



Implementation of FPIC: does this reduce
conflict?

A science-for-policy paper by the SEnSOR programme

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Lead author: Petra Rietberg MSc, Wageningen University petra.rietberg@wur.nl

Contributing author: Dr. Maja Slingerland, Wageningen University

Comments kindly provided by: Dr. Greetje Schouten, Wageningen University, Dr. Michiel Köhne, Wageningen University

Photo front page: Damaged sign post in an oil palm plantation estate, stating “No misfortune, no cry”. The photo was edited to obscure the oil palm company’s name.

Photo courtesy: Petra Rietberg

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Key messages

1. RSPO principles, criteria and procedures make reference to **free, prior and informed consent** (FPIC) in relation to **plantation expansion** and **development of new plantations**, and in relation to conflict resolution and compensation. Specific **regulations on FPIC** apply to **uncertified operations** of RSPO members.
2. There is a **lack of independent empirical studies** investigating **FPIC processes** and the use of RSPO principles, criteria and guidelines in oil palm plantation expansions, and their **effect** on the occurrence of conflict and social equity.
3. **Conflicts** between oil palm companies who are RSPO members or subsidiaries of RSPO members and local communities **persist**, despite RSPO regulations prescribing FPIC. Non-compliance with FPIC-related principles, criteria and guidelines seems one of the major causes of these conflicts.
4. While implementation of FPIC increases interaction between communities and oil palm companies, there is **no conclusive evidence that implementation of FPIC reduces conflict and enhances social equity**.
5. The **effectiveness of FPIC** in the context of RSPO-regulation is **hampered** by **characteristics specific to private voluntary regulations**, including verification mechanisms, possibilities to opt-out, limited power and accountability and incommensurability of values.
6. **Underlying problems** like entrenched poverty, intra-community disparities, highly unequal access to land or land conflicts between and within communities, whether pre-existing or provoked by land acquisition, are **unlikely to be solved by implementation of FPIC alone**.
7. **Contextual factors** in oil palm producing countries, including state laws and policies, the socio-political setting and the general distribution of rights and resources, **limit what can be expected of FPIC** as a tool to **reduce social conflict and enhance more equitable outcomes**.
8. The **lack of evidence** of FPIC effectiveness is problematic, as addressing entrenched social conflict is one of the key challenges of the oil palm sector and **central to the legitimacy** of the RSPO. **Independent empirical studies** investigating **FPIC processes**, experiences with **RSPOs FPIC guide**, **successful cases** of implementation of FPIC, and comparison with cases without such implementation are needed, as well as **enhanced efforts** tackling the complexities associated with FPIC.

Scope of the report

This paper aims to review the evidence about the effects of implementation of free, prior and informed consent (FPIC), as taken up in the Principles and Criteria (P&C) of the RSPO, on social conflict. In doing so, it identifies some of the key challenges and opportunities for implementation of FPIC as a tool to reduce social conflict and enhance equity in the oil palm sector. Identification of these challenges and opportunities will provide insight into possible actions that the RSPO and its members could take to enhance the effectiveness of RSPO, as well as into issues that are beyond the scope of RSPO.

FPIC has developed as a set of principles, by which local communities can give or withhold their consent to the industrial or agricultural development taking place on lands they inhabit and/or use. FPIC has been taken up in the RSPO P&C (Box 2 & section 3).

This paper focuses specifically on the implementation of FPIC as specified in the RSPO principles, criteria and procedures. These include regulations on FPIC in processes of oil palm plantation expansion, as well as regulations related to FPIC in conflict resolution processes. Where applicable, it draws on lessons from the implementation of FPIC in other sectors like mining and forestry.

In this paper, most attention is paid to Malaysia and Indonesia as they account for over 90% of global oil palm production (FAOSTAT 2016).

Box 1: LIST OF ACRONYMS

COA	Compliance Advisor Ombudsman
FPIC	Free Prior and Informed Consent
HCV	High Conservation Value
IFC	International Finance Corporation
NPP	New Planting Procedure
P&C	Principles and Criteria
PCC	Partial Certification Clause
RSPO	Round Table on Sustainable Palm Oil
SEIA	Social and Environmental Impact Assessments

Rationale

Global production of oil palm increased from 14,1 million tons in 1993 to 54,3 million tons in 2013 (FAOSTAT 2015) and is expected to grow in the coming years. Oil palm plantation expansion has given rise to controversy, among others because of the frequent occurrence of conflicts between companies and local communities. Those conflicts predominantly are related to loss of customary land (Gerber 2011) and unequal benefit sharing (Persch-Orth and Mwangi 2016, Rist, Feintrenie, and Levang 2010).

FPIC has developed as a set of principles, by which local communities can give or withhold their consent to the industrial or agricultural development taking place on lands they inhabit and/or use. The right to FPIC has been recognized in international human rights law as well as national laws in some countries, and is increasingly being acknowledged in private sectors policies and commitments (Chao 2012). In response to conflicts between local communities and oil palm companies, FPIC has been taken up in the RSPO P&C (Box 2 & section 3).

With regards to FPIC, RSPO regulations go beyond most national legal frameworks and other private voluntary standards, and are considered fairly comprehensive and progressive (Nesadurai 2013, Chao 2012). Yet, little is known about the effect of these regulations on the ground. Assessing whether implementation of FPIC as taken up in the RSPO P&C reduces conflict is not straightforward, for questions about the *effects* of implementation of FPIC are closely related to questions about *how and whether* FPIC is being implemented.

The scientific literature reveals that both the concept and the implementation of FPIC are contested (Fontana and Grugel 2016, Szablowski 2010) and intimately linked to political struggles (McCarthy 2012, Haalboom 2012). In order to know whether FPIC is effective in reducing social conflict and enhancing social equity, empirical accounts of implementation of FPIC in processes of oil palm expansion are needed. After shortly going into the issue of non-compliance with FPIC, we discuss the available evidence about whether implementation of FPIC reduced conflict. In doing so, this study aims to identify the factors that hamper or promote effective use of FPIC, as impacts of FPIC are strongly shaped by contextual factors (Mahanty and McDermott 2013) and underlying issues.

This paper is based on a literature review. Details of the methodology can be found in Appendix I. The paper is structured as follows. In the next section, the way FPIC is taken up in RSPO rules and regulations is described. Thereafter, the scarce empirical evidence on whether FPIC reduces conflict and enhances equitable outcomes will be reviewed, highlighting the importance of compliance issues. In order to gain insight in the reasons explaining why FPIC is effective or not, the subsequent section discusses factors hampering or promoting effective implementation of FPIC.

