
- **Principle 4**: All those materially affected are consulted, and agreements from consultations are recorded and enforced.
- **Principle 5**: Investors ensure that projects respect the rule of law, reflect industry best practice, are viable economically, and result in durable shared value.
- **Principle 6**: Investments generate desirable social and distributional impacts and do not increase vulnerability.
- **Principle 7**: Environmental impacts of a project are quantified and measures taken to encourage sustainable resource use, while minimizing the risk/magnitude of negative impacts and mitigating them.

Launched during the 64th Session of the United Nations General Assembly in September 2009, the overall purpose of the PRAI is to improve the chances of positive development outcomes from agricultural investment in developing countries, and reduce the possibility of negative social, environmental and economic effects.

PRAI is relevant to all agricultural sub-sectors, including the palm oil industry. Commitment to these principles would ensure the responsible and sustainable development of the industry.

**Equator Principles**

The Equator Principles (EPs) is a risk management framework, adopted by financial institutions, for determining, assessing and managing environmental and social risk
in projects and is primarily intended to provide a minimum standard for due
diligence to support responsible risk decision-making. The EPs apply globally, to all
industry sectors and to four financial products (i) Project Finance Advisory Services
(ii) Project Finance (iii) Project-Related Corporate Loans and (iv) Bridge Loans.

EPs are a set of 10 principles covering the life cycle of project financing, from review
and categorization of projects (Principle No.1), environmental and social (E&S)
assessment (Principle No.2), applicable E&S standards (Principle No.3) and
environmental and social management system and EP action plan (Principle No. 4)
through to independent monitoring and reporting (Principle No. 9).

Project categorization follows the system by the International Finance Corporation
(IFC) as follows:

**Category A** – Projects with potential significant adverse environmental and social
risks and/or impacts that are diverse, irreversible or unprecedented

**Category B** – Projects with potential limited adverse environmental and social risks
and/or impacts that are few in number, generally site-specific, largely reversible and
readily addressed through mitigation measures; and

**Category C** – Projects with minimal or no adverse environmental and social risks
and/or impacts.

Adoption of the Equator Principles (EPs) is voluntary and is open to any financial
institutions which embraces the principles and are willing to implement them in their
internal environmental and social policies, procedures and standards for financing
projects. Equator Principles Financial Institutions (EQFIs) will not provide project
finance or project-related corporate loans to projects where the client will not, or is
unable to, comply with the Equator Principles. Currently, there are about 80 EQFIs
covering more than 70 percent international project financing in emerging markets.
Management, administration and development of the EPs is undertaken by the
Equator Principles Associations established by member EQFIs in 2010.
Annex III. Laws, regulations and procedures of host countries

Introduction

Laws and regulations governing investments and development of oil palm plantations and processing in Indonesia and Malaysia are comprehensive and complex and they fall under the jurisdiction of several ministries and government agencies, at the national, provincial and district levels. This annex provides a brief overview on the key actors involved in the governance of the palm oil sector, key laws and regulations and the process for obtaining the license for development of oil palm in Indonesia and Malaysia, the world’s largest producers. The requirements for other producing countries could be included in subsequent editions of this Guide.

A. INDONESIA

Key Players in the Governance of the Palm Oil Sector

<table>
<thead>
<tr>
<th>Player</th>
<th>Role</th>
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<tbody>
<tr>
<td>Ministry of Agriculture</td>
<td>Develops sectoral regulations and development plans for the agriculture sectors. Under Plantation Law No. 39/2014, the Ministry is authorized to administer licensing requirements at local and national levels.</td>
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<tr>
<td>Ministry of Environment and Forestry</td>
<td>Develop sectoral regulations and development plans for their sectors. It oversees enforcement of Law No. 32/2009 on Environmental Protection and Management and Forestry Law No.41/1999.</td>
</tr>
<tr>
<td>Ministry of Agraria and Spatial Planning</td>
<td>Oversees land reform, supports conflict resolution and revision of and approval of spatial plans.</td>
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<tr>
<td>National Land Agency – Badan Pertanahan Nasional (BPN)</td>
<td>Oversees implementation of the Basic Agarian Law No.5/1960. Responsible for the allotment, use, supply and maintenance of non-forest land and issue of and rights and land-use rights such as Hak Usaha Guna (HGU).</td>
</tr>
<tr>
<td>Indonesian Sustainable Palm Oil Commission</td>
<td>Provides certification for major plantations and smallholders for compliance with prevailing regulations in Indonesia.</td>
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<tr>
<td>Provincial Governors</td>
<td>Have broad authority on economic development and spatial planning and recently have taken over the authority for forestry and mining licenses from districts.</td>
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<tr>
<td><strong>District Heads</strong></td>
<td>Have broad authority on economic development and spatial planning; approve oil palm plantation licenses and oversee local officials who monitor and enforce legal compliance</td>
</tr>
<tr>
<td><strong>Agriculture and forestry officials at district/city level</strong></td>
<td>Identify land suitable for plantations during spatial planning; evaluate plantation applications and issue recommendation for licenses; support evaluation of environmental impact assessments; enforce environmental management provisions; evaluate plantation performance as a precursor to ISPO audit; and take punitive action for legal infractions.</td>
</tr>
<tr>
<td><strong>Oil palm companies</strong></td>
<td>Influence the location, scale, and terms of oil palm investments, often through an iterative process of negotiations with local government and affected communities</td>
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<tr>
<td><strong>Civil Society</strong></td>
<td>Seek to influence primary actors by providing information and analysis, public opinion or specific decisions/legislation, support decision making processes, enhance transparency via third-party monitoring, and encourage industry to improve practices.</td>
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## Selected Key Laws and Regulations Related to the Palm Oil Sector

