

Version 1

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Review of RSPO Remediation and Compensation Procedures (RaCP) for Implementation in Jurisdictional Approach Certification For the RSPO

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1. Introduction

The RSPO has undertaken to upscale its impact to whole jurisdictions rather than just involving individual members in sustainability related activities. By undertaking activities right across a jurisdiction, it enables better coordination between stakeholders and achieve greater impact at scale for sustainable production of palm oil. Potential additional benefits include sharing the cost of compliance and administration across all the growers in the jurisdiction as well as enabling a jurisdiction to be able to “brand” itself as “sustainable.”

Issues that often arise during High Conservation Value – High Carbon Stock (HCV-HCS) assessments relate to the value in setting high land management standards within an individual area if these standards are not going to be followed by the neighbouring landowners (e.g. one grower has buffers off river, yet none of the neighbouring growers respect the need for river buffers). Similarly, this approach will enable the creation of conservation plans across whole landscapes and potentially allow conservation corridors to be created that span land owned / managed by multiple entities. Through this landscape approach, social challenges could also be addressed more effectively by leveraging on stakeholders’ collective commitment to be inclusive.

In order to establish a certification approach across a jurisdiction the RSPO launched its Jurisdictional Approach (JA) Pilot Framework in 2021. This is a work in progress approach and to date, three jurisdictions are being piloted. These pilots are in Seruyan, Sabah, and Ecuador.

Key to the JA piloting framework is a stepwise approach to implementation which has four steps: **Step 1** – Pilot; **Step 2** – Application; **Step 3** – Implementation; and **Step 4** – Certification. Jurisdictions are required to comply with the overall RSPO P&C requirements as well as other applicable standards, with critical requirements being upwardly delegated¹. The RaCP requirements are part of the upwardly delegated requirements, under P&C 7.12.1 (see Table 3).

2. Background

2.1. Status of the Jurisdictional Approach

Three Jurisdictional Approach Pilots have been established by the RSPO. These three are, Seruyan (at district level); Sabah (at State level) and Ecuador (at Country level). The pilots’ commitment to sustainability right across the jurisdiction prompted the development of the Jurisdictional Approach Piloting Framework within the RSPO. It is hoped that this will provide a collaborative pathway to address sustainability issues. For example, although oil palm is a significant industry within Sabah, the government is committed to green growth in all industries (e.g., forestry, mining). Each participating jurisdiction has undertaken to adopt RSPO principles and criteria. Ideally, this approach will be better

¹ This term “upwardly delegated requirements” means that various requirements that would normally be addressed by the grower are now addressed by the Jurisdictional Entity, backed by government leadership.

accepted by the palm oil industry and provide improved social and environmental outcomes. Detailed progress update on the pilots against the stepwise approach is described in Section 6.3 of this document.

2.2. Structure of Jurisdictional Entity

Based on the RSPO Jurisdictional Approach Piloting Framework, the JE will be legally established, under government leadership, at Step 2 of the Stepwise Approach. The established legal entity will become a member of the RSPO only once all the requirements are fulfilled for Step 1 and Step 2 of the Stepwise Approach (see Table 1). Currently, the JE does not fit in any of the seven RSPO’s existing membership categories. The RSPO is currently designing the structure of its membership to include JE as an additional membership category which will allow the JE to participate in the multi-stakeholder, including, potentially, giving JE its voting rights in the General Assembly (GA).

Figure 1 shows the proposed structure of the JE in the RSPO JA Piloting Framework.

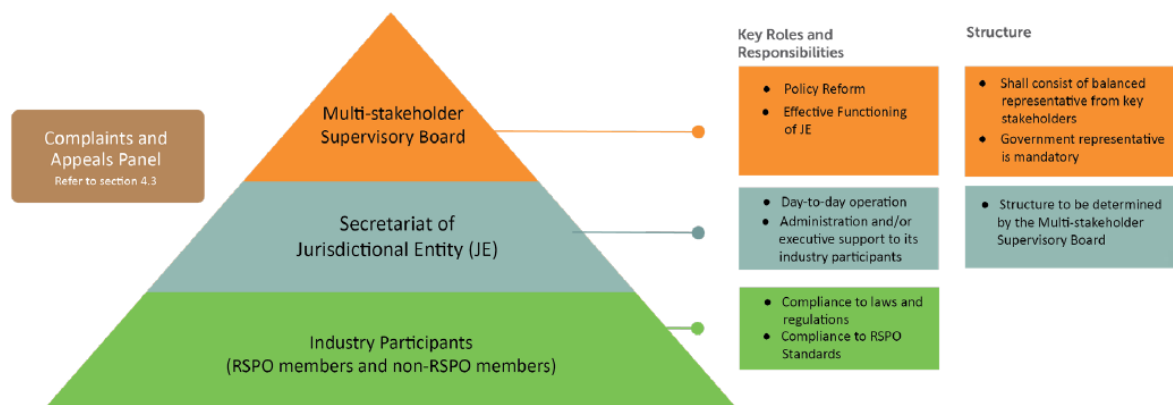


Figure 1. Structure of Jurisdictional Entity

Based on Figure 1, the JE has a secretariat function which will be responsible in the day-to-day operations, as well as provide administrative and executive support to its industry participants. The JE will be governed by the multi-stakeholder board which determines its internal structure. This is evident, as based on the progress of the three JA pilots, all three JEs have unique structures, for example, the Seruyan pilot having established sub-JEs specifically for independent smallholders (ISH) in addition to the main JE reporting to the multi-stakeholder board.

The multi-stakeholder board consists of balanced representation of key stakeholders within the jurisdiction, with mandatory representation of the government within its structure. The Government, who made the initial commitment to the Jurisdictional Approach, must undertake a leadership role in

multi stakeholder board and the JE. It is anticipated the government units in the JE will facilitate policy reform to support the activities of the JA².

The JE will have its own membership structure which will include existing RSPO members and non-members. Existing RSPO members will be given the opportunity to decide on their involvement in the JE, while still benefiting on the support mechanisms developed by the JE to advance RSPO certification at jurisdictional level. The support mechanisms will include the Complaints and Appeals panel which is independent to the multi-stakeholder board and the JE.

3. Terms of Reference

3.1. Scope

The consultant will be expected to undertake the following tasks:

- a) Assess the applicability of existing RaCP on jurisdictional level.
- b) Identify the gaps/constraints of existing RaCP to be applied on jurisdictional level
- c) Develop recommendations to enhance the applicability and close all gaps and constraints identified of existing RaCP at jurisdictional level.
- d) Develop recommendations on jurisdictional level remediation and compensation, complementary to management unit level remediation and compensation efforts.

The Consultant shall take into consideration the following:

- a) Feedback and comments from members of respective RSPO Working Group, i.e., BHCVWG and JWG.
- b) Feedback and comments from RSPO JA pilots (Ecuador, Sabah and Seruyan).
- c) Feedback and comments from RSPO members experienced in implementing RaCP (e.g., certified growers) having certified units within the RSPO JA pilots.

The RSPO Secretariat will work closely with the Consultant on the following tasks (if needed):

- a) Sharing of supporting data.
- b) Connecting consultant with respective RSPO members (WG members and/or implementing members)
- c) Connecting consultant with respective committee implementing RSPO JA, e.g., Sabah Jurisdictional Certification Steering Committee.
- d) Provide technical support regarding relevant RSPO technical and administrative requirements.

3.2. Output

The deliverables expected are:

- a) A draft report presenting the findings of applicability, gap(s), and constraint(s) of existing RaCP at Jurisdictional level.

² This is an ambitious requirement where the jurisdictions undertake to embody RSPO Principles and Criteria, and other relevant standards (e.g., the Independent Smallholders Standard) within their own regulatory and reporting structures. Essentially, this involves transferring voluntary requirements to the jurisdictions' legal frameworks.

- b) A draft report presenting recommendations to enhance the applicability and close all gaps and constraints identified of existing RaCP at jurisdictional level.
- c) A draft report presenting recommendations on jurisdictional level remediation and compensation, complementary to management unit level remediation and compensation efforts.

4. Technical Background to the RaCP and Jurisdictional Approach

RaCP 2015 Process

The RaCP 2015 (RSPO, 2015) requires growers to first disclose any new land development that took place without conducting an HCV assessment as part of the RSPO membership application process. If there are areas cleared without a prior HCV assessment (i.e.: non-compliant land clearance), the environmental liabilities will be calculated through a Land Use Change Analysis (LUCA) and the extent of loss of social HCVs will be identified. Once liabilities (both environmental and/or social) have been determined, and hectareage of past planting within prohibited areas (e.g. riparian areas, steep slopes and peat) have been established, grower members are required to carry out (i) on-site remediation for oil palms planted prohibited areas, (ii) remediation with affected parties, and/or (iii) compensation conservation projects³. Figure 2 shows a flowchart of the processes involved in the RaCP 2015.

A Compensation Panel (CP) will be assigned by the Co-chairs of the Biodiversity and High Conservation Values Working Group (BHCVWG) to each case after the disclosure of non-compliant land clearance. The panel is usually made up of four RSPO members from the BHCVWG, with a balance of stakeholders and expertise appropriate to biodiversity conservation and social impacts, and one member of the RSPO Secretariat. The panel could be supported by extra capacity needed, including non-RSPO member experts.

In addition to the Compensation Panel reviews and approvals, the RaCP 2015 will also require external evaluation process for:

1. The LUCA, which will be reviewed and verified by external geographic information system (GIS) specialists.
2. The Compensation plans, which will be evaluated by independent evaluators, who will support the CP in providing feedback on the merits of the plan.

The current RaCP 2015 covers the assessment of liability for ISH, however, the mechanism for the delivery of the compensation by ISH is still pending. Acknowledging the absence of a clear direction and procedure for ISH to complete the RaCP process to be certified, an interim measures were decided by the RSPO's Board of Governors (BoG) in 2017 (*Endorsement of The Interim Measures and*

³ Currently the RaCP does not cover Independent Smallholders.

Formalization of The Task Force to Tackle The Remediation and Compensation Procedure (RaCP) for Independent Smallholders - Roundtable on Sustainable Palm Oil (RSPO), 26 March 2017).

The interim measures request that ISH going for RSPO certification under the ISH standards to have:

1. Fulfilled all other requirements in the Group Certification Document
2. Disclosed to RSPO Secretariat the extent of land cleared without a prior HCV assessment since November 2005;
3. Conducted Land Use Change Analysis (LUCA) with technical and financial assistance from RSPO;
4. Identified their social liability (if any);
5. Finalised the net conservation liability, endorsed by the RSPO Compensation Panel; and
6. Prepared a remediation plan (not compensation), where relevant.

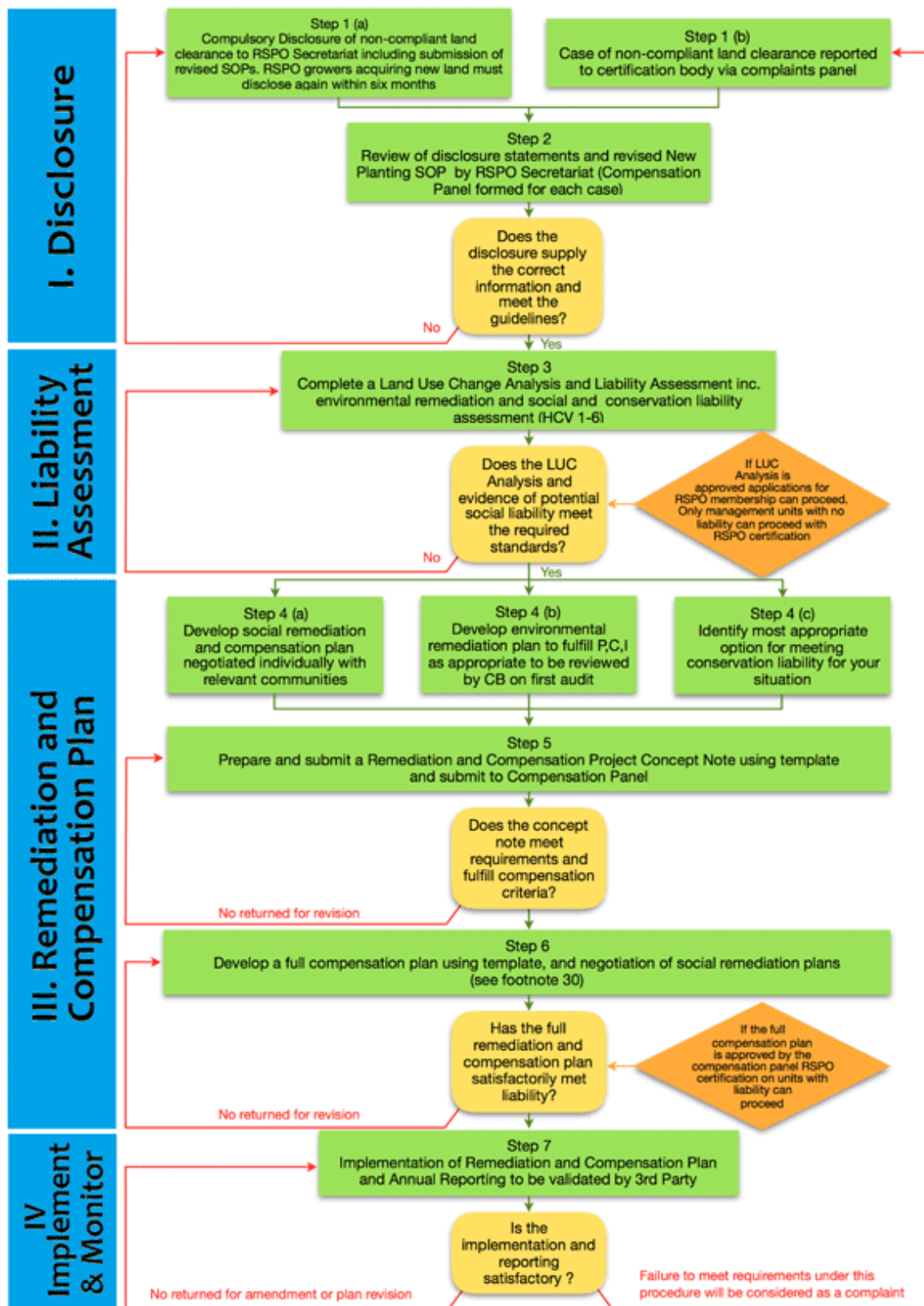


Figure 2. RaCP 2015 process flowchart(RSPO, 2015)

RSPO Jurisdictional Approach Piloting Framework Stepwise Approach

Given that the scale of intervention required for jurisdictional certification and acknowledging the range of readiness and compliance of different actors within the jurisdiction, the RSPO designed its JA in a stepwise approach to allow time for continual improvement and progress towards meeting the certification requirements. There are four different steps in the RSPO JA Piloting Framework: .

Step 1: Pilot step, when a Jurisdiction determines that they would like to pursue a jurisdictional approach to certification and make public policy statements and/or put in place regulations in support of this objective. The RSPO Board must approve the Jurisdiction’s written request to be identified as an RSPO Pilot.

Step 2: Application step is achieved when a multi-stakeholder board is in place, and a Jurisdictional Entity (JE) is legally established, and various landscape indicators are being measured. This step is completed when the JE has successfully applied to the RSPO Membership Unit to become a RSPO member.

Step 3: Implementation step is when the internal control systems of the JE are well established and requirements for RSPO certification are being put in place. This step is completed when an independent and accredited Certification Body completes a full audit of the JE for RSPO certification.