3. RSPO regulations about FPIC

3.1 FPIC within RSPO principles, criteria and procedures

Key message: RSPO principles, criteria and procedures make reference to free, prior and informed consent (FPIC) in relation to plantation expansion and development of new plantations, and in relation to conflict resolution and compensation. Specific regulations on FPIC apply to uncertified operations of RSPO members.

This section summarizes the requirements regarding FPIC in the RSPO, and to whom and when they apply. A detailed overview of principles and indicators related to FPIC can be found in Appendix II.

The most important RSPO regulations that apply to FPIC are 2: Compliance with laws and regulations (2.2, 2.3), 6: Responsible consideration of ... communities ... (6.4) and 7: Responsible development of new plantings (7.5, 7.6), as well as the New Plantings Procedure (NPP). Criteria 2.3 states that local people's legal, customary or user rights should not be diminished by the use of the land for oil palm without their FPIC. In addition, the right to use the land should not be contested by local people with demonstrable rights (criteria 2.2). Specifically, indicator 2.2.3 points to local peoples' right to FPIC in accepting fair compensation for current or previous disputes over land rights. Criteria 7.5 states that new plantings cannot be established without local people's FPIC if they can demonstrate to have legal, customary, or user rights. Furthermore, if land acquisitions or relinquishment of rights are agreed on, local people should be compensated for that (criteria 7.6). Finally, local people should be involved in negotiations over development of new plantations (criteria 7.5) and compensation (criteria 6.4) through representative institutions of their own choice, and these negotiations should be documented (criteria 6.4 and 7.5) (RSPO 2013). Principle 7 is closely related to the RSPO's NPP. The NPP stipulate that "the planning and management for the new plantings and related development is based on the FPIC of any local peoples whose lands are affected", and make reference to P&C regarding FPIC (RSPO 2012).

The RSPO P&C apply to operations that are RSPO certified and becoming RSPO certified. According to the guidance text on criteria 2, "all indicators apply to current operations, but there are exceptions for long-established plantations that may not have records dating back to the time of the decision making." Furthermore, the guidance stresses that, in case of conflict, "necessary action" should be taken to resolve the conflict. Reference is made to the FPIC guide, which was approved by the RSPO.

In contrast, *all* RSPO members should adhere to the NPP for new oil palm plantations developed from January 1st, 2010. The NPP thus also apply to operations of RSPO members that are not or not yet certified. Operations that were developed after 1 January

2010 that are acquired by RSPO members should adhere to principle 7 of the RSPO P&C, which includes the need to respect FPIC. This also holds for companies who developed a new plantation after 1 January 2010 who become an RSPO member and intent to certify that operation.

All RSPO members should also adhere to the partial certification clause (PCC). This clause prescribes that companies who manage or are a major shareholder in more than one autonomous oil palm company, can only certify individual operations if a number of preconditions is met on all their operations. This includes the requirement that “land conflicts are being resolved through a mutually agreed process, in accordance with criteria 6.4, 7.5 and 7.6” (RSPO 2011, p.17).

3.2 Reflection

In the RSPO rules and regulations, reference to FPIC is made in relation to development of oil palm plantings as well as in relation to negotiations over compensations. Firstly, FPIC is developed to play a role in preventing arising of new conflicts in situations where oil palm plantation expansion takes place. Secondly, FPIC plays a role in previous or existing conflicts over land rights in plantations that are to be RSPO certified, as FPIC of local people is required in relation to compensation and conflict resolution. In this second interpretation, the meaning of FPIC does not follow clearly from the principles, criteria and guidance. Where conflicts over land are ongoing and land acquisition and plantation development have already taken place, notably the meaning of “free” and “prior” is questionable.

Box 2: DOCUMENTS ABOUT FPIC WITHIN THE RSPO

The RSPO has developed a system of oil palm certification, based on a standard consisting of principles, criteria and indicators and third-party verification. After a pilot phase of two years, RSPO’s standard for sustainable oil palm has been “released for use” in 2007. To accommodate for adoption of the standard in different countries, national interpretations of those P&C have been developed for different countries. In 2011, the P&C underwent a revision process and the revised criteria were endorsed by the executive board and adopted by the general assembly in 2013.

The NGO Forest Peoples Programme, together with the RSPO, has developed a “guide for companies” to provide guidance and explanation to the implementation of FPIC. In 2014, this guide was revised and updated by the Human Rights Working Group¹ of RSPO, assisted by FPP. A wide range of stakeholders was involved in the revision process, among others during two two-day workshops in 2014. Drafts of the guide were shared with stakeholders for comments (RSPO 2014). The revised guide was endorsed by the RSPO board of Governors in April 2016 (RSPO 2016b).

4. Lessons learned from empirical accounts: does FPIC reduce conflict?

4.1 What is known?

Key message: There is a lack of independent empirical studies investigating FPIC processes and the use of RSPO principles, criteria and guidelines in oil palm plantation expansions, and their effect on the occurrence of conflict and social equity.

While a quite extensive body of literature exists on FPIC in international and national law and treaties (e.g. Rombouts 2014), accounts of the implementation of FPIC “on the ground” are limited. Furthermore, a large part of the literature on implementation of FPIC has a normative content, prescribing how FPIC should be implemented (e.g. Colchester and Ferrari 2007, Lewis 2012) rather than providing empirical accounts of actual implementation and the effects of implementation on the occurrence of conflicts. Those research articles that deal with the implementation of FPIC “on the ground” are often related to REDD+ (e.g. Pham et al. 2015), the mining industry (e.g. Owen and Kemp 2014, Haalboom 2012), or forestry (e.g. Mahanty and McDermott 2013), and less often to oil palm, with some exceptions. Most of the accounts on implementation of FPIC in oil palm development is written by NGO’s (e.g. Colchester 2011, Lomax 2015).

The most extensive source of information regarding implementation of FPIC by oil palm plantation companies is Colchester and Chao (2013). They describe 16 cases (Table 1, Appendix III). Cases of conflict were purposefully sought, as well as “best practices”. For the purpose of this study, we consider the four cases relevant to which the rules on NPP apply, as well as the three cases describing ongoing conflicts in certified operations and five other cases of ongoing conflict in which RSPO members and/or subsidiaries of RSPO members were involved. The four other cases refer to operations of agribusinesses (three cases) or smallholders and local capitalists (one case) that were not RSPO members and provide little opportunity to assess the implementation or effectiveness of FPIC as stipulated in RSPO regulations.

Experiences with FPIC were also investigated by Levin et al. (2012), in their study on costs and benefits of RSPO certification. Their study includes one specific case about implementation of FPIC. Furthermore, the topic of FPIC in relation to oil palm development in Indonesia is addressed by and McCarthy, Gillespie, and Zen (2012), McCarthy (2012), who look at the potential of private regulatory frameworks more broadly.