<table>
<thead>
<tr>
<th>Law/Regulation</th>
<th>Scope</th>
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</table>
| **Foreign Investment**  
Investment Law No. 25/2007 | Governs Foreign Direct Investments in Indonesia; supervision of FDIs is by BKPM (*Badan Koordinasi Penanaman Modal*) – the Investment Coordination Board. Foreign investment must be done through an Indonesian legal entity, in the form of a foreign investment company (*Perusahaan Penanaman Asing* – PMA). For plantations, the maximum foreign ownership in a PMA is 95%. |
| **Land**  
Basic Agrarian Law No.5/1960 | Under this law, the Indonesian government holds the title to all lands in Indonesia except for land under freehold title granted to Indonesian citizens. To establish a plantation, a company must obtain land-use rights (*Hak Guna Usaha* or HGU) from the government. |
| **Plantation**  
Plantation Law No.39/2014  
Regulation No. 98/Permentan/OT.140/9/2013 on Guidelines for Licensing of Plantations Estates | This law replaced the 2004 Law on Plantations, reaffirming principles of sustainability, the key role of local authorities in governing the sector and requirement for companies to negotiate partnership agreements with communities.  
This Ministry of Agriculture regulation specifies the types of licenses for plantation enterprises. A Plantation Business Licence is for cultivation (*Izin Usaha Perkebunan untuk Budidaya* or IUP-B), processing (*Izin Usaha Perkebunan untuk Pengolahan* or IUP-P) or covering both cultivation and processing (*Izin Usaha Perkebunan* or IUP). IUP-B and IUP license holders are required to develop plantation areas for the surrounding communities (*Kebun Masyarakat*) with a minimum area of 20% of their total plantation area. |
| **Autonomy/Regional Governments**  
Autonomy Law No.12/2008 | This law replaced the original law No.22 of 1999 when the Central Government transferred and delegated to Regional Governments certain powers previously held by the Central Government. The Autonomy Law provides a province, a regency or a municipality to pass its own regional regulations. |
| **Forestry**  
Forestry Law No. 41/1999 | This law accords authority over the administration of Indonesia’s forest resources to the Central Government: All forests in Indonesia and natural resources contained therein |
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<tr>
<th><strong>Environment Protection and Management of the Environment Law No. 32/2009</strong></th>
<th>Under this law, companies must issue an Environmental Management Statement (<em>Surat Pernyataan Pengelolaan Lingkungan</em>, or SPPL), an Environmental Management and Environmental Monitoring Report (<em>Upaya Pengelolaan Lingkungan</em>-<em>Upaya Pemantauan Lingkungan</em> or UKL-UPL), or a full Environmental Impact Assessment Report (<em>Analisis Dampak Lingkungan</em>, or ANDAL), depending on the industry and potential risks to the environment. Companies must obtain an Environmental Permit (<em>Izin Lingkungan</em>) as a precondition for other business and operational permits.</th>
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<tr>
<td><strong>ISPO Standard Government Regulation No. 11/2015 on ISPO standard</strong></td>
<td>This regulation defines the revised ISPO standard. The 2015 regulations distinguish five categories of producers; the ISPO process is mandatory for 3 groups - for integrated plantation company (plantation + mill), plantation company (plantation only) and palm oil processor (mill only). Smallholder farmers associated with a state or private company (plasma smallholders) and independent smallholders may pursue ISPO certification on a voluntary basis.</td>
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<tr>
<td><strong>Peatlands Government Regulation No. 71/2014 on Management and Protection of Peatlands</strong></td>
<td>The regulation outlines a process for mapping, land use zoning and management of peatland hydrological units throughout Indonesia. A minimum of 30% of each unit must be protected, with potentially larger areas based on presence of defined criteria.</td>
</tr>
<tr>
<td><strong>Customary lands and communities Constitutional Court decision no. 35/2012 (MK35) on customary forests and associated regulations and</strong></td>
<td>The Constitutional Court ruled that forest burdened with claims by communities that assert rights over customary forest shall not form part of the State forest estate, and shall come under control of communities.</td>
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<td>Decrees</td>
<td>Description</td>
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</tr>
<tr>
<td><strong>Labour</strong></td>
<td>This law provides for the establishment of a labour union with a minimum of 10 members. It stipulates that no party is allowed to prevent the formation of labour unions or force the establishment of unions. No party is permitted to prevent workers from becoming union organizers or members, or obstruct them from either carrying out their activities.</td>
</tr>
</tbody>
</table>


BumitamaAgri Ltd Prospectus 2012: Annex C – Indonesian Regulatory Overview
Process flow for obtaining key permits and approvals required for oil palm development in Indonesia

NATIONAL LAND AGENCY

- IjinPrinsip
- IjinLokasi
  - Obtaining Land-use Rights
  - AMDAL Process and Approval
    - IjinLingkungan
      - Izin Usaha Perkebunan (IUP)
        - Land Clearing Permit
          - Land Clearing and Planting

LOCAL GOVERNMENT

- Boundary Mapping
  - HakGuna Usaha (HGU)

MINISTRY OF FORESTRY*

- Principal Approval for Release of HPK
  - Boundary Demarcation in Forest Area
  - Ministerial Decree for Release of HPK

# And District-level Offices

* Process applies when the land is within a Production Forest for Conversion (HutanProduksiKonversi – HPK)

30 Modified from Paoli, G. Det al. 2013. Oil Palm in Indonesia: Governance, and Implications for Sustainable Development
The process steps for obtaining the key permits and approval for development of oil palm plantations in Indonesia is summarized in the flow chart on the previous page. In order to establish a plantation in Indonesia, the prospective company must obtain the right to use the land, known as *HakGuna Usaha* (HGU). The HGU which is issued only to Indonesian nationals and Indonesian legal entities is effective for 25 to 35 years and may be extended for 25 years. The process for application for the HGU and other related permits starts with obtaining the *IjinPrinsip* from the local government which allows the company to conduct land surveys which will provide the basis for the issuance of the *IjinLokasi* (Location Permit). If the land is located in a *HutanProduksiKonversi* (HPK) or forest for conversion area, the company is required to obtain approval from the Ministry of Forestry to release the HPK for cultivation of oil palm.