Step 4: Certification step is the final step in the process, at which point the producers, processors and supply chain actors within the Jurisdiction which have been certified under the JE may trade RSPO certified products. Market claims can be made based on the volume in accordance with the latest RSPO Rules on Market Communications and Claims. RSPO Jurisdictional Approach Piloting Framework, 2021)

Each of the steps has its own requirements on systems and landscape-level performance, in addition to farm-, estate-, mill- and facility level compliance of FFB and oil palm producer and supply chain actors to RSPO Standard. Leveraging on government leaderships in jurisdictional approaches, some of the existing certification requirements are upwardly delegated to assist compliance of JE members. Table 1 presents the system and landscape performance indicators of the RSPO JA Piloting Framework

Table 1. Stepwise Approach for Jurisdictional Approach for Certification Requirements (ref)

	STEP 1	STEP 2	STEP 3
System Performance Indicators	<ul style="list-style-type: none"> I. Multi-stakeholder group established with mandate from the relevant government authority II. Statement of intent to achieve 100% RSPO compliance made public by relevant government authority. III. Plan developed for: <ul style="list-style-type: none"> a. Establishment of the JE b. Relevant policies, system, procedures to support Jurisdictional Approach c. Spatial mapping of all producers, millers, refinery and crushers, HCV/HCS and other relevant information. d. Database of information on producers, processors, and supply chain actors within the Jurisdiction. 	<ul style="list-style-type: none"> I. JE is legally established with a Multi-stakeholder Board in place (Element 1.1 and 1.2 of System Requirements) II. JE Internal Control System (ICS) developed (see Element 2) III. Oil palm planted areas and land bank of all producers, millers, refineries and crusher and refinery facilities spatially mapped. IV. Database compiled on producers, processors, and supply chain actors within the Jurisdiction. V. JE becomes an RSPO member. 	<ul style="list-style-type: none"> I. The Internal Control System of JE (including internal audit) is functioning (Element 2 – fully implemented). II. Quality control system in place and policy framework (Element 1 and Element 2) III. Plan in place to establish Internal Grievances, Complaints & Appeals Mechanisms (Element 3). IV. Financing viability and transparent accounting procedures in place. V. Oil palm planted areas and land bank of JE members, and a detailed database required for RSPO certification.
Landscape-Performance Indicators	<ul style="list-style-type: none"> Plan developed to conduct and/or develop Jurisdictional level: <ul style="list-style-type: none"> I. Procedures for FPIC and for recognition of land rights (legal, customary and user rights) formulated II. Indicative HCV and HCS mapping (in alignment with RSPO requirements), includes mapping of peatlands III. Historical Land Use Change Analysis (LUCA) in accordance with RSPO LUCA guidance document. IV. Legal gap analysis of differences between RSPO P&C and Jurisdiction law and policies. V. Regulation on use of fire, fire prevention and control measures 	<ul style="list-style-type: none"> I. Indicative map of peatlands, HCV and HCS areas. II. Jurisdictional level 'No-go' zones (for conservation and protection) mapped. III. LUCA completed with (potential) liability declared and made publicly available. IV. Procedures for recognition of land rights (legal, customary and use rights) developed. V. FPIC procedure and guidelines completed for the Jurisdiction. VI. Regulation on use of fire, fire prevention and control measures in place. VII. System developed and fully operating at a Jurisdictional level to monitor, detect and verify deforestation, hotspots/ burning and conversion of peatlands, HCV areas, HCS areas and other 'no-go' zones, including social risks and impacts. VIII. Legal gaps identified on the differences between RSPO P&C and Jurisdiction law and policies and the necessary regulations or procedures are developed. IX. Assessment of disqualifying social and environmental issues and steps taken to address them including no conversion of HCV, HCS or peatlands, and serious human rights violations and systemic land grabbing. 	<ul style="list-style-type: none"> I. FPIC and land rights recognition procedures and guidelines are in place and being implemented. II. Spatial planning is in place, including HCV, HCS, and peatland, and RaCP requirements are being implemented. III. SEIA procedures and guidelines are being implemented. IV. Remediation and compensation plan approved (for conservation liability(s) identified in Step 2) and in implementation V. New Planting Procedures as per RSPO requirements being implemented VI. Enforceable regulations or procedures are adopted and applied to overcome gaps with RSPO P&C VI. Disqualifying social and environmental issues are addressed or certification cannot proceed. VII. System developed and fully operating at a Jurisdictional level to monitor, detect and verify deforestation, hotspots/burning and conversion including social risks and impacts.

Upwardly Delegated Criteria

The following are the list of upwardly delegated criteria in RSPO JA:

Principles	Criteria
Principle 4: Respect community and human rights and deliver benefits	4.1, 4.4, 4.5, 4.6, 4.7, 4.8
Principle 6: Respect workers' rights and conditions	6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7
Principle 7: Protect, conserve and enhance ecosystems and the environment	7.7, 7.11, 7.12

The RaCP requirements are part of the upwardly delegated requirements under P&C 7.12: *Land clearing does not cause deforestation or damage any area required to protect or enhance HCVs or HCS forest. HCVs and HCS forests in the managed area are identified and protected or enhanced.* Hence, it is assumed that the implementation of the RaCP JA will be led by the JE under government leadership.

Based on the RaCP guidance (RSPO, 2015), the applicability of each of the processes is mapped with the existing requirements of the RSPO JA Piloting Framework (Table 3).

5. Methodology

Review of the Current RaCP Process

The 2015 version of the RaCP (RSPO, 2015) was assessed for the applicability to the jurisdictional level. It should also be noted that the RSPO is currently revising the RaCP 2015 and there is a 2018 draft of

the RaCP revision that has been made available to the consultant for reference. The draft RaCP 2018 specifically excludes the applicability of the RaCP for the RSPO jurisdictional approach. Considering that the RaCP 2018 version is still in draft, for this assignment, only the RaCP 2015 requirements were mapped against the elements of the RSPO JA Piloting Framework to assess its applicability in RSPO jurisdictional approach.

This was reviewed from two aspects (1) process and (2) technical; insofar as both the RaCP and the allied process of an HCV assessment are both intended for application at a management unit level.

On a process level, the current RaCP is designed to be implemented at a management unit level. The RaCP process typically starts during the RSPO membership process. RSPO membership will only be granted once the applicant has finalised its FCL (across all management units) through the LUCA, as per RSPO LUCA guidance. Upon becoming a member, the grower will be required to complete the remaining process (submission of concept note and compensation plan), where applicable/required to obtain RSPO Certification. All these processes are to be completed for all management units of the grower member. The information submitted by the grower in the process is typically confidential in nature, therefore only certain information is made available to the public through the [RSPO RaCP Tracker](#).

At a technical level, both the HCV and RaCP require very detailed analysis of the management unit. This subsequently raised questions of how such detailed analyses could be undertaken over a whole jurisdiction. There are two issues of scale. Firstly, the jurisdiction will have producers that range from ISH with holdings at less than 1 ha to large producers with holdings greater than 10,000 ha. Neither the HCV nor the satellite image analysis can be reliably applied at the sub-hectare level. Secondly, jurisdictions typically cover huge areas, with some ranging to millions of hectares, making the HCV assessments and satellite image analysis overwhelmingly large tasks.

The HCV assessment date is a critical cut-off period where it marks the end of the Non-Compliant Land Clearance (NCLC) for the management unit assessed for Final Conservation Liability (FCL). For the purpose of this review, it is noted that, there are at least three different approaches to the HCV assessments.

1. The Management Unit level HCV assessment which requires the MU to have the assessment undertaken by a licensed assessor and then the output peer reviewed by the ALS.
2. The Smallholder HCV assessment which can be done by anyone, and no peer review is required.
3. The landscape level approach⁴ which can be done by anyone, and no peer review is required.

The huge range in scale of the participating growers in the JA, as well as the detail required for the RaCP, creates technical challenges when data generated using different methods needs to be

⁴ There is a landscape level approach to HCV assessments which has been developed by the HCVN – the screening process (Berlio Pradyatma *et al.*, no date). Additionally, RSPO also working with HCVN/HCSA to develop (or modify) the "screening tool" specifically for JA, based on their existing landscape tools. So it was subsequently analysed how a highly generalised HCV process could be applied, when some of the smallholders have holdings at less than 1 ha.

aggregated (e.g, an HCV report over a 10,000 ha estate has to be combined with HCV assessments done at the smallholder level at less than 1 ha). This requires analysis as to how such processes can be efficiently and affordably executed.

The processes involved in RaCP and its requirements have been mapped against the requirements of the Stepwise Approach to inform its applicability to jurisdictional level implementation. Moreover, recommendations have been developed to address the gaps for the RaCP application at jurisdictional level.

RaCP for ISH

The RSPO has released Interim Measures for RaCP for ISH ⁵ which requires ISH to undertake an RaCP. Where applicable, the interim measures were referenced particularly on issues that might emerge in the future for RaCP implementation at jurisdictional level.

⁵ This is provided in the following reference (*Endorsement of The Interim Measures and Formalization of The Task Force to Tackle The Remediation and Compensation Procedure (RaCP) for Independent Smallholders - Roundtable on Sustainable Palm Oil (RSPO)*, no date)

Interviews with Stakeholders

Stakeholders were identified to assist with the review process. Each identified stakeholder was consulted on various matters relating to the RaCP, HCV assessment and JA.

The purpose of the interview with **RSPO Assurance unit** was to:

1. Discuss how the current RaCP process is run and identify bottlenecks at the management unit level RaCP
2. Obtain clarifications on several technical points (e.g., the mention of HCS in the stepwise approach, compensation for ISH etc).
3. Obtain their input on any issues with the RaCP JA that they could foresee.

The purpose of the interviews with the **RSPO JA Pilots** was to:

1. Find out the progress that the JE was making with the implementation of the stepwise approach.
2. Find out how the HCV assessment had been done across the jurisdiction.
3. Find out how the RaCP was being done across the jurisdiction (i.e.: whether there was a documented plan on how the RaCP will be conducted at the landscape level)

The purpose of the interviews with the **Industry Players** was to:

1. Understand their views on the progress of the JA to date.
2. Determine how receptive they are to the JA and to what extent they are prepared to/able to support or be part of the JA.
3. Understand their point of view regarding what steps need to be taken to make the JA successful, specifically on RaCP implementation.

The purpose of the interviews with the **NGOs** was to:

1. Understand their views on the progress of the JA to date.
2. Determine how receptive they are to the JA and to what extent they are prepared to/able to support or be part of the JA.
3. Understand their point of view regarding what steps need to be taken to make the JA successful.
4. Discuss issues of concern regarding the JA.

The purpose of the interviews with the **government bodies** was to:

1. Understand government's existing roles in the pilot.
2. Understand the progress of HCV assessment and RaCP.
3. Understand existing conservation efforts within the jurisdiction and how these conservation efforts can be strengthened by the JA.

The questionnaires are available in Appendix 10.1 - 10.4

Table 2. Stakeholders who were interviewed

Stakeholder	Interview Date
RSPO Standard Development Unit	6 th Feb 2023
RSPO Assurance Unit	23 rd February 2023
Sabah JA	3 rd March 2023
Seruyan JA	10 th March 2023
Ecuador JA	10 th March 2023
Industry players	14 th March 2023
Sabah Government	29 th March 2023 & 5 th April 2023
ENGO	28 th March 2023
SNGO	31 st March 2023

Literature Review

The article “Can jurisdictional certification curb palm oil deforestation in Indonesia?” (Berlio Pradyatma *et al.*, no date) was reviewed as valuable background to the JA.

6. Results

6.1. Assess the applicability of the existing RaCP on jurisdictional level.

The review of the applicability of the RaCP in RSPO JA was based on:

1. Process related: how the existing RaCP 2015 processes are/can be made applicable to the Jurisdictional Approach.
2. Technically related: Where technical difficulties applying the RaCP in a jurisdictional setting are discussed.

The applicability assessment also considered the variation of the RaCP, i.e.: the RaCP for growers and the RaCP for ISH (currently the [interim measures](#) applied for ISH seeking RSPO certification).

Acknowledging that the RSPO has also inclusively started working on the requirements for certifying medium-sized growers but has yet to finalize the requirements, in this review, large and medium size growers are grouped in the same category, while the ISH are separated out.

Table 3. Applicability of the existing RaCP 2015 requirements

RaCP 2015 existing process and requirements	Existing RSPO JA Piloting Framework requirements relevant to RaCP implementation and Jurisdictional level	Assessment on applicability
<p>Disclosure of non-compliant land clearance (NCLC)</p> <p>During the membership application process, growers will be required to submit the disclosure of NCLC to the RSPO Membership Unit. The following relevant information is required:</p> <p>For growers:</p> <ol style="list-style-type: none"> 1. Name of all the management units being disclosed. 2. Province/district/country of the management units 3. Confirmation whether there is a land clearance without a prior HCV assessment since Nov 2005 4. The applicable period of the NCLC based on the relevant cut-off dates and its resolution (if it has been addressed by conducting an HCV assessment) 5. Controlling party of the management unit during the period of the NCLC 6. Start date of management control by the reporting company 7. Total area of management unit 	<p>Step 1: Pilot Step</p> <p>Based on the Step 1 of the stepwise approach, relevant to the RaCP, the multistakeholder board will be required to have <i>plans</i> for:</p> <ol style="list-style-type: none"> 1. the establishment of JE, relevant policies, systems and procedures to support JA, 2. spatial mapping of all producers, millers, refinery and crushers, HCV/HCS, and 3. development of database on producers, processors and supply chain actors within the jurisdiction. 4. procedures for FPIC and recognition of land rights. 5. indicative HCV and HCS mapping, including peatlands. 6. historical LUCA in accordance with RSPO LUCA guidance document. 	<p>Process</p> <ol style="list-style-type: none"> 1. The development of plans at Step 1 will include a plan on how the multi-stakeholder plans to complete the RaCP. The plan should cover all producers, including ISH. 2. The spatial mapping will allow the JE to identify actors that are required to disclose NCLC. 3. The disclosure of NCLC is ideally the information that is to be collected from the identified actors and included in the database. <p>Technical</p> <ol style="list-style-type: none"> 1. The indicative HCV-HCS map could potentially be used to end the period of NCLC for all producers within the jurisdiction⁷ 2. Procedures for land recognition and FPIC will assist jurisdictions to identify social liabilities.

⁷ The methodology of the HCV-HCS screening tool is currently in development by RSPO.