4.2 Discussions about implementation are closely related to compliance

Key message: Conflicts between oil palm companies who are RSPO members or subsidiaries of RSPO members and local communities persist, despite RSPO regulations prescribing FPIC. Non-compliance with FPIC-related principles, criteria and guidelines seems one of the major causes of these conflicts.

Data from the RSPO complaints panel show that a quarter of the 63 complaints submitted between 2009 and 1 June 2016 relates to FPIC, with another 4% related to NPP non-compliance, which could relate to FPIC (RSPO 2016a). These data show that there are still conflicts, sometimes severe conflicts, related to land acquisition and compensation. The number of conflicts is most likely larger than the number of complaints raised, as parties involved in a conflict may choose not to file a complaint. Silva-Castañeda (2015) found that a satisfactory solution is only realized for a small number of the conflicts for which complaints are raised, and that most conflicts continue to exist.

FPIC in relation to new oil palm plantations or expansions: conflicts related to non-compliance

Many conflicts, such as those reported by Chao (2012) and Colchester and Chao (2013), seem to be related to non-compliance with RSPO principles, criteria and procedures, notably poor implementation of FPIC. Lack of access to information about proposed concessions, agreements, social and environmental impact assessments (SEIAs) and high conservation values (HCVs) was one of the main problems in FPIC processes (Chao 2012, Sohn, Hertz, and Vina 2007). For example, in the case of an agribusiness in Sambas, Indonesia, local people did not have access to HCV documents and results of participatory mapping, or the cultivation permit (HGU). These problems were exacerbated by a lack of information sharing by community representatives to the wider community (Colchester and Chao 2013). Based on several sources dealing with FPIC in the mining sector, Mahanty and McDermott (2013) found that companies' interest to gain community consent biases the information they provide. Indeed, misleading information was found to be related to conflict in the oil palm sector, too (Colchester et al. 2006).

Other crucial issues on which FPIC processes fall short include lack of participatory mapping, and lack of inclusion of affected people (Chao 2012). Some plantations of RSPO members were developed without FPIC process at all (Colchester and Chao 2013). Colchester and Chao (2013) describe two processes of oil palm plantations development without FPIC in Liberia. In one of these cases, local people raised a complaint about an oil palm company's non-compliance with the NPP. An assessment by the Tropical Forest Trust confirmed that, among other things, FPIC had been poorly implemented. Notably, no participative consultation was conducted and plantation development on local people's land took place without their prior consent, and participatory mapping was

lacking. Raising the complaint apparently brought about little change on the ground: the operating company continued to consider its operations as *ongoing* plantings despite requests from RSPO's complaints panel to consider all future development as *new* plantings, needing to fulfil the requirements of the NPP. Furthermore, the company did not provide local people with information about its planned operations, and cases of coercion and intimidation of villagers were reported. Finally, the complaint was withdrawn after 512 dismissed plantation workers pressured the submitters of the complaint. After that, the company offered a memorandum of understanding to the villagers. Yet, this was not accepted by the complainants, who also negated the withdrawal of the complaint.

FPIC in relation to compensation and conflict resolution: conflict related to non-compliance

As explained in section 3, the RSPO P&C and the PCC also make reference to FPIC in relation to conflict resolution and compensation. The requirements state that, in the case of conflict, including land conflict, a mutually agreed conflict resolution process should be in place to address and solve the conflict, in which the right to FPIC is respected. Yet, in most of the cases of ongoing conflict reported by Colchester and Chao (2013), these requirements were not or only partially complied with.

For example, in the case of a certified oil palm operation in West Kalimantan, the RSPO auditing team found minor non-conformities to RSPO P&C. These were being addressed by the company, yet Colchester and Chao (2013) report ongoing dissatisfaction among community members, relating among other things to the conflict resolution mechanism that was set up. Reportedly, only village heads were involved, and several meetings at the regional government did not lead to satisfactory solutions. After that, the Indonesian human rights committee was found willing to act as an independent facilitator. Yet, the company did not accept this, leading to a deadlock.

In five other cases described by Colchester and Chao (2013), the PCC applied (Table 1). Conflicts in these cases originated mostly from the time of plantation development, prior to the existence of the RSPO and/or RSPO membership of the parent company, and were often related to poor implementation of FPIC and lack of satisfactory compensation. Yet, the requirements for a mutually agreed conflict resolution process were not met in most cases. This was either because no such initiative was taken by the operating company, or because the company and the communities did not agree about the proposed resolution mechanism. In two of these cases the conflicts were brought to RSPOs complaints panel and dispute settlement facility or to the Compliance Advisor Ombudsman (COA) of the International Finance Corporation (IFC). Yet, this did not lead to a satisfactory solution.

Cases like these show that the RSPO P&C do not readily translate in changed practices on the ground. However, cases of non-compliance provide little opportunity to assess whether implementation of FPIC reduces conflict. To do this, it is necessary to investigate cases where FPIC procedures were applied in the field. In doing so, making a sharp

distinction between cases where FPIC is “properly implemented” and cases where this is not being done is not very helpful, as RSPO’s principles, criteria and procedures are subject to interpretation by different actors in the field, like local people, NGO’s, auditing bodies, companies and local governments. Rather, the relevant question would be: How are the RSPO rules and procedures being used in the field, and with what effect? This will be described for relevant cases in the following sections. The accounts include cases where Colchester and Chao (2013) classified oil palm companies’ operations as “poor implementation of FPIC”.

4.3 What is known about the way FPIC is being implemented?

Key message: While implementation of FPIC increases interaction between communities and oil palm companies, there is no conclusive evidence that implementation of FPIC reduces conflict and enhances social equity.

FPIC in relation to new oil palm plantations or expansions

Colchester and Chao (2013) describe the case of an oil palm company in West Kalimantan. As the estate was developed after 1 January 2010, the NPP applied. Among other things, the company obtained the necessary permits, conducted a participatory SEIA and HCV assessment and organized meetings with community members to inform them about their plans. As one of the villages within the concession opposed the development of the estate, an area was excised (“enclaved”) from the concession. Yet, the villagers opposing the plantation were unsatisfied with the area of the concession, as they claimed an area larger than the area excised. Thus, unresolved land claims persisted, related to overlapping land claims between different ethnic groups. This example shows the limitations to what can be achieved with FPIC, which will be discussed in more detail below.

A study by WWF found more positive results. Based on interviews with company managers of plantations and mills from eight oil palm companies, they found that implementation of RSPO P&, including FPIC, reduced social conflict and enhanced community relations (Levin et al. 2012). In one apparent success story, a company operating in Indonesia implemented FPIC by establishing a company office in each of the villages in and around the proposed estate. The company hoped to “engage in deep and meaningful interaction”, and gained insight in land ownership structures. Ultimately, the goal of these endeavours was to prevent social conflict and land tenure issues. According to the interviewee, these experiences stood in contrast with experiences in a previous estate, where land acquisition led to conflict when local brokers started to buy land from local people.