Following the issuance of the *IzinLokasi*, the company could begin the process for obtaining the HGU and other relevant licenses. With regard to the application for the HGU, the Provincial Regional Land Agency will undertake a survey of the actual area before issuing a map known as the Kadastral Map. Following that, a special land committee (*Panitia B*) evaluates the legal and technical reviews of the application and submits its recommendation to the Central National Land Agency. If a positive recommendation is accepted, the Central National Land Agency will issue a decree approving the grant of the land rights or the *SuratKepustusanHakGuna Usaha* (Decision Letter of Granting of HakGuna Usaha). After payment of the requisite fees, the District Regional Land Agency will issue the HakGuna Usaha certificate.

Under Law No. 32 of 2009 on Protection of the Environment, for an activity that may have a significant environmental impact, it is necessary to carry out an environmental impact assessment, known as *AnalisaMengenaiDampakLingkungan* or AMDAL. Law No. 32/2009 also stipulates that companies must obtain an environmental license, *IzinLingkungan* issued by the State Minister of Environment, Governor, Mayor or Head of Regency. Possession of *IzinLingkungan* is a prerequisite for the company to obtain the plantation business license known as *Izin Usaha Perkebunan* (IUP).

**Selected References**


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31 BumitamaAgri Ltd Prospectus 2012: Annex C – Indonesian Regulatory Overview
http://www.rspo.org/certification/national-interpretations

### B. MALAYSIA

**Key Players in the Governance of the Palm Oil Sector**

<table>
<thead>
<tr>
<th>Player</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Plantation Industries &amp; Commodities (MPIC)</td>
<td>MPIC is responsible for ensuring Malaysia's international competitiveness in the commodity-based industries and their contribution towards national development. The functions of MPIC include formulating, coordinating and monitoring the implementation of strategies for the development of the palm oil industry and coordinating and monitoring matters pertaining to Malaysian Palm Oil Board (MPOB) and Malaysian Palm Oil Council (MPOC).</td>
</tr>
<tr>
<td>Ministry of Natural Resources &amp; Environment (NRE)</td>
<td>NRE is responsible for natural resources management (including forests), conservation and management of environment and shelters and management of land survey and mapping administration.</td>
</tr>
<tr>
<td>Malaysian Palm Oil Association (MPOA)</td>
<td>MPOA represents the industry as a single voice at both the domestic and international levels. MPOA is a founding member of RSPO and has contributed to the development of the RSPO and MSPO sustainability standards.</td>
</tr>
<tr>
<td>Malaysian Palm Oil Board (MPOB)</td>
<td>MPOB which is under MPIC has the dual role of conducting and promoting R&amp;D and regulating and licensing activities in the oil palm industry. It implements the Ministry’s policies and development programmes to ensure the viability of the oil palm industry in Malaysia. MPOB is the Standards Writing Organization (SWO) for the MSPO standards.</td>
</tr>
<tr>
<td>Malaysian Palm Oil Council (MPOC)</td>
<td>MPOC’s mandate is to promote the market expansion of Malaysian palm oil and its products by enhancing the image of palm oil and creating better acceptance of palm oil through awareness of various technological and economic advantages (techno-economic advantages) and environmental sustainability.</td>
</tr>
<tr>
<td>Malaysian Palm Oil Certification Council (MPOCC)</td>
<td>MPOCC is an independent organisation established in December 2014 to develop and operate the Malaysian Sustainable Palm Oil (MSPO) Certification Scheme. A key role is to establish a mechanism for the certification of entities complying with sustainability requirements of auditable sustainability standards which includes processing of applicants’ certification, formulating</td>
</tr>
<tr>
<td>Department of Environment (DOE) – under NRE</td>
<td>DOE’s main role is to prevent, eliminate, control pollution and improve the environment, consistent with the purposes of the Environmental Quality Act 1974 and its regulations. The regulations relevant to palm oil include Section 34A of the Environmental Quality Act 1974 and the Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Regulations 1987.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>DOE Offices at the State level</td>
<td>DOE offices in all states of Malaysia ensure the enforcement of the requirements of EQA 1974 and the related regulations at the state level. Activities include monitoring and control of air pollution from factories, vehicles and open burning, investigation into alleged environmental contamination and processing of Environmental Impact Assessment (EIA) (except Sabah and Sarawak).</td>
</tr>
<tr>
<td>Natural Resources and Environment Board (NREB), Sarawak</td>
<td>NREB is tasked with the responsibility of protecting and managing the environment and the conservation of the natural resources of the State based on the principles of sustainable development.</td>
</tr>
<tr>
<td>Environment Protection Department (EPD) Sabah</td>
<td>EPD is a state department under the Ministry of Tourism, Culture and Environment. Responsibilities include environmental planning, screening of proposed development activities, environmental assessment, monitoring and enforcement.</td>
</tr>
<tr>
<td>DOA Pesticides Control Division</td>
<td>Pesticides Control Division is a technical division of the Department of Agriculture (DOA) responsible for implementing and enforcing the Pesticides Act 1974. It is involved in controlling the quality, efficacy and adverse effects of pesticides imported and manufactured in the country through a registration scheme. The division is also responsible for controlling the operation and use of pesticides, control the use of pesticides which are highly toxic pesticides and regulates the labeling and advertising of a pesticide.</td>
</tr>
<tr>
<td>Department of Occupational Safety and Health (DOSH)</td>
<td>DOSH a department under the Ministry of Human Resources. This department is responsible for ensuring the safety, health and welfare of people at work as well as protecting other people from the safety and health hazards arising from the activities in numerous sectors, including the oil palm industry. DOSH is</td>
</tr>
<tr>
<td><strong>Ministry of Human Resources (MOHR)</strong></td>
<td>MOHR is responsible for skills development, labour, occupational safety and health, trade unions, industrial relations, industrial court, labour market information and analysis, social security. The Ministry is responsible for administration of several key Acts, including the Employment Act, Trade Unions Act, Occupational Safety and Health Act.</td>
</tr>
<tr>
<td><strong>Plantation Companies</strong></td>
<td>Companies have a primary responsibility to ensure that their investments and operations are compliant with all applicable national laws and regulations and provision in international conventions ratified by the country.</td>
</tr>
<tr>
<td><strong>Civil Society</strong></td>
<td>Civil society organizations can influence government and key stakeholders by information and analysis and public issues to improve the governance environment of the sector.</td>
</tr>
</tbody>
</table>