RaCP 2015 existing process and requirements	Existing RSPO JA Piloting Framework requirements relevant to RaCP implementation and Jurisdictional level	Assessment on applicability
8. Total area of NCLC, including by the RaCP cut-off dates ⁶ 9. Identification of social liabilities		
<p>Calculation of Final Conservation Liability (FCL) through a Land Use Change Analysis (LUCA)</p> <p>The membership unit will verify if the disclosure of NCLC is in order and if a LUCA is required before the applicants can be issued with an RSPO membership.</p> <p>The following will be requested as part of the LUCA submission:</p> <ol style="list-style-type: none"> 1. The FCL calculation (via the RSPO LUCA template) 2. Legal boundary of the management units (in .shp files) 3. Georeferenced satellite images for relevant periods of the NCLC 4. Georeferenced vector data for soil type, slope areas, watershed-hydrology areas, HCV areas (1-6) 5. Georeferenced vector data for all NCLC, including on prohibited areas, further 	<p>Step 2: Application Step</p> <p>In Step 2, the JE is established and relevant to the RaCP, these requirements must be met before the JE can obtain RSPO membership:</p> <ol style="list-style-type: none"> 1. Oil palm planted areas and land bank of all producers, refineries and crushers (including refinery facilities) spatially mapped. 2. Database compiled on producers, processors, and supply chain actors 3. Indicative map of peatlands, HCV and HCS areas is produced leading to the identification of jurisdictional 'No-go' zones. 4. LUCA completed with potential liability declared and made publicly available. 5. Procedures for recognition of land rights developed including an FPIC procedure. 	<p>Process</p> <p>The conventional LUCA submission (i.e., by individual grower and area based) is still applicable at jurisdictional level implementation.</p> <ol style="list-style-type: none"> 1. Based on the upwardly delegated criteria, it will be the JE's responsibility to conduct the LUCA at jurisdictional level. 2. Option will be made available for existing RSPO members, to complete the LUCA process with their own resources. They may use the relevant information made available by the jurisdiction to develop the LUCA. 3. The following can be provided by Government bodies (through the JE) to support the LUCA process: <ol style="list-style-type: none"> a. Georeferenced vector data for soil type, slope areas, watershed-hydrology areas, HCV areas, prohibited areas b. Land cover maps

⁶ Given that the RaCP was developed in 2015, existing members (in 2015) were required to disclose this information post the membership application process. Other information such as the date of RSPO membership and first certification are relevant for existing members.

RaCP 2015 existing process and requirements	Existing RSPO JA Piloting Framework requirements relevant to RaCP implementation and Jurisdictional level	Assessment on applicability
<p>categorised into corporate vs non-corporate land clearance</p> <ol style="list-style-type: none"> 6. Land cover maps (raw and processed) with RSPO vegetation coefficients assigned to each 7. Company development plan per year for all the management units that require a LUCA <p>The above is presented in the form of a report following the RSPO template.</p> <p>The report presented by the growers will then be reviewed by an external reviewer, who passes the report to be in accordance with the RSPO LUCA Guidance Document. Once the review is completed, RSPO membership is issued and the RSPO members proceed to the submission of Concept Note, if proven to have FCL.</p> <p>Note: RSPO members who have no FCL but have cleared prohibited areas (and planted on) will have to produce a Remediation Plan. The same will also apply if the RSPO members have indicated that there is a need to address social remediation. In this case, a social remediation plan will be required.</p>		<p>c. .shp files of legal boundaries, especially for ISH.</p> <ol style="list-style-type: none"> 4. JE is also responsible to collect relevant information for the purpose of completing the LUCA from its members and periodically provide updates to its members. 5. Government Information (i.e. spatial mapping of all actors, HCV-HCS areas, production areas and available land banks) must be constantly updated to ensure that new LUCAs (if required, or conducted by non-JE members at their own capacity using the JE's resources) will be relevant. Note that for RSPO, the maximum age that an HCV assessment to be used is 3 years old. 6. The RSPO's current process for ISH LUCA is to have it internally processed by the RSPO Secretariat. If LUCA is conducted at landscape level itself, the calculation of the FCL for ISH will be included, hence, LUCA for smallholders will not be needed. However, if LUCA is still being done at management/farm level, resources/support must be provided to ISH to conduct the LUCA. <p>Technical</p> <ol style="list-style-type: none"> 1. Large and medium size growers are operating legally; therefore, they will have no problem to complete the LUCA process, with regards to legality. However, this will be a challenge for ISH – a huge proportion of the ISH do not have legal titles. Furthermore, not all ISH

RaCP 2015 existing process and requirements	Existing RSPO JA Piloting Framework requirements relevant to RaCP implementation and Jurisdictional level	Assessment on applicability
		<p>are operating legally (e.g. ISH in Seruyan have planted in lands gazetted as forest areas).</p> <ol style="list-style-type: none"> 2. Satellite images are available from 2005 – current period. Government bodies (e.g., Land and Survey Department, Forestry etc) can provide support in terms of providing these data to producers. Additionally, these images are publicly accessible. 3. Data on soil type, peat, slope, and watershed areas could also be supplemented by the relevant government bodies. 4. Indicative HCV-HCS maps could potentially be used to close the period of NCLC. However, it must be noted that areas within the jurisdiction may already have assessed for HCV-HCS through existing RSPO members. 5. Non-RSPO members may not have conducted an HCV-HCS assessment, especially medium size growers and ISH. The below could be derived from satellite images, and existing government facilities could support the process: <ol style="list-style-type: none"> a. Georeferenced vector data for NCLC b. RSPO prohibited areas. c. Corporate and non-corporate clearance. For this, large-medium size growers will have planting records to supplement the process. The definition of non-corporate clearance

RaCP 2015 existing process and requirements	Existing RSPO JA Piloting Framework requirements relevant to RaCP implementation and Jurisdictional level	Assessment on applicability
		<p>needs revisiting⁸. All ISH clearance will be non-corporate clearance based on the current RSPO definition. Which means that their liability will be automatically be 0.</p> <p>6. The JE could collect the company development plan as part of their database collection. ISH are unlikely to have any plans.</p>
<p>Submission of Concept Note</p> <p>Submission of a concept note is only required from RSPO members who have FCL based on their reviewed LUCA. The concept note will detail:</p> <ol style="list-style-type: none"> Option chosen by the company to do their compensation, Option 1 being hectare to hectare, Option 2 being monetary compensation (i.e.: 2,500 USD/ha of FCL) That the proposed compensation project is additional, long lasting, equitable and knowledge-based. <p>The Concept Note will be reviewed by the CP, who also reviews if the compensation projects proposed by the</p>	<p>Step 3: Implementation Step</p> <p>Once the JE has become a member (completed Step 2), the JE then enters the implementation step of the RSPO JA Stepwise Approach. Relevant to the RaCP, the following are the certification requirements in Step 3:</p> <p>System-performance Indicators</p> <ol style="list-style-type: none"> Oil palm planted areas and land bank of JE members, and a detailed database required for RSPO Certification. 	<p>Process</p> <ol style="list-style-type: none"> Relevant to compensation; the conventional concept note submission (i.e., by individual grower and area based) is still applicable at jurisdictional level implementation. The existing RSPO members can either select to submit this conventionally to RSPO (as a non-JE member) or be part of the JE and be included in the JE's compensation concept note and plan. The submission of concept note can only be done by an RSPO member. In this case, this would be the JE who submits the concept notes on behalf of its members (the non-RSPO members). The current Compensation Panel structure may not support the current review process of the concept note and compensation plan. Acknowledging that the current compensation panel members are/may be

⁸ RSPO Definition of Non-corporate land clearance: clearance for other than corporate purposes, including for government projects that involve public works or other public interest facilities, or by members of local communities acting individually to support their livelihoods and with no funding by any institution and/or organisation.

RaCP 2015 existing process and requirements	Existing RSPO JA Piloting Framework requirements relevant to RaCP implementation and Jurisdictional level	Assessment on applicability
<p>RSPO members are adhering to the four criteria and prioritised according to the prioritisation requirements set in the RaCP. The highest priority of compensation projects is off-site avoided deforestation, followed by off-site restoration of degraded forests, off-site species-based conservation and finally the lowest being on-site forest/high quality habitat re-establishment. Justification must be provided in the priority analysis.</p> <p>Submission of Compensation and Remediation Plan</p> <p>Upon the approval of the Concept Note, RSPO members will be requested to develop the full plan for compensation (and remediation, if applicable) for submission. The Compensation and Remediation Plan will be reviewed by the CP on the following basis:</p> <ol style="list-style-type: none"> 1. On-site remediation ensures land is managed in accordance with BMPs as per RSPO P&Cs 2. Compensation is adequate for loss of HCV 4, 5, 6 3. The plan meets the additional biodiversity conservation requirements and the four criteria <p>As part of the process, the CP will request RSPO to evaluate the plan through an independent Compensation Plan Evaluator who will then advise the CP on the final approval and acceptability of the plan.</p>	<p>Landscape-performance Indicators (undertaken by the JE for all its members)</p> <ol style="list-style-type: none"> 1. FPIC and land rights recognition procedures and guidelines are in place and being implemented. 2. Spatial planning is in place, including HCV, HCS and peatland, and RaCP requirements are implemented. 3. SEIA procedures and guidelines are being implemented. 4. Remediation and Compensation Plan approved and implemented. 5. New Planting Procedures as per RSPO requirements are implemented. 6. Disqualifying social and environment issues are addressed. 7. System developed and fully operating at a jurisdictional level to monitor, detect and verify deforestation, hotspots/burning and conversion including social risks and impacts. 	<p>operating in the three JA pilots, there will be multiple conflict of interests declared by the CP members to review the compensation cases.</p> <ol style="list-style-type: none"> 4. For ISH, as per the interim measures, their FCL is recorded and their FCL compensation is delayed until the means of compensation mechanism for ISH is produced by the RSPO. JE could potentially be considered as the vehicle to deliver ISH' compensation. <p>Technical</p> <ol style="list-style-type: none"> 1. Producers within the jurisdiction should have the same opportunity to decide to opt for Option 1 or 2 for compensating their FCL. 2. The highest priority compensation project is off-site avoided deforestation. At management unit level application, this refers to areas outside of the management unit. For jurisdiction, this would mean establishing compensation projects outside of its jurisdiction boundary. Ideally, jurisdictions should be able to benefit from compensation projects directly.

RaCP 2015 existing process and requirements	Existing RSPO JA Piloting Framework requirements relevant to RaCP implementation and Jurisdictional level	Assessment on applicability
<p>Compensation plans considered unsatisfactory will be handed back to the grower for amendment, which will have to be resubmit within 40 working days.</p> <p>Approval of the plan will result in:</p> <ol style="list-style-type: none"> 1. Lifting of temporary suspension of certification (in the case of certified management units with FCL) 2. Allowing certification audit for the RSPO member <p>A summary of the approved compensation plan will be made publicly available.</p> <p>Note: RSPO members without FCL will be required to submit a standalone Remediation Plan for prohibited areas cleared, including for social remediation areas. A concept note is not required for this.</p>		

Based on Table 4, gaps are identified according to the RaCP requirements within the Stepwise Approach.

Table 4. Gaps / constraints of the existing RaCP 2015 requirements

RaCP process	Applicable JA Stepwise Approach	Identified gaps
Disclosure of non-compliant land clearance (NCLC)	Step 1: Pilot Step & Step 2: Application Step	<ol style="list-style-type: none"> 1. The end of the period of non-compliance is the completion of HCV assessment. The JE needs to complete the HCV assessment to end the NCLC period and proceed to the LUCA submission. Given that maps related to HCVs are only indicative at Step 2, will the indicative maps be sufficient to end the period of NCLC? 2. Disclosure template currently does not take into consideration information needed at JE level (i.e. plans, compilation of info and other information that may be relevant to the membership application process and RaCP). 3. Social liability – given that procedures related to social issues (FPIC, systemic land grabbing etc) are only implemented at Step 3, how will social liability be identified and addressed during the disclosure process?
Calculation of FCL through LUCA	Step 1: Pilot Step & Step 2: Application Step	<ol style="list-style-type: none"> 1. What will be the process for updating the planted area data? 2. HCV/HCS area – will need to integrate individual HCV/HCS reports with generalised data which is based on the HCV Screening procedure. Combining two assessments at a totally different degree of resolution will be difficult. 3. While the HCS patch analysis can be done at landscape level the social requirements and the due diligence cannot be fulfilled. (e.g DD2 - Moratorium on any land clearing or land preparation until the ICLUP is completed – could prove impossible to implement. Similarly – DD4 “FPIC process has been initiated with full disclosure of the proposed project with all potentially affected communities and stakeholders, and the process for negotiation and consent going forward has been agreed with representatives appointed through fair process” – would be a massive task over a whole jurisdiction) 4. It is stated in Step 2 “LUCA completed with (potential) liability declared and made public.” It is unclear what ‘potential’ liability means. These could be two different things, which will require two different processes: <ol style="list-style-type: none"> a. Firstly LUCA, which is a retrospective analysis and the final outcome of the analysis is the FCL b. Secondly a new process for the identification of “potential” liability or potential threats that may result in degradation/destruction of HCVs. <p>FCL Calculation</p>

RaCP process	Applicable JA Stepwise Approach	Identified gaps
		<ol style="list-style-type: none"> 1. It is not clearly specified when liability is incurred – is it when land clearing (vegetation to bare ground⁹) takes place or when planting takes place (how is infrastructure handled) – this is not defined. Additionally, when an oil palm crop fails and is left for 3 years or more before land clearing is undertaken - would this result in liability? 2. What is meant by ‘potential’ FCL? Could this be defined further? Will it be sufficient to proceed to the submission of concept note? 3. What is the process of updating the ‘potential’ FCL? <p>Legal Boundaries</p> <ol style="list-style-type: none"> 1. ISH – The RaCP requires mapping over the whole legal entity. Examples of issues are: <ol style="list-style-type: none"> a. For ISH, a large surveying effort and boundary dispute resolution process may be required prior to even starting the RaCP process. This would require collaboration of multiple levels of government. In many countries this will be difficult as government offices are not efficient enough. b. The ISH has titles but the boundary on the title and the accepted boundary on the ground may be quite different. c. In PNG ISH are only given the right to use land for a fixed period (CLUA). How will this interact with the requirements of RaCP and JA? d. In Indonesia many of the growers have planted blocks on “Kawasan Hutan”, which is illegal so they cannot obtain titles over these blocks. This raises the issue where a jurisdiction has growers with legality issues – the JA must state clearly whether these growers can become members/get certified. Though based on the interview with the Seruyan pilot, this does prompt the government to initiate a dialogue to resolve these long running issues (e.g. through a social forestry programme or Tanah Obyek Reforma Agraria (TORA)). e. Legality can often be a very sensitive issue. Cases such as where the owner has died and not left a will and the land has now been managed by children but the original owner’s name is still on the title. <p>Satellite Images</p>

⁹ Taking into account that many growers have different definitions of what constitutes bareland.