A similar success story, yet in a different context and sector, was described by Sohn, Hertz, and Vina (2007). When Shell aimed to extract natural gas in the Philippines, they

employed four strategies to gain community consent. These strategies included contacting the community and interviewing local leaders (1), informing the community about the proposed activities (2), investigating the stance of the community towards the project by perception surveys and participatory workshops (3), and involving the community in the development of environmental management plans (4). The involvement of the community led to changes to the project and, ultimately, to consent. Both studies specifically point to the business case for implementing FPIC: conducting FPIC involves costs, yet, these costs are minor compared to the costs of conflicts when they lead to disrupted operations or abandoned projects (Sohn, Hertz, and Vina 2007, Levin et al. 2012).

FPIC in relation to compensation and conflict resolution

Two other cases of certified operations in Indonesia described by Colchester and Chao (2013) provide information about the way FPIC is being implemented as a means to negotiate and agree on compensation for previous grievances, as explained in indicator 2.3.1. In these cases, conflict stems from prior to the development of RSPO P&C. However, operations were either taken over by RSPO members or became RSPO members themselves. As they were being certified, aforementioned regulations on FPIC did apply.

In the case of an oil palm company in Central Kalimantan, negotiations between local people and company representatives about compensation did take place. Yet, local people were unsatisfied with the compensation offered, leading to “protests, road blockades and illegal harvesting of FFB by community members” (p. 60). At the same time, the company did not acknowledge local peoples’ claims to land. Hence, a satisfactory solution was not found. Reportedly, the estate was being certified while social conflict continued.

In contrast, in the case of another company in East Kalimantan, local people generally did not oppose the presence of the oil palm company and were grateful for the infrastructural development it had brought to the region. The few outstanding issues, regarding lack of compensation of land clearance for which no consent had been sought and unrealized promises of the development of a plasma scheme, were not considered severe enough to be labelled “conflict”. An FPIC process did not seem to have taken place in the initial stages of plantation development in the nineties, nor did any conflict resolution process after that. Instead, the company apparently remedied this lack of FPIC by aforementioned infrastructural development, including the provision of electricity, clean water, and building schools and clinics, and by being open to and supportive of the needs of local communities.

In these cases, the oil palm companies sought to communicate with local people to resolve existing conflicts. Persch-Orth and Mwangi (2016 p.7) found that RSPO members generally responded faster to complaints of local activists and community members, and “were more easily held accountable”. Yet, the cases described by Colchester and Chao

(2013) show that this could not ensure satisfactory solutions for all community members involved. As Sohn, Hertz, and Vina (2007) argue, creating consent can be difficult once people have a grudge against a company because of previous grievances.

4.4 Reflection

This limited number of accounts does not provide a clear answer to the question whether implementing FPIC reduces conflict. Indeed, identifying the effects of regulations such as the RSPO on the occurrence of conflicts related to land is not easy (Potter 2015). In addition, most cases lack a credible counterfactual that could serve to answer the question: what would have happened if FPIC was not implemented?

The RSPO P&C do not only use FPIC in relation to development of new plantations or expansions, but also refer to FPIC in relation to conflict resolution. Yet, in practice, "FPIC" in those cases seems to be limited to consent over the type and amount of *compensation*, which will usually take the form of money or participation in a plasma scheme (Silva-Castañeda, 2015). This meaning of FPIC is thus quite different from granting consent to plantation development and to specific conditions under which this development takes place. Specifically, it is unclear what "free" and "prior" mean in these instances, for in many cases, it is precisely the lack of implementation of an FPIC process at the onset of plantation development that caused the conflict, and spurred the need for conflict resolution. FPIC, by its nature, cannot be implemented retroactively.

More generally, the RSPO requires that land conflicts are resolved through "a mutually agreed *process*", without setting standards for the *outcome*, or demanding that the conflict is solved. The abovementioned examples show that this can lead to endless processes or deadlocks, in which no satisfactory solution is found. While some parties may benefit from the continuation of the conflict at a low level (Yasmi, Kelley, and Enters 2013), conflicts between communities and plantation companies are generally costly and undesirable for both communities and plantation companies (Yasmi, Kelley, and Enters 2013, Levin et al. 2012).

5. Factors hampering or promoting effective implementation of FPIC

Companies do not operate in isolation. Several studies have stressed the importance of the context in shaping FPIC-outcomes, as well as underlying and structural issues that affect the implementation of FPIC. These will be discussed in the following sections.

5.1 Characteristics of voluntary private regulations hampering FPIC effectiveness

Key message: The effectiveness of FPIC in the context of RSPO-regulation is hampered by characteristics specific to private voluntary regulations, including type and quality of verification, possibilities of companies to opt-out, limited power and accountability and incommensurability of values.

Scholars have pointed to characteristics of the RSPO that hamper its effects on equity and fair outcomes. These critiques hold more widely for voluntary third party certification systems.

Firstly, Silva-Castañeda (2012) argues there are flaws in the verification system, which include the financial dependency of auditors on the companies they are auditing (their clients). More importantly, local forms of evidence for property rights to land, such as living trees and testimonies, are poorly recognized by auditors. For villagers, trees may provide a stronger proof than the land certificate issued by the government. Instead, auditors primarily rely on documents, notably legal-formal documents, as evidence. This can silence voices of local communities (Silva-Castañeda 2012). Concerns about the verification system are shared more widely. Colchester and Chao (2013) report cases in which auditors did not adequately identify ongoing conflicts and grievances, or certification went ahead while social conflict was ongoing. According to Nesadurai (2013), assessing compliance with FPIC is notably difficult, particularly when ownership over the operating company changed, when communities are divided, or when communities regret previous consent.

Secondly, the voluntary nature of these systems can be problematic. As long as there are markets for uncertified products, which is the case for oil palm, companies have the opportunity to withdraw from the RSPO altogether (Mahanty and McDermott 2013), or sell their subsidiaries in conflict with local communities. This happened in South Cameroon, where an agribusiness company withdrew its RSPO application after a formal complaint had been lodged and their project with a subsidiary received widespread criticism (Colchester and Chao 2013). Another case shows sales of subsidiaries or shares in subsidiaries can have detrimental consequences. In 2008, local communities had filed

complaints against a prominent RSPO member to the COA of IFC (McCarthy, 2012, Colchester and Chao, 2014), in relation to a conflict with one of their subsidiaries. In 2012, a mediation process was started to remediate this long-standing conflict. The RSPO member eventually sold the subsidiary in 2013 (Colchester and Chao, 2014). After the sales, mediation efforts halted and the conflict escalated, leading to the death of a community member (Persch-Orth and Mwangi 2016).