Source: Websites of various organizations
### Selected Key Laws and Regulations Related to the Palm Oil Sector

<table>
<thead>
<tr>
<th>Law/Regulation</th>
<th>Scope</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land</strong></td>
<td></td>
</tr>
<tr>
<td>National Land Code: Act 56 of 1965</td>
<td>An Act to amend and consolidate the laws relating to land and land tenure, the registration of title to land and of dealings therewith and the collection of revenue therefrom within all states except Sabah and Sarawak.</td>
</tr>
<tr>
<td>Land rules, codes or land ordinance for all states in Malaysia</td>
<td>In Malaysia, land and all minerals and rock materials within the state are vested in the State Authority. Land is a state matter and only the State Legislature can make laws with regard to land, except in cases when the national Parliament can pass laws for the purpose of harmonization (e.g. the National Land Code).</td>
</tr>
<tr>
<td>Land Conservation Act of 1960</td>
<td>This Act is relates to the conservation of hill land and the protection of soil from erosion and the inroad of silt.</td>
</tr>
<tr>
<td><strong>Biodiversity Conservation</strong></td>
<td></td>
</tr>
<tr>
<td>Wildlife Conservation Act 2010</td>
<td>This Act provides for the regulation, protection, conservation and management of wildlife in Malaysia. It Act applies to Peninsular Malaysia and the Federal Territory of Labuan.</td>
</tr>
<tr>
<td></td>
<td>The Act contains seven Schedules: Protected wildlife; Totally protected wildlife; Standard of maturity of protected and totally protected wildlife; Poisons; Controlled species; Wildlife for aborigine’s consumption; and Snares.</td>
</tr>
<tr>
<td><strong>Environment</strong></td>
<td></td>
</tr>
<tr>
<td>DOE: Environment Quality Act 1974 (Amendments 1985 &amp;1996)</td>
<td>Regulations that are directly applicable to the oil palm industry include the following under the Environmental Quality Act 1974 include</td>
</tr>
<tr>
<td></td>
<td>• Environmental Quality (Prescribed</td>
</tr>
<tr>
<td>EPD, Sabah: Conservation of the Environment Enactment 1966, Sabah</td>
<td>Premises (Crude Palm Oil) Regulations, 1997 (Amendment) which stipulate detailed conditions with the licence to use or operate a premise for palm oil processing, including discharge of treated effluents to water courses or for land application.</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>NREB, Sarawak: Natural Resources and Environment Ordinance 1993, Sarawak</td>
<td>• Environmental Quality (Clean Air) Regulations 1978 which stipulate the conditions pertaining to open burning and emission standards for smoke and particulate emissions into the atmosphere.</td>
</tr>
<tr>
<td>These laws cover broadly the same scope for environmental management in Sabah and Sarawak by EPD and NREB respectively, including environmental assessment. Oil palm plantation larger than 500 hectares is a prescribed activity which requires an Environmental Impact Assessment (EIA).</td>
<td></td>
</tr>
<tr>
<td><strong>MSPO standards</strong></td>
<td><strong>The MS 2530:2013 series is issued by the Department of Standards Malaysia (DSM) consists of four parts for application by independent smallholders, oil palm plantations and organized smallholders and palm oil mills. They provide the basis for the Malaysian Sustainable Palm Oil (MSPO) voluntary certification scheme.</strong></td>
</tr>
<tr>
<td>MS 2530-2:2013 MSPO Part 2 – General Principles for Independent Smallholders</td>
<td>This Act which provides the legislative framework to secure the safety, health and welfare among all Malaysian workforce and to protect others against risks to safety or health in connection with the activities of persons at work.</td>
</tr>
<tr>
<td>MS 2530-3:2013 MSPO Part 3 – General Principles for Oil Palm Plantations and Organized Smallholders</td>
<td><strong>Pesticides and Hazardous Chemicals</strong></td>
</tr>
<tr>
<td>MS 2530-4:2013 MSPO Part 4 – General Principles for Palm Oil Mills</td>
<td>This Act controls all aspects of import, manufacture, sale and use of pesticides in Malaysia. Enforcement of the Act is by the</td>
</tr>
<tr>
<td>The MS 2530:2013 series is issued by the Department of Standards Malaysia (DSM) consists of four parts for application by independent smallholders, oil palm plantations and organized smallholders and palm oil mills. They provide the basis for the Malaysian Sustainable Palm Oil (MSPO) voluntary certification scheme.</td>
<td></td>
</tr>
<tr>
<td>Occupational Safety and Health (Use and Standard of Exposure Chemical Hazardous to Health) Regulations 2000 (USECHH Regulations)</td>
<td>Department of Agriculture, under the direction of a Pesticides Board. USECHH provides a legal framework to control exposure of chemical hazardous to health at workplace. This regulation is to set a standard of exposure of chemical hazardous to health to the worker at workplace.</td>
</tr>
<tr>
<td>---</td>
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</tr>
</tbody>
</table>
Guide for Overseas Investment and Production of Sustainable Palm Oil by Chinese Enterprises