RaCP process	Applicable JA Stepwise Approach	Identified gaps
		<ol style="list-style-type: none"> 1. Satellite images are available from 2005 – current period. Undertaking satellite image analysis is not sufficiently accurate when small blocks are involved. Many ISH blocks are < 1ha and Landsat pixels are 900 m² (11 pixels / ha). Remote sensing is done by examining patterns across multiple pixels and it is certainly not accurate at the ISH level. Particularly Landsat 5 which has very blurry images and Landsat 7 which has the issue with Scan Line Corrector Failure. This makes the crucial baseline (2005) a problematic date. 2. Occasionally there is a problem where there are no cloud free images close to the cut off dates of the RaCP. 3. Extremely difficult to pick up the difference between Jungle rubber (Veg Coefficient = 0.4) and natural forest (Veg Coefficient = 0.7) in a satellite image. Additionally the HCV toolkit has changed where Jungle Rubber was not previously considered HCV but with the new HCV-HCS toolkit it will be considered HCV. <p>Soil Type</p> <ol style="list-style-type: none"> 1. A lot of peat soils will need ground truthing because mapping of these areas is notoriously inaccurate. Furthermore, a lot of the peat has been drained and places with lenses of peat – the peat quickly disappears after it has been drained. 2. Applying BMP for peat will have to be done at a landscape level for ISH to maintain water tables and undertake the required monitoring. <p>Slope Data</p> <ol style="list-style-type: none"> 1. There needs to be a procedure for deriving slope (e.g., maximum pixel size). The area that is greater than the slope threshold. E.g., in broken terrain there may be many very small areas of steep terrain but overall, the landscape is rolling. Managing and remediating many tiny steep areas is impractical. Additionally, how would this be verified in the field (e.g. over what distance is the slope measured). <p>Watershed – hydrology areas.</p> <ol style="list-style-type: none"> 1. River course data – there is a need to define what is the river course and how to handle situations where rivers clearly move from side to side frequently (braided rivers). 2. Swamp data – there is a need to define what is a swamp and BMP for these areas are not provided in the riparian management guidelines. <p>HCV Areas (1-6)</p>

RaCP process	Applicable JA Stepwise Approach	Identified gaps
		<ol style="list-style-type: none"> 1. Large Growers – May have an HCV assessment. In the case of older HCV assessments, these assessments may not necessarily be of sufficient quality to close the period of NCLC. 2. Medium Growers – likely, they will not have an HCV Assessment conducted for their areas. 3. ISH – there is a simplified procedure for HCV for ISH. This simplified procedure needs to be integrated with the HCV requirements for large growers. There is the HCV mapping tool, using a handphone application which assists ISH to map HCV areas. However, the application still would require an expert to use. The data that it generates cannot be submitted directly, it must be downloaded into a GIS and reformatted before being submitted. This requires specialist GIS skills. 4. ISHHCV assessments are not submitted to any third-party review. Whereas the growers over 50 ha must submit the assessments for review. Therefore, there is an inconsistency on the requirements for HCV assessments on landscapes level. <p>The RSPO is trialling the screening approach across a jurisdiction. The results of this are a risk/probability map where areas fit into a matrix. Are the results of a screening sufficient to bookend the NCLC period? If this is not sufficient – what is the purpose of the HCV screening in the context of the RaCP at landscape level? It is indicated by the Assurance Unit the screening is not sufficient.</p> <p>HCS</p> <ol style="list-style-type: none"> 1. HCS is mentioned multiple times within the Jurisdictional Approach guidance but the requirement to conduct HCS is absent from the RaCP. This is inconsistent with the 2018 P&C. It would appear that, for the closure of the NCLC (after Nov 2018), HCS assessment is required (consistent to the P&C 20187.12.1)
Submission of Concept Note	Step 3: Implementation Step	<ol style="list-style-type: none"> 1. The current RaCP mechanisms do not ensure maximum benefits of compensation project flow directly to the jurisdictions. 2. The current RaCP mechanisms is too lengthy and involves multiple approval processes. 3. The current compensation panel mechanism is not applicable in RSPO JA (i.e. conflict of interest)
Submission of Compensation Plan (and Remediation)	Step 3: Implementation Step	<ol style="list-style-type: none"> 1. The interim measures for ISH RaCP does not currently include the requirement for ISH to compensate. Consequently, the burden of conservation liability from ISH will largely fall upon larger growers. This would be a disincentive for the larger growers to join the JE.

RaCP process	Applicable JA Stepwise Approach	Identified gaps
		<p>2. If multiple certifications are allowed in the RSPO JA, there will be instances where the JE will be encouraged to “cherry pick” members who have no FCL to proceed certifying areas that are compliant first. This could help the overall certification process; however, it could be viewed as business as usual, i.e., management unit certification. This raises the issue that it is not clearly stated whether a jurisdiction that adopts the JA should include all oil palm growers or a subset of growers is admissible.</p>

6.2. RSPO Assurance Unit

Analysis of the RaCP cases which have been submitted since 2013.

RaCP cases progress through the RaCP flow chart (Figure 2); from an initial disclosure submission through to implementation and monitoring of a compensation plan. There are several steps that require work on behalf of the company and RSPO. The RSPO developed the RaCP tracker to enable the progress of submissions to be tracked. PT Hijau Daun reviewed the figures of cases submitted to determine whether there were any bottlenecks (RSPO, 2023). This was combined with information taken from a review of the implementation of the RaCP (2020).

There have been 1,134 disclosure cases processed since 2013 (9 full calendar years) which is an average of 124 cases per year. Whilst there was an initial influx of cases, the flow of cases has remained relatively steady since then. Based on the review of the RaCP (Review, Remediation and Compensation Procedure, 2020) companies had a lot of trouble fulfilling the RaCP requirements. With additional training, according to the Assurance Unit, the quality of submissions has improved a lot.

According to the tracker, LUCA requires an average of 421 days between initial submission and approval, a Concept Note requires 166 days and Compensation Plan would require on average 253 days to be completed. The time taken to prepare and process these documents reflects the complexity of the requirements. Based on these statistics, RSPO has had to undertake a lot of process improvements and capacity building to handle this.

Table 5. Bottleneck analysis.

RaCP process	Analysis for bottlenecks at management unit and jurisdictional level
Disclosure of NCLC	<p>Management unit level: The main bottleneck for this process is the completion of the HCV-HCS assessment which will mark the end of the NCLC period. HCV-HCS assessment is time consuming (from project initiation to sign off by ALS could be an average of 2 years) and the disclosure process can only be completed once the assessment is completed.</p> <p>Jurisdiction level: Gathering data from producers will be time consuming especially from ISH. Conducting HCV-HCS assessment on a landscape level¹⁰ is a challenge due to limited guidance and is a time-consuming process, coupled with the need for government approvals.</p>
LUCA	<p>Management unit level: the LUCA review process is the main bottleneck in the RaCP, although it has improved in the recent years.</p>

¹⁰ There is a jurisdictional screening tool planned. However the HCS Social Requirements will be very challenging at ISH level.

RaCP process	Analysis for bottlenecks at management unit and jurisdictional level
	Jurisdictional level: Due to limited guidance on how to conduct the LUCA at landscape level, as well as its complexity at large scale implementation, this will potentially be the biggest bottleneck for application at landscape level.
Concept Note Submission	Management unit level: Pre-approved compensation projects by the BHCVWG and compensation panel sped up the process of approval of the concept notes. However, the evaluation of the compensation plan is still a lengthy process. Jurisdictional level: Potential bottleneck for landscape level implementation as the current compensation project criteria do not complement with existing efforts to bring value back into the jurisdiction. Existing compensation panel mechanisms may not be applicable to jurisdictions.
Submission of Compensation Plan	

6.3. RSPO JA Pilots

PT Hijau Daun consulted the JA pilots on their progress in the Stepwise Approach, with specific focus on their progress towards completing the RaCP. All three pilots indicated that they are currently at Step 2 of the Stepwise Approach, having completed, or working on meeting the requirements set in Step 1 and Step 2. Table 6 shows the current progress of the pilots as of 12th March 2023.

Table 6. RSPO JA pilots' progress in the Stepwise Approach

Stepwise Approach Requirements	Seruyan Progress	Sabah Progress	Ecuador Progress
STEP 1			
1. Multi-stakeholder group established with mandate from government authority.	Completed	Completed	Completed
2. Statement of intent to achieve 100% RSPO compliance made public by relevant government authority.	Pending	Completed	Completed
3. Plan developed for: a. Establishment of JE. b. Relevant policies, system, procedures to support JA. c. Spatial mapping of all producers, millers, refinery and crushers, HCV/HCS and other relevant information. d. Database of information on procedures, processors, and supply	3a. Completed 3b. Completed 3c. Completed 3d. completed	3a. Completed 3b. Completed 3c. Ongoing 3d. completed	3a. Completed 3b. Completed 3c. Completed 3d. completed

Stepwise Approach Requirements	Seruyan Progress	Sabah Progress	Ecuador Progress
chain actors within the Jurisdiction.			
<p>4. Plan developed to conduct and/or develop Jurisdictional level".</p> <p>a. Procedures for FPIC, and for recognition of land right (legal, customary and user rights formulated.</p> <p>b. Indicative HCV and HCS mapping (in alignment with RSPO requirements), includes mapping of peatlands.</p> <p>c. Historical Land Use Change Analysis (LUCA) in accordance with RSPO LUCA guidance document .</p> <p>d. Legal gap analysis of differences between RSPO P&C and Jurisdictional law and policies.</p> <p>e. Regulation on use of fire, fire prevention and control measures.</p>	<p>4a. Completed</p> <p>4b. Completed</p> <p>4c. Pending</p> <p>4d. Completed</p> <p>4e. Completed</p>	<p>4a. Completed</p> <p>4b. Ongoing</p> <p>4c. Ongoing</p> <p>4d. Ongoing</p> <p>4e. Completed</p>	<p>4a. Completed</p> <p>4b. Completed</p> <p>4c. Completed</p> <p>4d. Completed</p> <p>4e. Completed</p>
STEP 2			
5. JE is legally established with a Multi-stakeholder Board in place.	Pending: Seruyan is waiting for RSPO guidance on JE membership within the RSPO to be available before setting up the JE.	Completed	Ongoing: The Multi-stakeholder board is in the legal process to select its representative in the RSPO.
6. JE Internal Control System (ICS) developed.	Completed	Pending	Pending
7. Oil palm planted areas and land bank of all producers, millers, refineries and crusher and refinery facilities spatially mapped.	Pending	Completed	Completed
8. Database compiled on producers, processors, and supply chain actors within the Jurisdiction.	Pending	Pending	Pending
9. JE becomes an RSPO member.	Pending	Pending	Pending

Stepwise Approach Requirements	Seruyan Progress	Sabah Progress	Ecuador Progress
10. Indicative map of peatlands, HCV, and HCS areas.	Completed	Ongoing	Ongoing
11. Jurisdictional level 'No-go' zones mapped.	Pending	Completed	Pending
12. LUCA completed with (potential) liability declared and made publicly available.	Pending	Pending	Pending
13. Procedures for recognition of land rights (legal, customary and use rights) developed.	Completed	Completed	Pending
14. FPIC procedure and guidelines completed for Jurisdiction.	Completed	Completed	Pending
15. Regulation on use of fire, fire prevention and control measures in place.	Completed	Completed	Pending
16. System developed and fully operating at a Jurisdictional level to monitor, detect, and verify deforestation, hotspots/burning and conservation of peatlands, HCV areas, HCS areas and other 'no-go' zones, including social risks and impacts.	Pending	Pending	Pending
17. Legal gaps identified on the differences between RSPO P&C and Jurisdictional law and policies and the necessary regulations procedures are developed.	Completed	Pending	Pending
18. Assessment of disqualifying social and environmental issues and steps taken to address them including no conversion of HCV, HCS, or peatlands, and serious human rights violations and systemic land grabbing.	Pending	Pending	Pending

Overall observations on the pilots' progress:

1. The pilots have developed the plans required in Step 1. However, the plans were never reviewed by RSPO as there is no clear process for review and approval of the plans within the RSPO. The plans are of confidential in nature, hence, PT Hijau Daun has no access to review the relevant plans. According to the Sabah JCSC the plans were only agreed with the RSPO verbally.
2. For HCV-HCS assessment, the pilots are using their own developed methodology to conduct these assessments. In Seruyan, the HCVN's HCV screening method is used as (a) guidance or (b)

to review the assessments. This will raise the question as to whether the HCV-HCS assessment can be accepted to close the period of NCLC across the jurisdiction. In Sabah, the HCV assessment has only been undertaken for HCVs 1 -3. The methodology that has been used for HCV identification only loosely follows the HCV toolkit. Moreover, the focus of the HCV assessment was a biological assessment for conservation planning and not to fulfil the requirements of the RaCP.

3. No HCS assessment has been undertaken in either jurisdiction.
4. Seruyan and Ecuador pilots have not started their RaCP at landscape level and both pilots have expressed the importance of having guidance from RSPO on how to comply with the RaCP requirements at landscape level. Sabah had conducted its LUCA which is now pending approval from the State government. Seruyan had handed over their ISH block boundaries to the RSPO to undertake the LUCA, with the intention it would follow the existing practice.
5. Sabah has not done the RaCP and clearly stated that they believed it would be impossible to undertake at a jurisdictional level. Firstly, the analysis required was an enormous task and secondly, the resulting compensation would be unaffordable.
6. Both Seruyan and Ecuador have a strong smallholder focus RSPO certification, indicating that these are where most the challenges are. Large growers are easier to include once more guidance is made available by the RSPO (i.e., JE membership within RSPO, RaCP implementation)
7. All three pilots indicated common challenges regarding ISH' certification process:
 - a. ISH do not have legal land title to operate in their own lands.
 - b. There are significant number of ISH who are planting in areas gazetted as forest reserves which cannot be certified until the legality issues are addressed.
 - c. The RaCP mechanism for ISH within the RSPO is not available yet. ISH will not be able to compensate their FCL, following the current RaCP.
8. There are notable differences between the pilots with regards to establishing the JE:
 - a. Sabah: a single JE, set up under a multistakeholder board.
 - b. Seruyan: a single JE will be set up to manage multiple JEs established for ISH. Eventually, these ISH JE will be treated as 'certificates' under the main JE.
 - c. Ecuador: the multi-stakeholder board was intended to carry out the function of JE, however, this was not possible and currently therepresentative of the multi-stakeholder board will be identified legally to represent the multi-stakeholder board.
9. In Ecuador, the jurisdictional approach on the country level is piloted in two smaller districts (Orellana and Sucumbios). The lessons learned from these two districts will be applied across the country.
10. All pilots, although having indicated that they are currently at Step 2 of the Stepwise Approach, did not complete Step 1. This is due to:
 - a. The lack of guidance from RSPO on how to comply with the requirements.
 - b. The lack of approval mechanisms and dedicated staff within the RSPO system to review the pilot's progress towards completing the Stepwise Approach.

6.4. Industry Players

The industry players' perspectives of the existing RaCP implementation at management unit level are valuable to this review. Selected growers were consulted to understand:

1. The challenges faced to comply with the RaCP at management unit level and how the RSPO JA could potentially help address those challenges.

2. How growers could contribute to addressing ISH' compliance to the RaCP
3. Growers' readiness for RSPO JA, particularly on the additionality for participating in jurisdictional approach to certification.

It should be noted that the discussions invariably expanded to the implementation of the whole JA, as it was impossible to isolate RaCP from all the other elements of the JA.

Challenges

The consultation with the growers highlighted the following challenges, which are consistent with the findings from other stakeholder consultations (JA Pilots, RSPO Secretariat):

1. High staff turnover within the RSPO – institutional memory is lost, new staff are not sufficiently trained to facilitate the lengthy and complex process, leading to further delay in the process.
2. Overreliance of external third parties for the review and evaluation process. Although this mechanism is put in place for impartiality, the disadvantages are that the external third parties have perverse incentives to find fault, resulting in unwarranted delays to the RaCP process. Additionally, it appears that a single submission is given to multiple reviewers, which means that companies address all the issues in one review, only to have completely new issues emerge in the next review.
3. Lack of emphasis on the timeline for the review, evaluation, and approval process within the RSPO Secretariat. Although an SOP is available, the timeline for these internal processes is not certain. For example, the approval of a compensation plan could range from one to two years.
4. Lack of effective monitoring and evaluation mechanism for approved compensation projects. Approved compensation projects are allowed to be implemented, however, currently there is no comprehensive mechanism available within the RSPO Secretariat to monitor and evaluate the project implementation. It takes years for the growers to complete the RaCP process up to the approval of their compensation plan, but eventually the implementation of these plans is not monitored effectively. The only potential safeguard is to get the Certification Bodies (CB) to confirm if the compensation projects are being implemented effectively. If this is done during the audit process this would be ineffective as CBs do not have the expertise and capacity to carry out this task (it is considered, by the industry players, that the monitoring of the compensation project implementation would require a separate skill set from the CB auditors). Growers will also likely have to invest more for CB evaluation of the compensation project implementation.