Thirdly, Silva-Castañeda (2015) points to the tension between an approach based on recognition of land rights, like FPIC, and the search for conflict resolution prevalent in corporate operations. Based on an analysis of two cases of conflict in Central Kalimantan, she found that communities experienced an intimate link between them and their environment, and, in the conflict, were looking for justice. This, however, was at odds with the search for shared interests and the logic of economic rationality that prevailed in conflict resolution processes: the search for justice and the value of the land cannot be translated into monetary value easily. As a consequence of this logic, solutions proposed by companies are often confined to monetary compensation or participation in a plasma scheme and do not include land restitution, even when this would be preferred by local communities.

Fourthly, McCarthy (2012) holds that the values of upstream and downstream producers are fundamentally different. While downstream producers have an interest in sustainability values, such as nature conservation and social equity, most downstream producers are notably concerned about economic development. The P&C of RSPO are mainly designed by downstream producers to address sustainability concerns of their clients and consumers, but they need to be implemented by upstream producers. This incommensurability of values creates tension and compliance problems.

5.2 Limitations to what can be addressed by FPIC

Key message: Underlying problems like entrenched poverty, intra-community disparities, highly unequal access to land or land conflicts between and within communities, whether pre-existing or provoked by land acquisition, are unlikely to be solved by implementation of FPIC alone.

There are limitations to issues that can be solved by the implementation of FPIC. FPIC by itself will not alleviate entrenched poverty or alter patterns of highly unequal access to land (Mahanty and McDermott, 2013). Land interventions can spur local people to lay claims to land as they expect to receive benefit from it. As Mahanty and McDermott (2013, p.413) put it: “loose social and tenure boundaries can gain great meaning and can be a flashpoint for conflict.” Hall (2011) argues that informal land property relations can become contested once the value of land increases due to land acquisition for cash crop expansion.

Land conflict provoked by land acquisition

In a study on local oil palm production networks in Indonesia, McCarthy et al. (2012, p. 561) found that "the process for translating informal rights into formal legal entitlements left landowners vulnerable to manipulation by land brokers and consultants working on behalf of the plantation company". This is illustrated by a case study from Indonesia. Once it was known that an oil palm company aimed to acquire the land, land brokers offered cash to local people but did not pay after the contract was signed. As a consequence, both the brokers and the local people made claim to the land. Eventually the company made payments to multiple claimants for the same piece of land (Levin et al., 2012).

Several other cases of oil palm expansion processes described how overlapping claims to land by local people provoked conflict. For example, in Sambas, conflict arose when an elite family with apparent historical claims to an area of land agreed to relinquish rights to that land to an oil palm company. Yet, at the same time, people from a nearby village who had been cultivating that land claimed they had rights to that land. In another case, in East-Kalimantan, conflict arose because people from different villages made claims to land located within a concession. The absence of participatory village maps, a cultivation permit (HGU) and information about concession boundaries further complicated the situation (Colchester and Chao 2013).

This raises questions about the responsibility and capacity of different stakeholders to solve such conflicts. For example, in the example of Sambas, the oil palm company considered the exercise of mapping the boundaries between different communities the responsibility of those communities.

Inequality within communities

Local communities are not homogeneous entities, but rather consist of people with different interests, power and resources (Borras and Franco 2010). Henley and Davidson (2007, p. 838) point to the existence of "customary inequality" and customary systems of representation favoring senior men. Lack of representation of women in FPIC processes related to oil palm was also reported by Colchester and Chao (2013) for the case of an oil palm company in Sambas, West Kalimantan. Thus, even when communities themselves can decide on the way they are being represented, as recorded in the RSPO P&C, this does not guarantee full and equal considerations of all voices within a community, especially when accountability of customary representation bodies is weak (Mahanty and McDermott 2013). This is especially problematic in the case of intra-community conflict (Vlist 2015) or when different opinions exist within a community, which was reported by Colchester and Chao (2013) and is likely to happen in many places. Mahanty and McDermott (2013) take this point further and argue that FPIC may function as a tool to further marginalize those lacking historical and traditional claims. They state (p. 411) that "local systems of representation used in FPIC processes are not benign, but can harbor and perpetuate intra-community disparities".

5.3 The importance of the state and existing power relations in shaping FPIC processes

Key message: Contextual factors in oil palm producing countries, including state laws and policies, the socio-political setting and the general distribution of rights and resources, limit what can be expected of FPIC as a tool to reduce social conflict and enhance more equitable outcomes.

The role of the state

Several authors have pointed to the importance of the legal and policy frameworks of the host country in shaping FPIC processes (e.g. Sohn, Hertz, and Vina 2007, Mahanty and McDermott 2013). Where customary and user rights to land are recognized by the government, and community involvement in and consent to land acquisition processes are required, FPIC processes will be easier to implement. Paradoxically, “effective FPIC is arguably most needed in areas where communities lack full legal rights and capacity, yet these are the contexts where FPIC is most difficult to implement.” (Mahanty and McDermott 2013, p. 414).

There are several examples where lack of state recognition of local people’s rights hampered FPIC processes as prescribed by the RSPO. For example, Colchester and Chao (2013) point to the tension between the RSPO standard and state laws and land allocation procedures in Malaysia, in the case of Genting Plantations in Sabah. They state that the latter deny rights of local people to customary land and FPIC, whereas the former does recognize those rights (Colchester and Chao, 2013). In Liberia, the government obstructed the FPIC process set out by Sime Darby by pressuring the company to cancel planned meetings with local people and urging the communities involved to withdraw their complaints against the company (Colchester and Chao 2013). Specific rules and regulations can hamper or promote FPIC processes. For example, in Indonesia, palm oil companies have to plant within two years after obtaining a license from the government. This limits the time available for an FPIC process.

Yet, even where state laws and policies recognize customary rights to land and the need for community consultation or consent, poor law enforcement and lack of implementation capacity can be problematic. For example, in Sambas, Indonesia, interviewed government officials said they did not have the capacity, skills, budget and procedure to satisfactorily monitor oil palm companies’ activities in their district, and only took action when a government response was demanded (Colchester and Chao 2013).

Such limited enforcement may be in the interests of decision-makers at district level. McCarthy, Gillespie, and Zen (2012) found that the implementation of oil palm policies was shaped by clientelism, in a way that favored oil palm plantation development. This is in accordance with Borrás and Franco (2010), who found that local actors involved in facilitating land acquisition, like state actors and local leaders, often have an interest in ensuring this land acquisition actually takes place. The military and the police were found

to be frequently involved in conflicts over industrial tree plantations in Indonesia, protecting the plantation developers and intimidating local people (Persch-Orth and Mwangi 2016, Yasmi, Kelley, and Enters 2013).