**Procedure for Conduct and Approval of an Environmental Impact Assessment (EIA)**

Regulations pertaining to development of oil palm plantations are quite uniform for Peninsular Malaysia, Sabah and Sarawak. In general, development of agricultural plantations exceeding 500 hectares is a prescribed activity that requires project proponents to conduct an Environmental Impact Assessment (EIA) and submit it for approval by DOE, EPD or NREB, depending on the location of the project. EIA is a study to identify, predict, evaluate and communicate information about the impacts on the environment of a proposed project and to detail out the mitigating measures prior to project implementation.

The process for the approval of EIA reports, based on the approach adopted by NREB is shown below.

Source: Teoh, C.H. 2002. The Palm Oil Industry in Malaysia: From seed to frying pan. WWF Switzerland
Annex IV. Production of certified sustainable palm oil (CSPO)

A. Overview on certification process for certified sustainable palm oil

Certification systems that are applicable for the production and use of sustainable palm oil include:

- Certification systems specifically developed for production of certified sustainable palm oil (CSPO): Roundtable on Sustainable Palm Oil (RSPO), Indonesian Sustainable Palm Oil (ISPO) and Malaysian Sustainable Palm Oil (MSPO).
- Generic certification systems applicable to a wide variety of crops including oil palm: Sustainable Agriculture Network (SAN)
- Certification systems for production of biomaterials for bioenergy and biofuels: International System for Sustainability and Carbon Certification (ISCC) and the Roundtable on Sustainable Biomaterials (RSB)

Generally, certification systems consist of 3 basic elements – a Certification Standard that sets specific requirements for sustainable production, an Accreditation Process for qualifying Certification Bodies and the Certification Process to establish if the requirements of the certification standards have been met.

Certification Standards specify the requirements that must be met and against which assessments for certification are made. Standards usually have a set of core principles governing sustainable production and use and each is supported by criteria or conditions and measurable indicators. The overarching principles for relevant standards are listed in this Annex. While the principles and criteria vary with organizations to meet their respective objectives, they generally cover the following basic areas.

Legal compliance – all standards stipulate the need for compliance with national laws and regulations and to relevant international conventions and agreements, for example the UN Convention on Biodiversity

Economic viability – long term business plans and use of best management practices for optimum productivity, for example, the use of improved planting materials.

Social impacts - respecting the rights of indigenous peoples and communities and no exploitation of workers or employment of under-aged children. Companies should treat workers fairly and provide a safe and healthy environment for workers and support the development of smallholders.

Environmental impacts – ensuring that palm oil production does not contribute to deforestation and destruction of high carbon stock areas and peatlands, loss of biodiversity, air and water pollution and GHG emissions.
Although various sustainability standards cover a similar range of issues, their focus and intensity of treatment of key issues vary considerably, as indicated in a comparative study of 4 major standards relevant to palm oil – RSPO, ISPO, SAN and ISCC. Among these, the RSPO standard was found to be most comprehensive, with well-defined requirements covering most environmental and social issues. As a mandatory standard, ISPO has the advantage over other standards with respect to legal compliance but its treatment of social issues is less comprehensive than other standards.

RSPO, ISPO, MSPO and RSB have developed separate versions of their standards to facilitate certification of sustainable production by smallholders.

Although not a certification standard, the IFC Performance Standards are a critical instrument to ensure that investees of IFC comply with strict environmental and social requirements. Results of an independent study found the IFC Performance Standards to be more comprehensive to the RSPO P&C.

**Accreditation process.** Assessments for compliance with certification requirements specified in the standards are conducted by Certification Bodies (CBs) that have been accredited by national or international accreditation bodies for the competence and credibility in conducting independent audits. For example, in Indonesia, CBs are accredited by the National Accreditation Committee (Komite Akreditasi Nasional or KAN). An international accrediting agency, Accreditation Services International (ASI) is an international accrediting agency which acts as the accreditation body for organizations such as the RSPO, RSB and the Forest Stewardship Council (FSC).


The accreditation body itself must comply with the requirements of ISO 17011:2004 Conformity assessment – general requirements for accreditation bodies accrediting conformity assessment bodies.

**Certification process.** The process begins with the appointment of a Certification Body (CB) and application to the relevant standards organization (e.g. RSPO, ISPO Commission) by the auditee company or farmer organization. The CB must define the procedures relating to the assessment process that must be consistent with the

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specifications defined in ISO 19011: 2002 Guidelines for quality and/or environmental management systems auditing.

According to the RSPO certification system, “the procedures must require that the initial certification assessments, and the subsequent monitoring or surveillance assessments, include an appropriate range of methods to collect objective evidence, including documentation review, field checks and interviews with external stakeholders”

For upstream production, the unit of certification should be the palm oil mill and its supply base, including smallholders and out growers supplying fresh fruit bunches to the mill. For ISCC certification, all players along the supply chain (except transportation) are subject to certification. These include farms/plantations, ‘first gathering points’ (first points to receive raw biomass), traders/warehouse, conversion units (oil mills, refineries, biofuel and bioliquid plants) and relevant market players which bring biofuels and bioliquids to the market (e.g. cogeneration plants).