Support for ISH

PT Hijau Daun sees the opportunity for the RSPO JA to address the issue of the lack of ISH' compensation mechanism. A recommendation was proposed to get large producers to absorb ISH FCL, therefore, allowing ISH to comply with the RaCP requirements in full. Some sort of contractual agreements could be proposed, for example, having the independent smallholder groups to send their Fresh Fruit Bunches (FFB) to the companies for a certain period, depending on the FCL value. Although other industry players did not think this mechanism would work because usually ISH have a suite of mills that they can sell to. The ISH would not want to be locked into selling to a single mill.

If such a recommendation is accepted, consideration should be made for RSPO JA to dismiss the sale of credits by ISH in certified jurisdictions. The logic is that, once the ISH sell their FFB via credits, their FFB turns into conventional. While this still benefit the ISH, the mills suffer from losing premiums. For this to work, mills will be required to directly pay the premiums to ISH.

Contractual agreement is also seen as an added responsibility to the large growers, in which, large growers are required to support ISH towards obtaining/maintaining their certification. While this is seen as a positive commitment towards RSPO Shared Responsibility and smallholder inclusiveness, for some growers, this will result in additional costs and effort, that is either not currently within their capacity or they are not prepared to shoulder these costs (i.e. there are not sufficient commercial benefits for the large growers). Though other industry players thought that it would have to be government that assisted the growers (large and small) by facilitating compensation projects and assisting with the projects' implementation.

In addition, if the contractual agreement is only based on supporting ISH to compensate their FCL, potentially, there will be an added risks to growers supporting these ISH. For example, it will be a challenge for growers to meet the requirements set under the European Union Deforestation Regulation (EUDR) which requires palm oil to be:

1. Deforestation-free (cut-off date of 31st December 2020)
2. Produced in accordance with relevant legislation of the country of production
3. Covered by a due diligence statement and
4. Traceable to plot

These criteria must be achieved for oil palm products to be placed on, or exported from the EU market. The uncertainties resulting from ISH' performance on RSPO certification will not incentivise growers to develop the contractual agreement fearing their products be rejected by the EU market.

Grower Readiness for RSPO JA

Grower readiness for the RSPO JA was assessed as part of the consultation process. Industry players will only see benefits of participating in the JA if it helps them to operate more effectively towards meeting compliance to RSPO Standards and other sustainability requirements. Industry players acknowledge the following additionality that the RSPO JA could offer:

1. **Impact at a greater scale** – by leveraging on the government leadership towards certification, the protection of HCV areas is upscaled at landscape level, through policy integration. The responsibility of the protection of HCV areas no longer stays within a single company but shifted towards collective responsibilities of the stakeholders within the jurisdiction, therefore, magnifying the impact of the protection of these HCV areas.
2. **Facilitate RaCP compliance at landscape level** – Jurisdictional Entity (JE) could play a significant role in facilitating the compliance of the RaCP at landscape level. This could be in the form of providing the necessary support for collecting and managing RaCP related data to providing/developing a compensation project platform to effectively help growers to compensate their FCL. For this to be effective, the government needs to have an effective

conservation planning exercise (driven by the spatial plan) to identify areas for compensation projects. Growers could be given the opportunity to channel their compensation fund (Option 2) to the compensation project areas identified through the conservation planning, or in any case, if the spatial mapping identified areas within growers' concessions as suitable compensation project areas, growers should be allowed to use the areas to compensate their FCL through the ha-to-ha option (option 1). However, this could only work if there is a strong governance to maintain the confidence of the industry players. Compensation project prioritisation should also be revised to adopt this recommendation (i.e., favouring on-site restoration projects over off-site).

3. **Effective public administration** – the JE must offer effective public administration to assist growers with RSPO certification process. The integration of RSPO requirements into the government policies is essential to ensure compliance to the standards. This is already part of the RSPO JA Piloting Framework, through the upwardly delegated criteria, but it is unclear as to how effective will the JE/government apply these 'new' requirements across the jurisdictions. This issue was raised by industry players, particularly industry was hesitant as to whether the government entities understood the RaCP and how large an impact it was likely to be. There were suggestions that the compensation could be negotiated downwards. RSPO currently has no framework for these types of negotiation.

For the RSPO JA to work, the following considerations need to be reviewed by the RSPO:

1. The outcome of the RaCP is a liability in the form of FCL, that the government needs to compensate. This will basically mean that the RSPO will be requesting governments/jurisdictions to assume a huge liability. It is unclear from the JA Pilots on the level of acceptance (or their ability to accept) this 'liability' that comes with the RSPO membership.
2. Similarly, the FCL is tied to the RSPO member, the jurisdictional FCL should be tied to the jurisdictional entity. The entity takes ownership of the FCL and is responsible to compensate the FCL as part of its commitment towards RSPO certification. The mechanism for JA compensation should be different from the existing management unit compensation where RSPO should consider allowing JA to develop and implement its own compensation projects that are within their jurisdiction which will benefit the landscape. Ha-to-Ha compensation projects would be the ideal jurisdictional level compensation projects that the RSPO should consider as the main approach for delivering compensation at landscape level.
3. Certification of the JE should be fully viewed as group certification, moving away from the management unit level certification. JE will be responsible to certify all its producers, including ISH, similar to how companies are required to certify all of its management units.
4. The RSPO would have to be considerably more flexible and would have to dismiss a lot of the areas that had been cleared, which would (hopefully) be balanced with conservation benefits. Examples of this would be changes to the spatial plan or in Sabah where they want to achieve 50% forest cover. A suggestion is that the RSPO would have to accept some level of deforestation (i.e. where existing forest areas are designated for agricultural land use within the spatial plan) without the deforestation incurring FCL. The concept being that 50% forest cover is a very high target, so some level of deforestation would be balanced with the larger conservation benefits. The concept is similar in HFCC, in which, the RSPO would have to be willing to compromise as its approach could well lose its relevance as these countries strive to meet their development goals (which inevitably results in deforestation).

5. Jurisdictions should be allowed to progress to certification upon finalising their environmental FCL and approval of the jurisdiction-wide compensation concept note. The RSPO should acknowledge the huge commitment from the government to have all its industry players, including ISH, certified under the RSPO Standards. Mechanisms should be developed to ensure that the jurisdiction will progress in their RaCP process, but this should not halt jurisdictions from progressing to certification.
6. Consideration to separate the social and environmental liabilities into two separate processes should be looked at. Currently, the environmental liabilities are finalised at Step 2 (through the completion of the LUCA and environmental assessments). The assessments related to the social liabilities (e.g., FPIC) are only expected to be completed at Step 3.
7. Social HCVs identification should remain at management unit level due to its complexity (i.e. the need to consult villagers). HCV 1 – 4 can remained at landscape level.
8. Internal systems within the RSPO Secretariat should be established to facilitate the compliance of the jurisdictions towards progressing the Stepwise Approach. The absence of an internal process within the RSPO Secretariat has delayed the progress of the current pilots. The pilots do not have the necessary guidance to move forward. For example, there is currently no review and approval mechanism set up at Step 1 resulting in JEs proceeding with the LUCA and HCV without their methodologies being approved first.

6.5. Government bodies

The Sabah Government was consulted to understand the:

1. Methodology used for conducting the HCV-HCS assessment
2. The LUCA process in Sabah
3. Existing conservation efforts in Sabah that could be adopted as potential compensation project for RSPO consideration (also looking at whether the replicability of this approach)

Methodology for LUCA and HCV-HCS.

PT Hijau Daun consulted the Sabah Government on the methodology used for the identification of HCV areas in their jurisdiction, as well as the LUCA.

For the HCV assessment, only HCV 1, 2, and 3 were mapped. The mapping of these HCVs was done based on available government data:

1. Distribution map of RTE species based on the IUCN Red List
2. Map of gazetted forest areas (permanent forests and protected areas)
3. Sabah land cover map

These maps were then overlaid to produce the indicative landscape HCV map for Sabah. A few observations were made based on the methodology used by the Sabah Government:

1. The methodology used differs vastly with the HCV toolkit.
2. The purpose of the exercise was primarily a biological assessment for conservation area planning not for the RaCP.
3. HCV 4 was not included in the indicative map, although the data is available.

4. HCV 5 and 6 were separated out from the mapping process. The Sabah Government agrees that, currently there are no alternative ways to map this at jurisdictional level.

Through the LUCA process, the Sabah Government has identified an estimated of 200,000 – 250,000 ha of forested areas cleared for oil palm since Nov 2005. This LUCA exercise was however, not conducted based on RSPO's LUCA guidance document. As such, the estimated hectareage is only the extend of Sabah's non-compliant land clearance. It was suggested by Sabah government to take this hectareage as the FCL for Sabah, without the need to multiply this by the RSPO's vegetation coefficient, cut off dates, and membership status, to avoid added complexity to the LUCA process.

It was stated that there was unlikely to be further expansion of the oil palm estate in Sabah, in fact, due to labour shortages the oil palm estate was likely to be reduced.

The potential recommendation to consider existing conservation efforts within the jurisdiction was discussed in the consultation with the Sabah Government. The conservation effort discussed was the State's 2025 objective to have at least 30% of its entire area to be totally protected (i.e., Totally Protected Areas or TPAs).

Currently there is a large focus on achieving the goal. The State of Sabah would require 2.2 million hectares of land to be converted into TPA (about 4.6% more to achieve 30% TPA). The current ongoing initiative by the government is to look at other conservation areas and what can be done to elevate these areas to qualify as TPA. Examples of these are Other Effective Area-based Conservation Measures (OECM) areas, which include community managed areas, and companies' HCV areas within their production land. This current initiative will not qualify these areas to be included as compensation projects due to:

1. OECM areas might already be existing HCV areas within the jurisdiction.
2. Companies are required to maintain their HCV areas as part of the RSPO P&C requirements.

Both these areas will not qualify for RSPO's compensation projects as it will not meet the additionality criterion. Improving the funding of TPA areas through compensation projects was discussed, and in theory, this would be a worthwhile outcome. However, one of the roles of the state is to fund the management of TPA. Assuming FCL is incurred, funds that were to be allocated to TPA management could be earmarked as been allocated as compensation liability. As such, there would be no improved funding of conservation.

Other approaches, such as converting production land into wildlife corridors can potentially be considered, however, this will be a challenge as it will require extensive negotiation between stakeholders (e.g., landowners, government and conservation bodies) as well as effective conservation planning to identify where these areas are. As an example, The Rhino and Forest Fund (RFF) has successfully converted 65 ha of production land into a wildlife corridor to connect two wildlife reserves (Tabin and Kalumba Wildlife Reserves). The negotiation involved multiple stakeholders and required a decade before the area was successfully converted into a wildlife corridor. However, this example is based on an area of 65 ha in size, where it could be more than 200,000 ha are required for Sabah compensation project. There is not that area of land available for conservation projects.

To qualify as TPAs these areas will require a Conservation Management Plan and subsequent implementation. Another issue is whether a lot of jurisdictions could be using these areas as part of their carbon accounts. As such, they are necessary to meet international commitments. So, the concept of additionality is very difficult to achieve in this context. During the interviews, Sabah stated that they had established Permanent Sample Plots for carbon monitoring in these areas which indicates they will be used as credits in the national accounts. Generally voluntary carbon projects do not allow double-counting. The Sabah Government considered that the work that they were doing could be used as a model for oil palm companies.

The other issue that emerged was the areas of oil palm in Forest Reserves and whether these areas within the jurisdiction would be certifiable. Currently, Sabah is allowing such areas to operate for one full cycle of oil palm, before being converted back into forest reserves. It is unclear if RSPO will allow such approach to take place and allow jurisdictions to be certified. Note that this issue, with oil palm planting in forest areas is also happening elsewhere, for example, Indonesia, though in Indonesia this development has not been undertaken with permission from the government.

Another important point that came out of the analysis and discussion with the Sabah Government was that their analysis was heavily focussed on maintaining large forest areas in the landscape. Using the Jurisdictional Approach, the Sabah Government questioned the relevance of the HCSA, stating the conserving forest fragments contributed little to the state's goals. However, one of the goals of the HCSA was to protect forest areas in fragmented forest landscapes. For example, in Sabah, most of the lowland rainforest on flat land would have been converted to agriculture. HCSA recognises that even degraded fragments in these landscapes have a high biodiversity value, because so few forests in these areas remain. As such, taking a big picture approach still overlooks some important considerations.

Negotiated Outcome

The above discussion led to the suggestion of a “negotiated outcome”. In Sabah, government representatives felt that conservation efforts that were underway could compensate for the forest loss since 2005. The concept of this was to obviate a lot of cumbersome analysis and cut to the core objective of the RaCP. The steps are as follows:

1. Calculate the forest loss caused by oil palm development after 2005.
2. Propose jurisdictional compensation projects that would compensate for the forest loss. This would have to bear in mind that at a jurisdictional level, any truly additional projects are almost impossible to find.
3. Review the compensation projects, considering factors such as benefits to conservation, management plans and additionality.

This is discussed in more detail in section 6.8

6.6. NGOs

An environmental and social NGO were consulted to understand how the RaCP can be implemented at jurisdictional level. Particularly these were consulted with the NGOs:

1. The suitability of indicative HCV-HCS maps to be used as to end the period of NCLC for jurisdictions.
2. In-situ compensation projects as the highest priority for compensation projects in jurisdictions.
3. Identification of social HCVs.
4. Social Remediation for jurisdictions.
5. Roles of NGOs in the RaCP JA.

The suitability of HCV-HCS maps to end period of NCLC for jurisdictions

The consulted ENGO has undertaken landscape HCV-HCS screening analysis in North Sumatra. The outcome of the screening analysis was an indicative map of HCV-HCS areas, which found 170,000 ha of HCV-HCS located within areas zoned for agriculture. By using the indicative map, the local government was advised not to issue development licenses over these areas and assist the jurisdiction to developing better land use management plans. While indicative maps help government to improve their spatial planning, as well as align their priorities (conservation vs development), for the purpose of complying with requirements, such as the RSPO RaCP, further assessments/analyses need to be conducted to strengthen and support the overall findings of the HCV-HCS identification exercise. The consultation concludes that, indicative maps should only be used as a risk guide, guiding a more robust HCV assessment, following the standard HCVN's methodology (e.g., licensed assessors etc) at field level.

In-situ compensation projects as the highest priority for compensation projects in jurisdictions

From this consultation process, it was agreed that the current compensation project priority list (ex-situ being highest and in-situ being lowest) does not help jurisdictions in advancing their own conservation efforts. Jurisdictions' conservation efforts need to be recognized by RSPO by means of allowing these existing efforts to be expanded with the involvement of various stakeholders within the jurisdictions. This will ensure that the benefit of the compensation projects stay within the jurisdictions and the stakeholders would have benefited from completing the RaCP process. The four compensation criteria are still to be met, and RSPO would still need to approve these projects.

Identification of social HCVs

The definite weakness with the existing RaCP is that it allows self-evaluation of social liabilities by the producers. So far this has resulted in very few growers admitting to any social liability. Coupled with the vague review process of the social liability identification process within RSPO Secretariat, there is a weak check and balance of the entire process resulting in poor execution of the social remedies, where they are due/required. Reference made to Newing report Newing, (2020) which identifies a suite of issues surrounding the identification and reporting of social liability. The RSPO's approach was contrasted with that of the FSC, which requires an independent assessor to identify social liability and make recommendations as to how these liabilities should be remedied.

Regarding the actual identification of HCVs 4, 5 and 6, there had been a presentation at the RSPO Roundtable acknowledging the difficulties of the identification of the social HCVs¹¹. For the RaCP, there are two reasons for identifying the social liability:

1. identification of social HCVs that currently exist and
2. identification of HCVs that had been lost because of development.