More generally, McCarthy, Gillespie, and Zen (2012) found that state capacities are closely related to regime interests and agribusiness agendas. They analyzed local oil palm production networks in Indonesia, and found that policy models, regime interests and agribusiness strategies together shape local production networks. In this interplay, regulatory initiatives such as the RSPO have limited power and potential to provoke change (McCarthy 2012, McCarthy, Gillespie, and Zen 2012).

Limited power & accountability

Likewise, scholars have questioned the extent to which FPIC can create a “level playing field” in contexts that are characterized by highly asymmetrical power relations between communities and companies (McCarthy, Gillespie, and Zen 2012, Mahanty and McDermott 2013). Local communities have less negotiation skills and access to legal knowledge than investing companies (McCarthy, Gillespie, and Zen 2012). Furthermore, local people may lack knowledge of certification, and capacity building would be required prior to meaningful participation in certification (Mahanty and McDermott 2013).

McCarthy (2012), and McCarthy, Gillespie, and Zen (2012) consider these power asymmetries especially problematic as FPIC processes are implemented in the absence of “social foundations of accountability” in rural Indonesia (McCarthy, Gillespie, and Zen 2012, p. 565). These social foundations are created through repeated cycles of opposition and coalition building, in which civil society holds the government accountable for its actions. According to McCarthy (2012), and McCarthy, Gillespie, and Zen (2012), the absence of these forms of accountability seriously hampers the effectiveness of private voluntary certification schemes such as the RSPO, including its regulations on FPIC.

5.4 Reflection

Several of the issues discussed above lead McCarthy (2012), and McCarthy, Gillespie, and Zen (2012) to conclude that the RSPO has limited potential to generate more procedural and distributional justice in the contemporary Indonesian context. Based on their analysis of FPIC in the forestry and mining industry in various countries, Mahanty and McDermott (2013) come to a similar conclusion.

Mahanty and McDermott (2013) conclude that “contextual factors such as government laws and policies, the socio-political environment, and the overall distribution of rights and resources strongly shape the impacts of FPIC on equity, particularly for actors without strong legal rights”. While McCarthy, Gillespie, and Zen (2012, p. 565) content that “the key problem is that FPIC concepts may be grafted onto contexts where pre-existing socio-political relationships both enable and constrain action in ways that work against FPIC objectives.” Therefore, FPIC is not a simple solution to conflicts associated with land use interventions.

Conclusion

The right to FPIC is firmly established in RSPO principles, criteria, and guidelines, and FPIC is put forward as one of the main ways to safeguard local people's rights to land and to avoid conflict. Yet, there is surprisingly little empirical evidence about the way RSPO principles, guidelines and criteria are being implemented by RSPO members, and about the effects of their implementation on social conflict and the equitability of outcomes.

Conflicts related to land acquisition for oil palm persist, despite requirements for FPIC. These conflicts are often related to the lack of implementation of FPIC. In those cases, RSPO members apparently were unwilling or unable to implement the guidelines as developed by RSPO. While lack of FPIC is an important cause of conflict, the small number of studies investigating cases in which FPIC indeed was implemented does not provide compelling evidence that implementation of FPIC reduces social conflict.

FPIC processes are also proposed as a way to create more equitable outcomes and fair distribution of benefits, which goes beyond reducing conflict. Yet, the right to FPIC as enshrined in RSPO P&C alone is unlikely to create such outcomes. Oil palm expansion often takes place in contexts where interests of agribusiness, local powerful actors and governments align. Companies and communities will often have highly unequal access to knowledge and to financial and legal resources, and communities in rural areas in the developing world often have limited alternatives for economic development. These asymmetrical power relations limit the extent to which communities can make effective use of their right to FPIC.

Research has shown that oil palm plantation development will create winners and losers, and may provoke conflicts within and between communities. However, it is unknown whether and how FPIC processes alter social equity within and between communities. More importantly, most FPIC processes are poorly designed to deal with intra- and inter-community disagreements.

The limited research on and evidence of the effectiveness of FPIC in reducing conflict and enhancing social equity is remarkable. Social conflict related to oil palm development was among the main reasons for establishing the RSPO in 2004. Currently, oil palm producers, processors, traders and food manufacturers use RSPO membership and RSPO and GreenPalm logos to legitimize their operations. However, as to date, sustainability claims about reduced social conflict and enhanced equity are not backed up by empirical evidence obtained through independent research. It is an open question whether that is because no research is being done, whether non-compliance is widespread or whether implementation of FPIC has limited effect.

Reducing social conflict and enhancing social equity are key to the legitimacy of the RSPO and its members. Therefore, the complexities associated with FPIC processes need to be addressed, and independent research and sharing of experiences is needed to foster

mutual learning. The following three areas for research and development should not be overlooked. First, the limited power of local communities should be addressed. This includes, but is not limited to empowerment of local communities and enhanced knowledge of the right to FPIC. Second, effective FPIC procedures require legal and policy frameworks that, at a minimum, do not oppose the right to FPIC. Finally, there is a need for the development of well-functioning accountability relations between civil society, oil palm companies, state actors and the RSPO.

Key knowledge gaps & recommendations for further study

1. There is a need for independent empirical accounts of oil palm plantation expansion processes where FPIC was implemented, and access to research sites, despite the sensitivity of the topic.
2. Specifically, there is lack of documented experience with RSPO guide for implementation of FPIC. Such experience could help further the evolution of FPIC especially in the context of standard-setting organizations like the RSPO.
3. There is a need for documentation of successful implementation of FPIC, both for cases in which consent was given as for cases in which consent was withhold.
4. There is a need to look at contextual factors that are conducive to FPIC processes and to investigate whether and how private and state actors could collaborate to further such processes.

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Appendix 1: Methods for data collation

RSPO-documents were examined to obtain an overview of principles, criteria and indicators relating to FPIC. Information about the number of complaints relating to FPIC was obtained through the website of RSPO. Literature was searched in Google Scholar by using different combinations of the terms “FPIC” “RSPO” “oil palm” “implementation” “consent”. We screened literature to verify whether they met the following criteria: FPIC is the topic of the study, the study focuses on *implementation* of FPIC, discusses the involvement of local communities and private or state-owned companies, focuses on (a) developing country/ies, preferably Malaysia or Indonesia; is based on empirical data; provides a clear description of the methodology; is peer-reviewed. As none of the found literature met all criteria (i.e., we did not find peer-reviewed studies providing empirical accounts of the implementation of FPIC in relation to oil palm), we ranked literature from highly relevant to not so relevant based on the criteria. Other literature related to conflicts and oil palm plantations was included when relevant. We also included relevant points of discussion raised during a stakeholder meeting about FPIC organized by the Dutch ministry of foreign affairs. A preliminary version of the paper was sent to two independent proof-readers, whose comments were used for the revision.