Certificates will be issued by the CB after a successful audit has confirmed compliance to the standard and published on the website of the organization operating the certification system. The validity of certificates varies with organizations operating the certification system, from one year for ISCC to 5 years for RSPO but with annual surveillance audits to ensure continuing compliance. A re-assessment must be undertaken before the end of the 5-year period.

In the event of serious violations against the principles and criteria of a particular certification scheme, the CB normally has the authority to withdraw certifications. Organizations running certification systems usually have a complaints and grievance procedure concerning certified organizations and CBs that is accessible to any interested stakeholder.

**Supply chain certification.** After a producer has obtained the certification for sustainable production by a particular unit, there is a need to ensure transparency and traceability the on the usage of the CSPO along the supply chain, from the grower, to the processor, trader, manufacturer, retailer until the consumer. This is done through chain-of-custody or supply chain certification systems.

The RSPO operates 4 supply chain mechanisms:

**Identity Preserved (IP).** The IP model requires all players along the supply chain to maintain full segregation and traceability of the physical product, from the producing plantation and mill to the end-user. Among the 4 mechanisms, the IP route provides the highest level of confidence on traceability but, being a more complex process, it is also the most costly to implement.
Segregation. The segregation supply chain model assures that RSPO certified palm oil and its derivatives delivered to the end user comes only from RSPO certified sources but mixing of CSPO is allowed. However, the product cannot be traced to the specific production units, unlike the IP model. Consequently, the level of traceability and claim will be comparatively lower but the cost is also expected to be lower as well.

Mass Balance. This model allows mixing of RSPO certified oil with non-RSPO palm oil; the level of traceability is low but is considerably less complex. The Mass Balance model was designed in a manner to ensure that there is strict reconciliation between the volume of certified sustainable palm oil bought and the quantity sold.

Book and Claim\textsuperscript{33}. The Book and Claim supply chain model provides tradable certificates for RSPO certified palm oil to the palm oil supply base. The supply base may then offer these certificates on a web based transaction system to end users who choose to support specific volumes of RSPO certified palm oil and or their derivatives.

Labelling of certified sustainable palm oil. Companies that have received certificates of sustainability can to use the logo or trademark provided by organizations such RSPO and RAN on ‘on-product’ labels and corporate communications. However, use is governed by strict conditions on the communication of claims on sustainability.

B. Overview on certification systems for certified sustainable palm oil

Roundtable on Sustainable Palm Oil (RSPO)

The RSPO operates two certification systems for the production and use of sustainable palm oil; the first certifies upstream production of certified sustainable palm oil (CSPO) and the second is the Supply Chain Certification System provides trade mechanisms for use of CSPO along the supply chain.

The RSPO standard for production is the RSPO Principles and Criteria (RSPO P&C) for the Production of Sustainable Palm Oil (http://www.rspo.org/certification/how-rspo-certification-works) which consists of 8 overarching principles, as follows:

Principle 1. Commitment to transparency
Principle 2. Compliance with applicable laws and regulations
Principle 3. Commitment to long-term economic and financial viability

\textsuperscript{33} RSPO announced in July 2016 that RSPO’s endorsement of the Book and Claim model that was developed and operated by GreenPalm will end in December 2016. Effective January, 2017, the Book and Claim model will be supported by trade of RSPO Credits under the RSPO eTrace platform (http://www.rspo.org/news-and-events/news/big-changes-afoot-for-the-book-and-claim-model-what-you-need-to-know-and-do)
Principle 4. Of appropriate best practices by growers and millers
Principle 5. Environmental responsibility and conservation of natural resources and biodiversity
Principle 6. Responsible consideration of employees and of individuals and communities affected by growers and mills.
Principle 7. Responsible development of new plantings
Principle 8. Commitment to continuous improvement in key areas of activity

The RSPO P&C provides the generic guidelines for sustainable production; considering differences in legal requirements among countries for the same criteria as well cultural differences, the P&C is adapted for use in each country through National Interpretations. Currently, National Interpretations have been developed through a consultative process for 11 countries (Indonesia, Malaysia, PNG, Colombia, Peru, Honduras, Ecuador, Sierra Leone, Liberia, Ghana, Nigeria). (http://www.rspo.org/certification/national-interpretations/).

The RSPO P&C has also been adaptation for the certification of palm oil produced by smallholders, including independent smallholders.

For the biofuels/bioenergy markets, RSPO has issued the RSPO RED requirements for compliance with the EU Renewable Energy Directive (EU RED) as add-ons to the P&C.

On 9 February, 2016, RSPO published RSPO NEXT, a set of advanced criteria for sustainable palm oil production that goes beyond the requirements of the RSPO P&C. (http://www.rspo.org/certification/rspo-next). These voluntary add-ons to the P&C are applicable to RSPO member companies which have met the requirements of RSPO P&C and desire to achieve a higher level of sustainability performance. Compliance with RSPO NEXT requirements would be assured by independent 3rd party verification on the ground.

The components of RSPO NEXT fall into the following categories that are applicable throughout the organization, including investments, joint ventures and the organization’s supply base.