For (1), these areas are not to be developed and should be managed through an effective management plan. For (2), the communities that are affected by the development of these areas into oil palm must be compensated for the loss of HCVs.

Acknowledging the human elements of the identification process, it was suggested that currently, there are no other suitable alternative process, even at the jurisdictional level, but to go to every community in the area and identify the HCVs. Using risk-based (i.e., indicative maps) is ineffective and potentially result in communities being left-out in the process.

Social Remediation for jurisdictions

The advantage of the JA is that it would bring in operators that are not RSPO members and make them remedy for the HCVs that have been lost as part of their development.

When asked about who should be responsible for the social remediation in the context of RaCP JA, it was stated that it should be a shared responsibility between the government and producers. Both parties have contributed to the loss of the social HCVs. The growers had taken advantage of lax compensation requirements and the government had neither ensured there was adequate FPIC undertaken nor overseen the administration of adequate social safeguards. An example was used, whereby, in Seruyan, the Government had passed new laws that enabled them to process more than 300 land conflicts. As an example of the social inequity that has resulted from oil palm development; out of the 34 oil palm companies located in Seruyan only two companies paid compensation to the communities. During site visits, the communities were able to show where their gardens were located that had been taken off them. No compensation was provided to these communities for the loss of land and associated livelihoods. There were other evident harms, such as rivers that had dried up to the extent that community members were no longer paddle canoes up to their gardens.

To effectively address social remediation at jurisdiction level, the following needs to be conducted:

1. Identification of harm (loss of social liabilities)
2. Identification of management activities/plans to address the identified harm
3. Agreement from communities on the management activities/plans
4. Management activities/plans executed by the parties

¹¹ Although later Hijau Daun followed up with the presenter, who confirmed there was no issue with HCV 4, but it wasn't within the scope of the Sabah Government to generate this data.

The opinion of the SNGO is that only when these four processes are completed (and verified to have been completed), would the social remediation be deemed as sufficient for the jurisdictions to complete the RaCP and proceed with certification.

Roles of NGOs in RaCP JA

The execution of the compensation projects at jurisdictional level would require collaborative actions from all stakeholders operating in the jurisdictions. NGOs have an important role to play to ensure the compensation projects are developed, implemented, and monitored effectively. Building capacity within the jurisdictions to undertake these roles are necessary and platforms to share lessons between jurisdictions. Additionally, facilitating the communication between organisations implementing jurisdictional approaches, ideally resulting in better overall outcomes. Many NGOs have specific science or social related skills, as such they could run trainings and assist with setting conservation and restoration goals. NGOs could create knowledge sharing spaces in order to share lessons learnt.

The consultation with the NGOs revealed that JA could facilitate sustainability efforts beyond the palm oil industry, for example, deforestation looking at multiple commodities. However, since the RSPO only has the jurisdiction over palm oil, there are limits to what RSPO can do in its JA.

6.7. General Results from Analysis

The consultation process has identified multiple gaps to be addressed for effective implementation of the P&C requirements, especially RaCP, at landscape level. From the consultation process, it is evident that there are three types of gaps:

1. Gaps for RaCP Implementation at landscape level
2. General RaCP gaps
3. JA piloting framework gaps that go beyond the RaCP requirements

For the purpose of this review, recommendations will be made for (1). As for (2) and (3), these gaps are highlighted for the RSPO to consider in the next review/revision of the relevant requirements (see Appendix).

Table 7 Gaps and Recommendations for RaCP implementation at landscape level

RaCP process	Applicable JA Stepwise Approach	Identified gaps	Recommendations
Disclosure of non-compliant land clearance (NCLC)	Step 1: Pilot Step & Step 2: Application Step	<ol style="list-style-type: none"> 1. The end of the period of non-compliance is the completion of HCV assessment. The JE needs to complete the HCV assessment to end the NCLC period and proceed with the LUCA submission. <ol style="list-style-type: none"> a. The JEs have currently used different methods to conduct their HCV assessments. A review of these assessments is required to ensure that the methodologies used aligned with the HCVN screening process. b. It is unclear what the review process is, who is involved and what will be the outcome of the review process. 	<ol style="list-style-type: none"> 1. <ol style="list-style-type: none"> a. The RSPO reviews the JE’s plans for HCV and HCS prior to the JE starting work to ensure that the output is likely to be acceptable to the RSPO. b. The RSPO is planning to work on a guidance on Jurisdictional-level indicative HCV and HCS mapping. The work should ideally start with RSPO organising review sessions of the pilots’ HCV assessment involving the relevant stakeholders (HCVN, HCSA, JA pilots, RSPO, etc) and apply lessons learned in the development of the guidance. c. Indicative maps should be accepted for ending the period of NCLC in good faith by the RSPO to recognise the pilots’ commitments towards developing the

RaCP process	Applicable JA Stepwise Approach	Identified gaps	Recommendations
		<p>c. Given that maps related to HCVs are only indicative at Step 2, will this be sufficient to close the NCLC?</p> <p>d. Major question still remain as to how the social HCVs will be identified at the jurisdictional level.</p> <p>2. Disclosure template currently does not take into consideration information needed at JE level (i.e. plans, compilation of info).</p> <p>3. Social liability – given that procedures related to social issues (FPIC, systemic land grabbing etc) are only implemented at Step 3, how will social liability be addressed at the disclosure process? Industry also stated that social liability was very vague and poorly understood.</p> <p>4. There are many mentions of HCS within the Jurisdictional Approach guidance but the requirement to conduct HCS is absent from the RaCP. This is inconsistent with the 2018 P&C. Should the end of NCLC (when undertaken after Nov 2018) require an HCS assessment also to make it consistent with P&C 7.12.1?</p>	<p>guidance on Jurisdictional-level indicative HCV-HCS mapping. Once the guidance is available, only the final maps should be accepted to end the NCLC period.</p> <p>d. From the consultation process, believe that there is no other way of identifying social HCVs other than going to each community on a one-by-one basis. This subsequently raises the question as to whether this should be done only in the oil palm areas or right across the jurisdiction. Given that HCS (if this is implemented) does not allow sampling of the affected communities, only the latter would be considered acceptable.</p> <p>2. A specific disclosure template to be developed by RSPO to capture unique information for the jurisdiction (e.g.: total number of members, available land bank, RaCP plan, etc). This could be a master disclosure template acting as a summary for the individual disclosure templates.</p> <p>3. For JA, it is recommended that the social liability is addressed in Step 3, consistent with the implementation of the social related assessments. Where applicable and relevant, social liabilities should still be identified prior to Step 3. For this, it is recommended that the environmental and social RaCP for JA is addressed separately. How this is done is still unclear, pending further discussion with relevant stakeholders beyond the scope of this review.</p>

RaCP process	Applicable JA Stepwise Approach	Identified gaps	Recommendations
			<p>4. The RaCP 2015 is outdated. It is pending a revision to include the requirements from the RSPO P&C 2018, specifically 7.12.1¹². It appears that an HCS assessment would be required after Nov 2018 to end the period of NCLC. This should be reflected in the revised version of the RaCP. Until a revised RaCP is released, an HCV assessment should be accepted to complete the NCLC period for the existing pilots.</p>
Calculation of FCL through LUCA	Step 1: Pilot Step & Step 2: Application Step	<ol style="list-style-type: none"> 1. It is stated in Step 2 “LUCA completed with (potential) liability declared and made public.” These are two different processes. Firstly LUCA, which is a retrospective analysis. Secondly identification of “potential” liability or potential threats that may result in degradation / destruction of HCVs. 2. Pilots are expecting the RSPO to come up with its own methodology to conduct LUCA at landscape level, based on the existing RSPO LUCA guidance document. The LUCA guidance currently does not provide any guidance on LUCA at jurisdictional scale. <p>Legal Boundaries</p>	<ol style="list-style-type: none"> 1. RSPO needs to clearly define what it meant by ‘potential’ liability. RaCP is a retrospective analysis and the outcome of the LUCA is the Final Conservation Liability. If ‘potential’ liability refers to potential threats, this should be excluded in the RaCP for jurisdiction or addressed separately as an extension process within the RaCP/other processes. It could also mean clearing of ‘NO GO’ areas subsequent to membership / certification, which the RSPO already has processes to address these issues. To avoid confusion this point should be split into two separate points (1) LUCA completed and made public and (2) (potential) liability declared and made public.

¹² 7.12.1 (C) Land clearing since November 2005 has not damaged primary forest or any area required to protect or enhance HCVs. Land clearing since 15 November 2018 has not damaged HCVs or HCS forests.

A historic Land Use Change Analysis (LUCA) is conducted prior to any new land clearing, in accordance with the RSPO LUCA guidance document.

RaCP process	Applicable JA Stepwise Approach	Identified gaps	Recommendations
		<ol style="list-style-type: none"> 1. ISH – The RaCP requires mapping over the whole legal entity. Examples of issues related to ISH’ legal boundaries are: <ol style="list-style-type: none"> a. ISH do not always have a legal land title for their own land (NCR, land under application process in the case of Sabah, oil palm planted within gazetted Forest Areas in Indonesia) b. The smallholder has titles but the boundary on the title and the accepted boundary on the ground do not match. c. There are issues with land that may be considered uncertifiable. An example of this is oil palm planted within Forest Reserves in Sabah. There are no mechanisms to address this. 	<p style="text-align: center;">See Section 18 for two ways of conducting LUCA.</p> <p>Legal Boundaries</p> <ol style="list-style-type: none"> 1. A mechanism needs to exist to address the challenges with regards to ISH’ land titles and actual boundary. Potentially, jurisdictions could develop a participatory approach boundary mapping approach where boundaries are mapped and signed by neighbours (with the intention to get a government recognised title). Additionally, the government role’s in facilitating the land titling process is crucial to ensure that the process is not delayed. In Sabah, there are two known processes established to assist ISH with land titling processes – PANTAS and Facilitated Land Application Process (FLAP). Similar process needs to be developed within the government capacity in other jurisdictions.
Submission of Concept Note	Step 3: Implementation Step	<ol style="list-style-type: none"> 1. The current RaCP mechanisms do not ensure maximum benefits of compensation project flow directly to the jurisdictions. This could potentially be a form of disincentive for jurisdictions to opt for the RSPO JA (i.e., having to compensate their FCL off-site as off-site compensation projects are prioritised in the current RaCP). 2. The current RaCP mechanisms is too lengthy and involves multiple approval processes. This is based on analysis of the bottlenecks and also from interviews with industry. 	<p>It is recommended that the jurisdictions develop a compensation project platform with a list of (approved) compensation projects within the jurisdiction. This will allow any compensation funds to be channelled directly to the jurisdiction, ensuring that the any conservation efforts through the RaCP will benefit the jurisdiction’s own conservation efforts. These projects would</p>

RaCP process	Applicable JA Stepwise Approach	Identified gaps	Recommendations
		<p>3. The current compensation panel mechanism is not applicable in RSPO JA (i.e., conflict of interest)</p>	<p>have to be consistent with jurisdiction’s spatial plan¹³. Driven by the spatial plan, the JE will have to conduct an effective mapping exercise to identify areas suitable for compensation projects. In the case that the mapping exercise identifies conservation areas within the growers’ concessions, growers should be allowed to do a ha-to-ha compensation, overwriting the current RaCP compensation project prioritisation.</p> <p>The outcome of the mapping will be reviewed and approved by the RSPO prior to establishing the compensation project platform. Once approved, any compensation funds channelled to the projects will not require any further approval. Similar treatment will be for the ha-to-ha compensation, provided that the compensation project areas are part of the outcome of the mapping exercise. This will remove the need for multiple approval processes for the approval of concept note/compensation plans. Ideally this will obviate a lengthy approval process.</p> <p>The current compensation panel mechanism will not work for application at Jurisdictional level due to conflict of interest. It is recommended that, if the compensation panel mechanism is to remain, the compensation panel members should ideally comprise of other RSPO JA pilots.</p>

¹³ Again, an issue as some countries do not have a spatial planning process, whilst others have such a process but it is not rigorously enforced.

RaCP process	Applicable JA Stepwise Approach	Identified gaps	Recommendations
			<p>The compensation benefits will flow directly to the jurisdiction. If the benefits do not accrue to the jurisdiction, the value of the JA implementation is absent.</p> <p>Section 18 describe two proposed approach compensation mechanism for JA.</p>
Submission of Compensation Plan (and Remediation)	Step 3: Implementation Step	<ol style="list-style-type: none"> 1. Since the interim measures for ISH RaCP does not currently include the mechanism for ISH to compensate, likely, the burden of conservation liability from ISH will largely fall upon larger growers. This would be a disincentive for the larger growers to join the JE. 2. If multiple certification is allowed in the RSPO JA, there will be instances where the JE will be encouraged to “cherry pick” members who have no FCL to proceed certifying areas that are compliant first. This could help the overall certification process; however, it could be viewed as business as usual. 	<ol style="list-style-type: none"> 1. In the spirit of JA, the burden of conservation liability from ISH will likely fall upon large-medium size growers. Growers will have the responsibility to help ISH to compensate their FCL by absorbing their FCL into their own. To ensure that growers also benefit from this burden shift, some sort of contractual agreements, for example, requiring the ISH to sell their FFB to the growers for certain period, could be arranged. If this mechanism is adopted, the sale of credits within the jurisdictions needs to be revised, to avoid mills/growers losing premiums through the sale of credits by ISH. 2. If multiple certificates are allowed towards progressing to 100% certification in the jurisdiction, the RSPO should identify and set conditions on what is acceptable for multiple certificates. For example, multiple certificates should only be allowed for certification of areas based on political boundary or watershed areas (could consider other situations). Granting certificates based on compliant areas-only will defeat the purpose of establishing the JA framework and should not be

RaCP process	Applicable JA Stepwise Approach	Identified gaps	Recommendations
			<p>considered as it will further delay government process to address pressing issues (e.g., legality).</p> <p>3.</p> <p>Section 18 describe two proposed approach compensation mechanism for JA and how it will look like for ISH.</p>

6.8. Discussion of the Two Proposed Approaches

There are two approaches proposed, the intention is that the RSPO:

1. makes both options available so that the JE could choose either based on their individual circumstances or
2. chooses only one proposed approach to apply across its JA Piloting Framework

These approaches are discussed below.

Option 1: Negotiated Outcomes

The basis of the **Negotiated Outcomes** recommendation is to recognise the jurisdiction’s commitments towards landscape level sustainability. Acknowledging that certification at jurisdictional level is challenging, the RSPO should provide a platform for jurisdictions to negotiate their compensation based on their past clearance versus their existing / planned conservation effort. Table 8 shows the recommendation of how the RaCP could look like at jurisdictional level. This is a recommended approach where a jurisdiction has major conservation projects planned in comparison with the deforestation that has occurred. The advantages of this is that it does not require the incredibly complicated and detailed analysis that the usual RaCP requires. In this respect it can fast-track the jurisdiction’s certification process.

Additionally, PT Hijau Daun made the observation that each jurisdiction had differing objectives and capabilities to implement the JA. Given the magnitude of each jurisdictions undertaking an element of flexibility in the rules should be able to be applied as long as it does not weaken the overall process.