Appendix 2: RSPO Principles, Criteria and Indicators related to FPIC

First P&C 2005; including (without indicators or guidance):

Criterion 2.2 The right to use the land can be demonstrated, and is not legitimately contested by local communities with demonstrable rights.

Criterion 2.3 Use of the land for oil palm does not diminish the legal rights, or customary rights, of other users, without their free, prior and informed consent

Criterion 6.4 Any negotiations concerning compensation for loss of legal or customary rights are dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders

Criterion 7.3 New plantings since November 2005 (which is the expected date of adoption of these criteria by the RSPO membership), have not replaced primary forest or any area containing one or more High Conservation Values.

Criterion 7.5 No new plantings are established on local peoples' land without their free, prior and informed consent, dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions.

Criterion 7.6 Local people are compensated for any agreed land acquisitions and relinquishment of rights, subject to their free, prior and informed consent and negotiated agreements.

P&C 2013

Principle 2: Compliance with existing laws and regulations

Criteria 2.1: There is compliance with all applicable local, national and ratified international laws and regulations

Criteria 2.2: The right to use the land is demonstrated, and is not legitimately contested by local people who can demonstrate that they have legal, customary or user rights.

Indicators:

2.2.1 (M) Documents showing legal ownership or lease, history of land tenure and the actual legal use of the land shall be available.

2.2.2 Legal boundaries shall be clearly demarcated and visibly maintained.

2.2.3 Where there are or have been disputes, additional proof of legal acquisition of title and evidence that fair compensation has been made to previous owners and occupants shall be available, and that these have been accepted with free, prior and informed consent (FPIC).

2.2.4 (M) There shall be an absence of significant land conflict, unless requirements for acceptable conflict resolution processes (see Criteria 6.3 and 6.4) are implemented and accepted by the parties involved.

2.2.5 For any conflict or dispute over the land, the extent of the disputed area shall be mapped out in a participatory way with involvement of affected parties (including neighbouring communities where applicable).

2.2.6 (M) To avoid escalation of conflict, there shall be no evidence that palm oil operations have instigated violence in maintaining peace and order in their current and planned operations.

Criteria 2.3: Use of the land for oil palm does not diminish the legal, customary or user rights of other users without their free, prior and informed consent.

Indicators:

2.3.1 (M) Maps of an appropriate scale showing the extent of recognised legal, customary or user rights (Criteria 2.2, 7.5 and 7.6) shall be developed through participatory mapping involving affected parties (including neighbouring communities where applicable, and relevant authorities).

2.3.2 Copies of negotiated agreements detailing the process of free, prior and informed consent (FPIC) (Criteria 2.2, 7.5 and 7.6) shall be available and shall include:

- a) Evidence that a plan has been developed through consultation and discussion with all affected groups in the communities, and that information has been provided to all affected groups, including information on the steps that shall be taken to involve them in decision making;
- b) Evidence that the company has respected communities' decisions to give or withhold their consent to the operation at the time that this decision was taken;
- c) Evidence that the legal, economic, environmental and social implications for permitting operations on their land have been understood and accepted by affected communities, including the implications for the legal status of their land at the expiry of the company's title, concession or lease on the land.

2.3.3 All relevant information shall be available in appropriate forms and languages, including assessments of impacts, proposed benefit sharing, and legal arrangements.

2.3.4 (M) Evidence shall be available to show that communities are represented through institutions or representatives of their own choosing, including legal counsel.

Specific Guidance:

For 2.3.4: Evidence should be available from the companies, communities or other relevant stakeholders.

Guidance:

Where there is a conflict on the condition of land use as per land title, growers should show evidence that necessary action has been taken to resolve the conflict with relevant parties. A mechanism should be in place to resolve any conflict (Criteria 6.3 and 6.4). Where operations overlap with other rights holders, companies should resolve the issue with the appropriate authorities, consistent with Criteria 6.3 and 6.4.

All indicators will apply to current operations, but there are exceptions for long-established plantations which may not have records dating back to the time of the decision making, in particular for compliance with Indicators 2.3.1 and 2.3.2.

Where there are legal or customary rights over land, the grower should demonstrate that these rights are understood and are not being threatened or reduced. This Criterion should be considered in conjunction with Criteria 6.4, 7.5 and 7.6. Where customary rights areas are unclear these should be established through participatory mapping exercises involving affected parties (including neighbouring communities and local authorities).

This Criterion allows for sales and negotiated agreements to compensate other users for lost benefits and/ or relinquished rights. Negotiated agreements should be non-coercive and entered into voluntarily, carried out prior to new investments or operations, and based on an open sharing of all relevant information. The representation of communities should be transparent and in open communication with other community members. Adequate time should be given for customary decision making and iterative negotiations allowed for, where requested. Negotiated agreements should be binding on all parties and enforceable in the courts. Establishing certainty in land negotiations is of long-term benefit for all parties. Companies should be especially careful where they are offered lands acquired from the State by its invoking the national interest (also known as ‘eminent domain’).

Growers and millers should refer to the RSPO approved FPIC guidance (*‘FPIC and the RSPO: A Guide for Companies’*, October 2008)

For National Interpretation:

Any legal, customary or user rights to land, or disputes, which are likely to be relevant, will be identified. Any commonly encountered situations should be identified.

Guidance criteria 5: Note:

Operators need to consider a variety of land management and tenure options to secure HCV management areas in ways that also secure local peoples’ rights and livelihoods. Some areas are best allocated to community management and secured through customary or legal tenures, in other cases co-management options can be considered. Where communities are asked to relinquish rights so that HCVs can be maintained or enhanced by the companies or State agencies, then great care needs to be taken to ensure that communities retain access to adequate land and resources to secure their basic needs; all such relinquishment of rights must be subjected to their free, prior, and informed consent (see Criteria 2.2 and 2.3).

Principle 7: Responsible development of new plantings

Criteria 7.5 No new plantings are established on local peoples’ land where it can be demonstrated that there are legal, customary or user rights, without their free, prior and informed consent. This is dealt with through a documented system that enables these and other stakeholders to express their views through their own representative institutions.

Indicators:

7.5.1 (M) Evidence shall be available that affected local peoples understand they have the right to say ‘no’ to operations planned on their lands before and during initial discussions, during the stage of information gathering and associated consultations, during negotiations, and up until an agreement with the grower/miller is signed and ratified by these local peoples.