- No Deforestation
- No Fire
- No Planting on Peat
- Reduction of GHGs
- Respect for Human Rights
- Transparency (including traceability)

Indonesian Sustainable Palm Oil (ISPO)

ISPO is Indonesia’s mandatory government-led certification scheme, introduced in 2011 under the Regulation of the Minister of Agriculture No.19

(19/Permentan/OT.140/3/2011), with the objective of improving the competitiveness of Indonesian palm oil in the global market, and achieving a reduction in GHG emissions and improving other dimensions of sustainability. The original 2011 regulations have been revised and replaced by the Minister of Agriculture Regulation No. 11/2015 (11/Permantan /OT.140/3/2015)

The 2015 regulations distinguish five categories of producers; the ISPO process is mandatory for integrated plantation company (plantation + mill), plantation company (plantation only) and palm oil processor (mill only). As a mandatory scheme, the ISPO certification provides the assurance of the compliance with all applicable legal requirements by these 3 categories. Smallholder farmers associated with a state or private company (plasma smallholders) and independent smallholders are the other 2 producer groups who may pursue ISPO certification on a voluntary basis.

All plantations assessed as Class I (very good), Class II (good) Class III (average) by the Ministry of Agriculture with regard to their performance on several aspects including legality, plantation management and social and environmental aspects are required to obtain ISPO certification.

Qualification for ISPO certification is centered on compliance with a set of Principles & Criteria (P&C) with 7 overarching principles supported by 40 criteria and 127 indicators. To meet the global demand of palm oil as a feedstock for bioenergy and biodiesel, ISPO plans to introduce an additional standard that meets the requirements for compliance with the EU Renewable Energy Directive.

The ISPO principles are:

Principle 1. Permit and oil palm plantation management
Principle 2. Implementation of guidance for cultivation and processing of oil palm
Principle 3. Environment management and monitoring
Principle 4. Responsibility for workers
Principle 5. Social responsibility and surrounding community
Principle 6. Empowerment of community economic activity
Principle 7. Sustainable business improvement

ISPO also operates a supply chain certification system to ensure transparent trade and use of ISPO-certified palm oil in the supply chain. The trade mechanisms include (i) segregation (ii) mass balance and (iii) book and claim.

**Malaysian Sustainable Palm Oil (MSPO)**

The Malaysian Sustainable Palm Oil (MSPO) scheme is a voluntary national certification system for the production of sustainable palm oil in Malaysia. It is an
alternative system to existing sustainability certification such as the RSPO. The Government of Malaysia approved a set of MSPO standards - Malaysian Sustainable Palm Oil (MSPO) MS 2530:2013 Parts 1 to 4 in September 2013 and the MSPO certification scheme became effective from 1st January 2015.

Part 1 of the MSPO standards provides the general principles for production of sustainable palm oil while Parts 2 to 4 provide specific requirement for sustainable production by independent smallholders, oil palm plantations/organized smallholders and palm oil mills respectively.

The principles of the MSPO standard cover:

Principle 1. Management commitment and responsibility (including an action plan for continuous improvement)
Principle 2. Transparency (including documentation, communications and traceability)
Principle 3. Compliance to legal requirements (including recognition of customary rights)
Principle 4. Social responsibility, health, safety and employment conditions
Principle 5. Environment, natural resources, biodiversity and ecosystem services
Principle 6. Best practices (including standard operating procedures for site management, fair pricing mechanisms etc.)
Principle 7. Development of new plantings (ensuring conservation of high biodiversity values, peatlands and assessments of social and environmental impacts)

The MSPO standards are built on the existing Malaysian Palm Oil Board (MPOB) Codes of Practice covering good nursery practices, agricultural and milling practices, handling, transportation and storage of palm oil products. Inclusion of smallholders in the standards is critical as they account for 40 percent of the planted area. As with other systems, assessment for compliance to MSPO certification requirements are undertaken by accredited 3rd party certification bodies.

The MSPO scheme is part of the national strategy for branding Malaysian palm oil and enhance global market uptake. The government is making effort to encourage acceptance of MSPO certified palm oil by in consuming countries.

**IFC Sustainability Framework & Performance Standards**

The IFC Sustainability Framework articulates the strategic commitment to sustainable development by the International Finance Corporation (IFC) and is an integral part of its approach to risk management. The Sustainability Framework which consist of 3 pillars (Policy on Environmental and Social Sustainability, Performance Standards and Access to Information Policy) helps its clients do
business in a sustainable way. It promotes sound environmental and social practices, encourages transparency and accountability, and contributes to positive development impacts.

The IFC Performance Standards (PSs) are directed towards clients, providing guidance on how to identify risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way, including stakeholder engagement and disclosure obligations of the client in relation to project-level activities. ([http://www.ifc.org/performancestandards](http://www.ifc.org/performancestandards))

In the case of its direct investments (including project and corporate finance provided through financial intermediaries), IFC requires its clients to apply the Performance Standards to manage environmental and social risks and impacts so that development opportunities are enhanced.

The IFC Performance Standards consist of 8 standards that clients must meet throughout the life of an investment by IFC, as follows:

PS 1: Assessment and Management of Environmental and Social Risks and Impacts  
PS 2: Labor and Working Conditions  
PS 3: Resource Efficiency and Pollution Prevention  
PS 4: Community Health, Safety, and Security  
PS 5: Land Acquisition and Involuntary Resettlement  
PS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources  
PS 7: Indigenous Peoples  
PS 8: Cultural Heritage

Performance Standard 1 establishes the importance of (i) integrated assessment to identify the environmental and social impacts, risks, and opportunities of projects; (ii) effective community engagement through disclosure of project-related information and consultation with local communities on matters that directly affect them; and (iii) the client’s management of environmental and social performance throughout the life of the project. Performance Standards 2 through 8 establish objectives and requirements to avoid, minimize, and where residual impacts remain, to compensate/offset for risks and impacts to workers, affected communities, and the environment.

**Sustainable Agriculture Network (SAN)**

The Sustainable Agriculture Network (SAN) is a global coalition of civil society organizations that promotes productive and efficient agricultural systems, biodiversity conservation and sustainable human development through the
application of its sustainable agriculture standard. Developed in the 1990s, the SAN standard has been applied to small farms and plantations growing more than 80 crops, including oil palm in about 45 countries.