Refer also to criteria 2.2, 2.3, 6.2, 6.4 and 7.6 for Indicators and Guidance on compliance.

Guidance:

This activity should be integrated with the Social and Environmental Impact Assessment (SEIA) required by Criterion 7.1.

Where new plantings are considered to be acceptable, management plans and operations should maintain sacred sites. Agreements with indigenous peoples, local communities and other stakeholders should be made without coercion or other undue influence (see Guidance for Criterion 2.3).

Relevant stakeholders include those affected by or concerned with the new plantings.

Free, prior and informed consent (FPIC) is a guiding principle and should be applied to all RSPO members throughout the supply chain. Refer to RSPO approved FPIC guidance (*‘FPIC and the RSPO: A Guide for Companies’*, October 2008).

Customary and user rights will be demonstrated through participatory user mapping as part of the FPIC process.

Criteria 7.6: Where it can be demonstrated that local peoples have legal, customary or user rights, they are compensated for any agreed land acquisitions and relinquishment of rights, subject to their free, prior and informed consent and negotiated agreements.

Indicators:

7.6.1 (M) Documented identification and assessment of demonstrable legal, customary and user rights shall be available.

7.6.2 (M) A system for identifying people entitled to compensation shall be in place.

7.6.3 (M) A system for calculating and distributing fair compensation (monetary or otherwise) shall be in place.

7.6.4 Communities that have lost access and rights to land for plantation expansion shall be given opportunities to benefit from plantation development.

7.6.5 The process and outcome of any compensation claims shall be documented and made publicly available.

7.6.6 Evidence shall be available that the affected communities and rights holders have access to information and advice, that is independent of the project proponent, concerning the legal, economic, environmental and social implications of the proposed operations on their lands.

Specific Guidance:

For 7.6.1: This activity shall be integrated with the social and environmental impact assessment (SEIA) required by Criterion 7.1.

For 7.6.6: Growers and millers will confirm that the communities (or their representatives) gave consent to the initial planning phases of the operations prior to the new issuance of a concession or land title to the operator.

Guidance:

Refer to **Criteria 2.2, 2.3 and 6.4** and associated Guidance. This requirement includes indigenous peoples (see Annex 1). Refer to RSPO approved **FPIC guidance** ('FPIC and the RSPO; A Guide for Companies', October 2008)

Criteria related to FPIC, but not about FPIC itself:

Principle 6: Responsible consideration of employees and of individuals and communities affected by growers and millers

Criteria 6.4: Any negotiations concerning compensation for loss of legal, customary or user rights are dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions.

Indicators:

6.4.1 (M) A procedure for identifying legal, customary or user rights, and a procedure for identifying people entitled to compensation, shall be in place.

6.4.2 A procedure for calculating and distributing fair compensation (monetary or otherwise) shall be established and implemented, monitored and evaluated in a participatory way, and corrective actions taken as a result of this evaluation. This procedure shall take into account: gender differences in the power to claim rights, ownership and access to land; differences of transmigrants and long-established communities; and differences in ethnic groups' proof of legal versus communal ownership of land.

6.4.3 (M) The process and outcome of any negotiated agreements and compensation claims shall be documented, with evidence of the participation of affected parties, and made publicly available.

Specific Guidance:

For 6.4.2: Companies should make best efforts to ensure that equal opportunities have been provided to both female and male heads of households to hold land titles in smallholder schemes.

Guidance:

This criterion should be **considered in conjunction with Criteria 2.2 and 2.3**, and the associated Guidance.

RSPO Certification Systems (RSPO 2011)

4.2. Assessment process

4.2.4 Organizations¹ that have a majority¹ holding in and / or management control of more than one autonomous company growing oil palm will be permitted to certify individual management units and/or subsidiary companies only if all the following are complied with:

Land conflicts, if any, are being resolved through a mutually agreed process, e.g. RSPO Grievance procedure or Dispute Settlement Facility, in accordance with RSPO criteria 6.4, 7.5 and 7.6.

Appendix 3: Table

TABLE 1. APPLICABILITY OF RSPO REGULATIONS ON FPIC IN 16 CASES RELATED TO OIL PALM PLANTATIONS, CONFLICT AND THE RSPO INVESTIGATED BY COLCHESTER AND CHAO (2013). N.A. =NOT APPLICABLE, NPP=NEW PLANTING PROCEDURE (APPLY TO ALL NEW CONCESSIONS OR EXPANSIONS OF RSPO MEMBERS AFTER 1-1-2010), PCC=PARTIAL CERTIFICATION CLAUSE (APPLIES TO ALL INDIVIDUAL OPERATIONS OF A COMPANY AIMING TO CERTIFY ONE OR MORE OF ITS OPERATIONS) CHAPTER REFERS TO THE CHAPTER IN COLCHESTER AND CHAO (2013) DESCRIBING THIS CASE.

COUNTRY	RSPO MEMBER SINCE*	NPP APPLY?	PLANTATION CERTIFIED?	PCC APPLIES?	RSPO P&C ON FPIC MAINLY RELATED TO	CHAPTER
INDONESIA	2004	YES	YES?	N.A.	EXPANSION	1
LIBERIA	2003	YES	?	YES	EXPANSION	12
LIBERIA	2011	YES	?	YES	EXPANSION	13
CAMEROON	N.A.**	YES	NO	YES	EXPANSION	15
INDONESIA	2006	NO	YES	N.A.	CONFLICT RESOLUTION	2
INDONESIA	2005	NO	YES	N.A.	CONFLICT RESOLUTION	3
INDONESIA	2007	?	YES	N.A.	CONFLICT RESOLUTION	5
INDONESIA	2005	NO	NO	YES	CONFLICT RESOLUTION	4
INDONESIA	2010	NO?	NO?	YES	CONFLICT RESOLUTION	6
INDONESIA	2005	NO?	NO?	YES	CONFLICT RESOLUTION	7
MALAYSIA	2004	NO?	NO?	YES	CONFLICT RESOLUTION	9
MALAYSIA	2006	NO?	NO?	YES	CONFLICT RESOLUTION	10
PHILIPPINES	NO	NO	NO	NO	N.A.	8
CAMEROON	NO	NO	NO	NO	N.A.	14
DR CONGO	NO	?	NO	NO	N.A.	16
THAILAND	N.A.	-	-	-	N.A.	11

* REFERS TO RSPO MEMBERSHIP OF THE OPERATING COMPANY OR THE PARENT COMPANY

**THE OPERATING COMPANY WITHDREW APPLICATION IN SEPTEMBER 2012 IN REACTION TO A FORMAL COMPLAINT LODGED AGAINST THEM, AND WIDESPREAD CRITICISM OF THEIR PROJECT