SAN Sustainable Agriculture Standard is based on the themes of environmental soundness, social equity and economic viability. The standard consists of 10 principles with specific criteria to promote good environmental, labour and agronomic practices. The current version of the standard contains 99 criteria. ([http://www.san.ag/biblioteca/docs/SAN-S-1-1.2_Sustainable_Agriculture_Standard.pdf](http://www.san.ag/biblioteca/docs/SAN-S-1-1.2_Sustainable_Agriculture_Standard.pdf))

The principles of the Sustainable Agriculture Standard are:

Principle 1. Social and Environmental Management System  
Principle 2. Ecosystem Conservation  
Principle 3. Wildlife Protection  
Principle 4. Water Conservation  
Principle 5. Fair Treatment and Good Working Conditions for Workers  
Principle 6. Occupational Health and Safety  
Principle 7. Community Relations  
Principle 8. Integrated Crop Management  
Principle 10. Integrated Waste Management

SAN has developed a range of systems and guidance documents to support the implementation of the Sustainable Agriculture Standard, including the certification policy, chain of custody system, local interpretation guides and standards for group certification of farmers.

To facilitate access to international markets, certified farms can use the Rainforest Alliance Certified logo on their products.

**International Sustainability and Carbon Certification (ISCC)**

ISCC is an international certification system for sustainability and greenhouse gas emissions to meet legal requirements in the bioenergy markets as well as to demonstrate the sustainability and traceability of feedstock in the food, feed and chemical industries. In July 2011, the European Commission recognized ISCC as one of the first certification schemes to demonstrate compliance with the EU Renewable Energy Directive’s (EU-RED) requirements. ([http://www.iscc-system.org/en/iscc-system/about-iscc/](http://www.iscc-system.org/en/iscc-system/about-iscc/))
ISSC has two basic certification systems – ISCC EU/DE for the biofuels markets and ISCC PLUS for other markets for the production of food and feed products as well as for technical/chemical applications (e.g. bioplastics) and applications in the bioenergy sector (e.g. solid biomass).

ISSC covers entire supply chains and ensures traceability from the field to the consumer. Requirements for certification are covered in a series of systems documents on quality management, risk management, sustainability and traceability requirements and methodologies for calculation of GHG emissions.

ISCC and ISCC PLUS sustainability requirements are based on the following principles:

Principle 1. Biomass should not be produced on land with high biodiversity value or high carbon stock. HCV areas should be protected
Principle 2. Biomass should be produced in an environmentally responsible way. This includes the protection of soil, water and air and the application of Good Agricultural Practices
Principle 3. Safe working conditions through training and education, use of protective clothing and proper and timely assistance in the event of accidents
Principle 4. Biomass production should not violate human rights labour rights or land rights. It should promote responsible labour conditions and workers' health, safety and welfare and should be based on responsible community relations
Principle 5. Biomass production should take place in compliance with all applicable regional and national laws and should follow relevant international treaties
Principle 6. Good management practices should be implemented

ISCC has gained wide acceptance in the palm oil industry and a numerous plantation companies supplying to the bioenergy market in Europe have achieved ISCC certification since 2010.

Roundtable on Sustainable Biomaterials (RSB)

The Roundtable on Sustainable Biomaterials (RSB) is an international multi-stakeholder initiative for ensuring the sustainability of biomaterials production and processing. Biomaterials produced from biomass include liquid biofuels and biomass and biogas for heating and electricity generation.

RSB certification system is based on a set of Principles and Criteria (P&C) that applies to production and use of all types of any feedstock worldwide (http://rsb.org/pdfs/standards/11-03-08 percent20RSB percent20PCs percent20Version percent202.1.pdf). For the EU market, the P&C have been adapted to ensure compliance with the Renewable Energy Directive, which defines the land-use and GHG criteria for biofuels entering the EU market. The RSB EU RED standards received the recognition of the European Commission on July 19, 2011.
RSB Principles. The overarching principles that apply to the global P&C and the RSB EU RED standards are as follows. Each principle is supported by a set of criteria and the minimum requirements that must be met by various operators, including ‘Feedstock Producers’, ‘Feedstock Processors’, ‘Biofuel Producers’ and ‘Biofuel Blenders’

Principle 1. Biofuel operations should follow all applicable laws and regulations.
Principle 2. Sustainable biofuel operations should be planned, implemented, and continuously improved through an open, transparent, and consultative impact assessment and management process and an economic viability analysis.
Principle 3. Biofuels should contribute to climate change mitigation by significantly reducing lifecycle GHG emissions as compared to fossil fuels.
Principle 4. Biofuel operations should not violate human rights or labor rights, and should promote decent work and the well-being of workers.
Principle 5. In regions of poverty, biofuel operations should contribute to the social and economic development of local, rural and indigenous people and communities.
Principle 6. Biofuel operations should ensure the human right to adequate food and improve food security in food insecure regions.
Principle 7. Biofuel operations should avoid negative impacts on biodiversity, ecosystems, and conservation values.
Principle 8: Biofuel operations should implement practices that seek to reverse soil degradation and/or maintain soil health.
Principle 9. Biofuel operations should maintain or enhance the quality and quantity of surface and ground water resources, and respect prior formal or customary water rights.
Principle 10. Air pollution from biofuel operations should be minimized along the supply chain.
Principle 11. The use of technologies in biofuel operations should seek to maximize production efficiency and social and environmental performance, and minimize the risk of damages to the environment and people.
Principle 12. Biofuel operations should respect land rights and land use rights.