Table 8. Explanation of the Negotiated Outcome

Step	Explanation	Example: Ongoing Pilot (Sabah)
<p>Step 1: Produce indicative HCV-HCS map and identify jurisdictional no-go zones areas and establish a jurisdiction-wide development plan for oil palm.</p>	<p>The first step will require the jurisdiction to conduct its landscape HCV-HCS assessment for an indicative HCV-HCS maps, identifying the jurisdictional no-go zones areas, to establish the end period of their NCLC.</p> <p>In addition, an oil palm development plan for the jurisdiction will be required to inform RSPO of the potential oil palm development within the jurisdictions.</p> <p>Important considerations for implementation:</p> <ol style="list-style-type: none"> 1. Due to the absence of RSPO agreed methodology for conducting landscape HCV-HCS assessment, indicative maps produced by any pilots using their own methodologies (guided by <i>HCVN's Scaling up the HCV approach in Landscapes and Jurisdiction: Summary of new guidance available for prioritising action for HCVs</i> guidance document) will be accepted to end the period of NCLC. Once the agreed methodology is established, only HCV-HCS maps produced using the agreed methodology will be accepted to close the NCLC period. 2. The jurisdictional oil palm development plan will be the basis to guide new development within the jurisdictions. This development plan is to be submitted to RSPO for their review. Any new development proposed outside of the indicated areas for new development will have to be escalated to RSPO for their review. 	<p>The State of Sabah has produced its indicative HCV maps for HCV 1, 2, and 3. There is a separate map available for HCV 4.</p> <p>Currently, the methodology used for establishing the indicative maps is not aligned with the HCVN's screening methodology, or the management unit HCV-HCS assessment. However, due to the absence of an agreed methodology, RSPO should accept the indicative maps to close the NCLC period.</p> <p>Sabah has no more plans to have new expansion of oil palm areas within their jurisdiction.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. As for HCV 5, and 6, the identification of these HCVs will still require field level assessments. 2. The identification of social liability at landscape level will be revisited once the gaps identified on social liability identification at the management unit level are addressed.

Step	Explanation	Example: Ongoing Pilot (Sabah)
<p>Step 2: Conduct LUCA at landscape level to establish NCLC and FCL figures</p>	<p>Once the period of NCLC is established (i.e., Nov 2005 – date of the indicative HCV-HCS map is available), the jurisdiction will conduct a LUCA to establish its NCLC figure.</p> <p>The NCLC figure is established based on the change of land cover (from forest cover to oil palm) since Nov 2005 to the date of the indicative HCV-HCS map. At the end of the LUCA process, the NCLC will be treated as FCL, without applying the RaCP’s multipliers (i.e., additional cut off dates, membership status, and RSPO vegetation coefficients).</p> <p>The rationale behind this is to reduce the complexity of conducting the LUCA process at jurisdictional level. The following is suggested as part of the Negotiated Outcome recommendation:</p> <ol style="list-style-type: none"> 1. There will only be two analysis periods involved in the LUCA for jurisdiction (1) Nov 2005 and (2) the date when the HCV-HCS indicative map is made available (i.e.: signed off by relevant authority, for example, the multi-stakeholder board of the JE). 2. Important forest covers for the LUCA will be based on the original RaCP land cover (agroforestry, secondary forest, primary forest). Any change of these land covers (since Nov 2005) into oil palm at the time when the indicative HCV-HCS maps was made available will be considered as the jurisdictional NCLC. 3. The RSPO’s vegetation coefficient multiplication step will be skipped at jurisdictional level application. 4. The LUCA will have to be reviewed by RSPO Secretariat. 	<p>The State of Sabah has conducted a LUCA to investigate the extent of land use change (from agroforestry/secondary forest/primary forest to OP) since Nov 2005 – Dec 2021. Based on indicative numbers, it was found that ~250,000 ha of forested areas have been cleared for oil palm since Nov 2005 – Dec 2021.</p> <p>~250,000 ha will be the extent of Sabah’s NCLC. Since the RaCP’s multipliers are not applicable in Negotiated outcomes, the FCL established for Sabah is 250,000 ha. Sabah would therefore have to show that 250,000 additional ha would have to be set aside for conservation.</p>
<p>Step 3: Compensating FCL</p>	<p>The core principle of the Negotiated Outcome recommendation is that jurisdictions will have to commit to restoring/protecting/conserving areas equivalent to their FCL. The commitment can be an existing commitment, or a new commitment made along side the commitment to have the jurisdiction JA certified (Step 1 of Stepwise approach).</p>	<p>The State of Sabah is committed to gazette 30% of its total area into TPAs by 2025. Currently Sabah is at 26% (1,956,110 ha) on the target and would require roughly about 300,940 ha more to achieve the 30% TPA target. Clearly the conservation effort outweighs the deforestation that has taken place since Nov 2005 (~250,000 ha). Indicatively, this should be accepted, with management of the TPA being considered as part of the ongoing compensation.</p>

Step	Explanation	Example: Ongoing Pilot (Sabah)
	<p>New commitments to restore/protect/conserve areas as part of the delivery of the RaCP is made by Jurisdiction (i.e. the government) at Step 1. Since the LUCA is only conducted at Step 2, the commitment does not require to commit to the exact hectarage but it is a statement of commitment to restore/protect/conserve areas as part of their journey towards obtaining jurisdictional certification.</p> <p>For existing commitments, Jurisdictions will be required to justify how the additionality criterion is being met¹⁴. The existing commitment must also match (in terms of hectarage) with the calculated FCL. In the case of the existing commitment being smaller than the FCL, the jurisdiction must revise their commitment to match the FCL.</p> <p>Older commitments (i.e. commitments that have already been realised) will not qualify for Negotiated Outcome.</p> <p>The proposed mechanism for JA compensation under Negotiated Outcome is hectare to hectare, on-site compensation project. This will allow jurisdictions to:</p> <ol style="list-style-type: none"> 1. Work on their existing sustainability efforts 2. Benefit directly from the RaCP process (achieving landscape sustainability via the RaCP) 3. Be flexible on how the ha-to-ha compensation is being delivered by collectively addressing it with the involvement of other stakeholder groups within the jurisdiction. <p>Important considerations for implementation:</p> <ol style="list-style-type: none"> 1. The existing sustainability efforts will be evaluated by RSPO (through the RSPO JWG) to ensure that the proposed landscape compensation project is additional, long-lasting, equitable and knowledge based. 	<p>Sabah is exploring the ideas of converting production areas (including from land use other than oil palm) into wildlife/forest corridors, eventually gazetting these areas as TPAs. Acknowledging that there is not enough land to do compensation anymore in Sabah, the 250,000 ha worth of FCL could potentially be part of the missing 4%, achieved through means of restoration of areas, for example, conversion of production lands into TPAs; restoration of degraded areas for improved forest/wildlife connectivity, etc.</p>

¹⁴ This could be explain through involvement of more stakeholders to realise the existing commitments; supporting existing compensation projects on top of this commitment; etc.

Step	Explanation	Example: Ongoing Pilot (Sabah)
	<p>2. Specific to the additionality criterion: the additionality of the landscape compensation project is justified based on stakeholders involvement in the conservation effort. The compensation project will be managed through a multi-stakeholder approach, involving various stakeholder groups (i.e., instead of this conservation effort being originally a government commitment, it has now escalated as a jurisdiction-wide commitment with involvement from other stakeholders).</p> <p>3. No revision is required on the other compensation project criteria.</p> <p>Other considerations that need to be looked at for implementing Negotiated Outcome:</p> <p>1. For existing RSPO members (who are/are not JE members) with approved compensation cases, how would the JE support these members in their compensation? Could this be a criterion for JE to support these members in order to showcase additionality?</p>	

Option 2: Analytical Approach

The basis of the **Analytical Approach** is to allow jurisdictions to apply the exact requirements and process of the management unit level RaCP at jurisdictions level. This approach requires JE members to comply to the RaCP requirements at management unit level, but with support from the JE (resources, data, process facilitation). The Analytical Approach will require producers to support ISH towards delivering their FCL.

Table 9. Explanation of the Analytical Approach

Step	Explanation	Additional changes needed to apply the steps at jurisdictional level
Step 1: Disclosure of NCLC	<p>After the JE is established at Step 2, the JE will begin to action all the plans developed in Step 1. As part of completing Step 2, the JE will be required to map its producers and compile its producers’ database. The compiled database will include the extent of non-compliant land clearance. Using the existing disclosure template, the JE will be responsible to get its members to disclose their NCLC. JE then compiles the information using the JE disclosure template (JE version of the disclosure template, capturing other information), indicating:</p> <ol style="list-style-type: none"> 1. all its producers, including ISH 2. extent of the NCLC (combined and separate disclosure templates attached as annexes) 3. identification of areas/producers that will need to undergo the LUCA process. <p>RSPO will review the disclosure template and advise the JE if they sufficiently prepared to proceed with the LUCA process.</p> <p>Important considerations for implementation:</p> <ol style="list-style-type: none"> 1. The indicative HCV-HCS¹⁵ maps will have to be produced by the JE to officiate the end period of the NCLC before actioning the disclosure process. 	<ol style="list-style-type: none"> 1. A disclosure template specific for JA is developed by the RSPO to allow JE to input relevant information from Step 1 of the Stepwise approach (i.e., specific plans related to the RaCP implementation). 2. Improved capacity within the RSPO Secretariat for reviewing the relevant plans (to make sure the plan is sound to implement the processes within the RaCP) will be a crucial element in the JE disclosure process. 3. Database to be established within the RSPO Secretariat to keep track of identified JE members (i.e., distinguishing JE members based on their existing membership status with the RSPO). This database should be extended to the whole of JA RaCP process, recording all information, both at the JE level and at their underlying JE member level.
Step 2: LUCA	<p>Based on the disclosure, the JE will request its member (those who have been identified to have NCLC) to conduct LUCA.</p> <p>For the LUCA process, the JE’s role includes:</p> <ol style="list-style-type: none"> 1. Provide the necessary data needed (e.g., land cover maps, including the vegetation coefficient maps; map of steep slopes and riparian, raw satellite images etc). 	<ol style="list-style-type: none"> 1. Establishment of internal data keeping mechanism as per above. 2. It is likely that the number of LUCAs submitted to RSPO will significantly increase with the implementation of the JA . The RSPO should consider expanding the pool of LUCA reviewers, with a similar set of standards for reviewing LUCA.

¹⁵ For new plantings, the indicative HCV-HCS maps will be used as risk guidance for a full HCV-HCS assessment at management unit level. Higher risk areas require the full HCV-HCS assessment to be conducted, while for lower risk areas, only HCV 5 and 6 will be required.

Step	Explanation	Additional changes needed to apply the steps at jurisdictional level
	<ol style="list-style-type: none"> 2. Facilitate the review process of the LUCA 3. Capacity building to its members on how conduct LUCA as per RSPO’s existing LUCA guidance 4. Support the overall process of conducting LUCA 5. Collate the combined FCL figure to be presented to the RSPO for final approval of the total jurisdictional FCL. <p>Important considerations for implementation:</p> <ol style="list-style-type: none"> 1. For areas yet to be developed, the area will be assessed following the existing RSPO NPP (i.e., LUCA will be conducted prior to the new development). <p>ISH:</p> <p>There are two possible options on how the LUCA for ISH could be processed:</p> <ol style="list-style-type: none"> 1. The JE expands its capacity to conduct LUCA for ISH, utilizing existing government services and support. 2. The existing LUCA process for ISH is applied at jurisdictional level (i.e., JE shares the boundary of the ISH who have NCLC with the RSPO Secretariat for the LUCA process). 	<ol style="list-style-type: none"> 3. To ensure that the review process is smooth, RSPO could consider approving the vegetation coefficient assignment by the JE before the LUCA is being conducted. In the long run, a list of land cover assignment (to vegetation coefficient), which is specific to the jurisdiction, will be produced to guide jurisdictions with their existing and future LUCAs. <p>For ISH:</p> <p>Both options are viable, but increased capacity is needed for the JE or RSPO Secretariat, based on the option chosen:</p> <ol style="list-style-type: none"> 1. Option 1 will require increased JE capacity to conduct LUCA for ISH. In addition, this will be a longer process compared to Option 2 as it will require RSPO’s review to pass the LUCA. RSPO will have to decide if it requires an internal review or external review. 2. Option 2 will require an increase in the RSPO Secretariat’s capacity to conduct the LUCAs. A LUCA produced by the RSPO Secretariat will not require further reviewing.
Step 3: Concept Note	<p>While getting the FCL calculated using the LUCA process, the JE must submit a concept note. This would list all the proposed compensation projects within the jurisdictions. The concept note will be reviewed and approved by the RSPO. Once approved, the jurisdiction will establish it compensation project platform for its JE members to compensate their FCL. Any additional compensation projects added to the platform will require new review and approval process by the RSPO.</p>	<ol style="list-style-type: none"> 1. New concept note template for JE to be developed. 2. New mechanisms to be established for reviewing and approving of compensation projects (e.g., new compensation panels for JE). 3. Mechanism for restricting the sale of credits by ISH in certified jurisdictions to be developed. 4. Ensure any JE members’ non-compliance with the P&C is addressed at the JE level.

Step	Explanation	Additional changes needed to apply the steps at jurisdictional level
	<p>Important considerations for implementation:</p> <ol style="list-style-type: none"> 1. In situ compensation projects will be the top priority projects. 2. Each JE is assigned a compensation panel to review its concept note. The existing compensation panel structure does not work for JA due to a conflict of interest. Ideally, the compensation panel is made up of existing RSPO JEs with representation of RSPO Secretariat and the co-chairs of JWG. Moreover, there should be stability in the compensation panel, so the JE is not continually struggling to fulfil new requirements decided on by different members. 3. JE could also include existing approved compensation cases within the jurisdiction in the compensation platform. <p>For ISH:</p> <p>ISH are unlikely to have the resources to undertake any compensation project. Additionally, their individual FCLs are likely to be unmanageably small. Therefore, for the Analytical Approach, it is recommended that the private sector support the delivery of the compensation by ISH. Producers who are sourcing from the ISH absorb the ISH' FCL into their own and compensate it through the jurisdiction compensation platform. To ensure that producers benefit from this, the following needs to happen:</p> <ol style="list-style-type: none"> 1. The contractual agreement between the producers and ISH to get all FFB produced by the contracted ISH sold only to the producers' mills for a certain period of time, based on the total FCL absorbed (exact calculation of the period will have to be decided by RSPO) 2. ISH are paid premium directly and the sale of credits is not made available for ISH in the relevant jurisdictions. <p>Additionally, it should not be the responsibility the producers to maintain the ISH' certification. The JE has the responsibility to:</p> <ol style="list-style-type: none"> 1. Keep record of the contractual agreement 	

Step	Explanation	Additional changes needed to apply the steps at jurisdictional level
	<p>2. Ensure that the ISH maintain its certified status.</p> <p>In order for the producers to assist with the delivery of the ISH' compensation, there should not be an added risk applied to producers for any potential non-compliance by the ISH. JE must undertake the responsibility to address the ISH' non-compliance.</p>	
<p>Step 4: Delivery of FCL through approved compensation projects</p>	<p>Producers will be compensating their individual FCL via the approved compensation project platform established by the JE. The JE will be responsible to monitor the implementation of the compensation projects and has the responsibility to report the outcomes of the projects to the multi-stakeholder board, as well as the RSPO, through the compensation panel.</p>	<p>1. Guidance on how the jurisdiction should monitor their compensation project, including reporting mechanism to RSPO to be established.</p> <p>Notes:</p> <p>1. As it is, the monitoring component of the existing RaCP needs to be strengthened. Any revision to the monitoring of the compensation project at management unit level should also take into account the process for monitoring at jurisdiction scale.</p>

Below are some pros and cons of each of the approach for RSPO’s consideration:

Table 10. Pros and cons of each approach

Approach	Pros	Cons
Negotiated Outcome	<ol style="list-style-type: none"> 1. A relatively less complicated process compared with management unit level RaCP. 2. With some of the process simplified (e.g., LUCA process, NCLC is established through LUCA instead of disclosure; removed compensation panel mechanism), the RaCP implementation at jurisdictional level can potentially be more efficient. 3. RSPO truly embodies the landscape approach, shifting responsibilities to JEs to manage the jurisdictional certification. 4. The issue of the lack of compensation mechanism for ISH is addressed and there is no added risk to producers. 	<ol style="list-style-type: none"> 1. The requirements of the RaCP processes involved (e.g., LUCA) is diluted (e.g., FCL is established without applying the RaCP multipliers). 2. Proving additionality of compensation projects will be challenging as the compensation projects are existing jurisdictional/government commitments. 3. This could be contentious as NGOs may consider it to be a diluted outcome. 4. There is the potential that it could be based on a generalized HCV map that does not consider small HCV areas.
Analytical Approach	<ol style="list-style-type: none"> 1. The JA RaCP is based on the current RaCP, without massive changes. 2. Through the JA RaCP, RSPO will develop a database on vegetation coefficient for LUCA from its JA participants. The list can be developed into a guidance document to assist all LUCA processes within RSPO. 3. Compensation projects platform could increase the pool of approved compensation projects within RSPO. Any RSPO members (including those outside of the jurisdiction) could deliver their compensation via this platform. 	<ol style="list-style-type: none"> 1. The complexity of RaCP remains. Future massive bottlenecks identified for both disclosure and LUCA process. 2. RaCP JA, or the RSPO JA in general, could be viewed as ‘business as usual as’ the requirements are still being implemented at management unit level. 3. There is a potential added risk to producers from having to establish a contractual agreement to absorb the ISH FCL (e.g., meeting EUDR). 4. The approval process of the processes remains, potentially suggesting further bottlenecks.
	<p>Shared pros</p> <ol style="list-style-type: none"> 1. Recognize existing conservation efforts by the jurisdiction. RaCP supports the jurisdiction to close existing gaps for meeting the existing conservation effort by providing a mechanism/procedure to involve stakeholders in the implementation process. 	<p>Shared cons</p> <ol style="list-style-type: none"> 1. Identification and compensation of loss of social HCVs are still not addressed in both approaches. 2. Uncertainty on the level of acceptance of indicative HCV-HCS map is still a concern. 3. Monitoring mechanisms of compensation project is still a concern for both approaches.

Approach	Pros	Cons
	<ol style="list-style-type: none"> 2. RaCP benefits flow directly to the jurisdiction (i.e., in-situ compensation projects). 3. Both approaches create an enabling environment for stakeholders to work together towards achieving landscape level sustainability. 4. JA is the vehicle for the delivery of ISH' compensation. 	

7. Considerations - Results from JWG workshop (29 - 30th August 2023)

The two approaches were presented to the JWG members and the RSPO JA Pilots, including the government and industry players. Three key elements were discussed:

1. Which option is the most practical for calculating the FCL at jurisdictional level?
2. Which compensation mechanism will likely work in your jurisdiction? What are the potential challenges?
3. For Negotiated Outcome, what should be the enabling conditions for producers to contribute to the compensation? What do you envision the role of the JE to be? For the Analytical Approach, how would the JE ensure the producers will compensate?

Most practical option for calculating the FCL at jurisdictional level.

1. LUCA methodology proposed in the Negotiated Outcome is more practical in the view of simplifying the process and to reduce delays and potential bottleneck from the lengthy review process. However, it was noted that this LUCA will result in FCL figure that are too big because it will only look at changes of forest cover to oil palm in two periods (Nov 2005 and the date of the HCV-HCS assessment) , without applying the other multipliers. In addition, corporate and non-corporate clearance are not distinguished, potentially leading to bigger FCL figure and the lack of perspectives of what lies behind the clearing.
Potential solutions: Pilot simulations of the Negotiated Outcomes LUCA can be conducted by using multipliers (vegetation coefficient, other important RaCP periods etc) to investigate the difference in the FCL Figure.

Compensating FCL.

1. The participants of the workshop agreed that existing commitment related to conservation of forests should be recognized as potential compensation projects within the jurisdiction. Both options for compensation work, and the following ideas were presented:
 - a. Can Sabah's commitment of ensuring 50% of its total area to be forested by 2025 be considered as a better compensation project? Sabah is currently at 64% for the delivery of commitment, therefore, the extra 14% in achievement could be used to justify how Sabah is meeting the additionality criterion of the RaCP.

- b. Since Nov 2005 is the cut-off date to calculate FCL, could it also be considered as the cut-off date to recognize existing commitments that can be used as part of compensation?
 - c. In Indonesia, social forestry projects by local communities (e.g., Hutan Desa) should be considered as potential projects to deliver the compensation.
2. Both the options seem to be able to justify how the existing commitments within the jurisdiction are long-lasting, equitable and knowledge-based. However, there are more efforts needed to justify how additionality criterion is met as these are existing commitments, and what would be the added value brought into the existing commitments through the RaCP process?

Enabling Environment for Implementing the RaCP at Jurisdictional Level.

1. JE should be given the flexibility to make decisions on how it will work with its members to implement the compensation. RSPO's role is only to provide a framework on how the RaCP requirements are complied with at Standard level.
2. There was a discussion about how the work involved in each option could be funded by other stakeholders (i.e., shared responsibility). What are the roles and responsibilities of other actors (other than growers) within the jurisdiction to ensure successful implementation of the RaCP?

8. Conclusions / Recommendations

Based on the identified gaps and the outcome of the consultation with relevant stakeholders the following options of final recommendations are presented to RSPO for consideration.

1. There is a need that the Jurisdiction, when it adopts the JA, to publicly state its commitment to the JA. This commitment should remain on the jurisdiction's website and ideally be linked to specific existing visions (e.g. a Green Growth strategy).

Jurisdictions will also need to make a commitment to restore/protect/conservate areas, along with their commitment to be JA certified. This will ideally be inserted as a requirement under the JA Stepwise Approach.

2. The RSPO needs to clearly state whether the adoption of the JA requires all oil palm growers to be included in the JE or whether a subset of growers is acceptable.
3. There are technical and systemic issues which need to be addressed with the 2015 RaCP that are relevant to ISH, management units and jurisdictions. The critical ones are:
 - a. An HCS assessment is required to complete the NCLC period to make it consistent with the 2018 P&C. However, until an updated RaCP is released an HCV assessment alone should be accepted.
 - b. The mechanism for monitoring approved compensation projects is currently not as robust as the processes that come before it. There are no case studies or lessons learned available to assess the monitoring mechanisms application on jurisdictional level as the effectiveness of the mechanism is currently not recorded.
 - c. Social liability identification at management unit level is based on a checklist. There are concerns on how effectiveness the current mechanism within the RaCP to identify social liability. Additionally, the process for resolution of social liability is considered to be inadequate. Therefore, it is recommended that this process is firstly reviewed at management unit level before recommendation at jurisdictional application is made. This can be expected as a difficult process to find an acceptable middle ground with growers, NGOs and communities being poles apart in their expectations of a process such as this.
4. The administration of the progression of the JEs through the implementation steps must be a lot more rigorous. The particular issues are:
 - a. Where "plans" are required, prior to undertaking analysis. The plans need to be reviewed prior to the JE starting work to ensure that the output is likely to be acceptable to the RSPO.
 - b. An HCV-HCS mapping guidance is required to ensure consistent application among jurisdictions to produce final HCV-HCS maps. This should be based on the experience and the output of the existing JEs. In the absence of firm guidance, the RSPO should accept JE-based approaches (that are reasonable) to produce indicative HCV-HCS maps to finalise the NCLC.
 - c. The pilot jurisdictions have neither addressed HCV 5 & 6 nor the HCS Social requirements. Social NGOs believe that every village in a jurisdiction will have to be assessed to cover off on this.

- d. The current RaCP only requires an HCV assessment to complete the NCLC. This is inconsistent with the P&C 2018, specifically 7.12.1, which requires an HCS assessment also. With the release of a reviewed RaCP, an HCS assessment will be required to complete the NCLC.
5. A specific jurisdictional RaCP disclosure template is required.
6. Remove the use of the term “potential liability” from the guidance as it is creating confusion. It should be clearly stated that this refers to land clearing of HCV-HCS areas subsequent to membership / certification.
7. Undertake LUCA analysis only over the areas where oil palm has been planted with the MU doing their own LUCA and SH being assisted by the RSPO.
8. There are many legal issues, particularly with ISH, where oil palm has been planted illegally, there are no titles, boundaries on the ground and boundaries in the field do not match. The RSPO needs to build ways of addressing these issues into its JA guidance. Particularly, what is acceptable and what is not.
9. A suite of jurisdictional compensation projects should be developed so that growers can fund / participate in their implementation. Currently developing such projects is outside the skillset of most grower companies.
10. To assist with ISH’ liability, larger growers with mills will have to assist. To make this worthwhile, ISH will have to sell their FFB to larger growers who provided assistance. Draft agreements should be developed for ISH to sell their fruit to companies that assist with absorbing FCL. Pricing mechanisms will have to be developed, which balance out the cost of the FCL.
11. It is likely that multiple certificates will have to be issued within a jurisdiction. Rules associated with this will have to be determined.
12. The current RaCP / HCV procedure at a jurisdictional level is too complicated and from a technical perspective is considered unachievable, both by PT Hijau Daun and government operatives. Where the jurisdiction has a pipeline of valid compensation projects that more than outweigh the forest loss, it is recommended that a negotiated outcome for compensation should be agreed upon.

9. References

Review, A. I., Remediation, R. and Procedure, C. (2020) ‘An Independent Review of the RSPO Remediation and Compensation Procedure (RaCP) 2015’, (November).

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10. Appendices

10.1. Questions asked to Assurance Unit

1. There is a handphone app for submitting smallholder HCV assessments. How many smallholder HCV assessments have been submitted using the app and what is the quality of the data? Are other ways of submitting the data being used - what proportion uses each method?

2. In the 2020 review of the RaCP process the following figure was presented - these show bottlenecks at almost every step. Do you have recent data? What are the major bottlenecks?
3. There have been some troublesome LUCA cases - what has been the nature of the cases?
4. The JA mentions HCS, yet RaCP only involves HCV. How is HCS going to be integrated into the process?
5. Currently there is no compensation process for ISH - what is the nature of discussions on this topic?
6. The ISH's compensation will largely have to be absorbed by large / med growers compensation projects. How can this be incentivised so that the large / med growers do not feel disinclined to have ISH join the JE.
7. The period of NCLC ends after the completion of HCV assessment. At Step 2 of the JA stepwise approach, only indicative map is produced. Will this be sufficient to end the NCLC period?

Questions related to the JA

8. Multiple certificates within the jurisdiction – how does this work (envisioned to work) in practice?
9. What is meant by 'potential' liability as described in Step 2 of the stepwise approach? Does this mean that the FCL can/may change?

General questions

10. For recommendations proposed in this study, will it be part of the JA piloting framework or the revised RaCP?

10.2. Questions asked to Sabah Jurisdictional Entity

1. Progress of the JA pilot in Sabah - at which Step Sabah is now?
2. Are plans available to comply with RaCP and/or collect data leading to the completion of the RaCP?
3. Assuming there is a plan, we would like for Andrew to go through this plan with us, and potentially share a copy so we could work on compiling the recommendations from all pilots re. plan development to comply with RaCP requirements
4. Challenges faced/foreseen in complying with RaCP at jurisdiction level.

10.3. Questions asked to NGOs

1. Can you briefly describe your involvement in the JAWG and CI main motivation for joining this WG.

2. In the bigger picture, how do you see the JA achieving conservation outcomes across a jurisdiction? Do you see any glaring flaws in this process / major advantages compared with MU certification?
3. How would you envision the RaCP / HCV assessment to work in a jurisdiction level implementation?
4. How do you see NGOs could have a role to play in implementing the jurisdiction-wide RaCP (e.g.: JE designing, LUCA, HCV Screening Process/Assessment, developing, implementing and monitoring compensation projects, ISH support, etc)
5. What would be the required experience for NGOs/relevant stakeholders to deliver the roles mentioned in (4)?

10.4. Questions asked to Sabah Forestry Department

1. What do you think is the most crucial support the government can offer for the RSPO JA implementation? What would be the role of the government to ensure that the JA is implemented successfully?
2. HCV assessment for Sabah has been completed for HCV 1, 2, 3 and partly 4.
 - a. What is the methodology used? What is the scope area covered for this landscape wide assessment (jurisdiction wide vs only forested areas)
 - b. What are the challenges for conducting this at the landscape level?
 - c. What are the next steps for the identification of HCV 5 and 6?
3. Has the LUCA been conducted for the entire jurisdiction? What is the methodology used? What are the challenges to conduct this at landscape level?
4. Can RaCP help contribute to achieving the State's 30% TPA by 2025?

10.5. List of Gaps that goes beyond the RaCP JA Scope

General RaCP gaps that will have to be addressed at the core of the RaCP Process

PT Hijau Daun suggests that the identified general RaCP gaps to be addressed at the RaCP revision as these are fundamental requirements that are applied over all levels (i.e., ISH, management unit, and jurisdictions).

Liability

1. It is not clearly specified when liability is incurred – is it when land clearing (vegetation to bare ground) takes place or when planting takes place (how is infrastructure handled) – this is not defined. Additionally, when an oil palm crop fails and is left for 3 years or more before land clearing is undertaken. Would this result in liability?

2. The definition of ISH liability must be addressed. Currently all ISH would be considered non-corporate land clearance.
3. Social liability does not appear to be adequately reviewed by the compensation panel. It appears it is too easy to state that there has been no social liability as a result of development. Additionally social liability is only incurred on land clearing after 2005. It is very difficult to identify which liabilities are a result of land clearing before and after 2005. In the case of things like water pollution within a watershed, growers will always blame (often validly) third parties such as mining or forestry. It is recommended that clearer guidelines for compensation are established. Potentially based on satellite images, where a certain amount of compensation is paid for actively managed gardens, ex-gardens, jungle rubber and forest areas. There would have to be an opportunity for the grower to present evidence to enable the social liability to be reduced; e.g. where it could be shown that the community were illegally squatting on private land and they had been given adequate warning to harvest their crops and move out prior to development. Concepts such as the degradation of water in a river, where there are multiple actors in a catchment are too vague to attribute compensation. Expecting a company to compensate a community for clearing a riparian buffer is unreasonable, where the community themselves have cleared the buffers.

Satellite Images

4. Although Satellite images are available from 2005 – current period, undertaking satellite image analysis is not sufficiently accurate when small blocks are involved. Many smallholder blocks are < 1ha and Landsat pixels are 900 m² (11 pixels / ha). Remote sensing is done by examining patterns across multiple pixels and it is certainly not accurate at the smallholder level. Particularly Landsat 5 which has very blurry images and Landsat 7 which has the issue with Scan Line Corrector Failure. This makes the crucial baseline (2005) a problematic date.
5. Occasionally there is a problem where there are no cloud free images close to the dates of the RaCP.
6. Extremely difficult to pick up the difference between Jungle rubber (Veg Coefficient = 0.4) and natural forest in a satellite image.

Soil Type

7. A lot of peat soils will need ground truthing because mapping of these areas is notoriously inaccurate. Furthermore, a lot of the peat has been drained and places with lenses of peat – the peat quickly disappears after it has been drained.
8. Applying BMP for peat will have to be done at a landscape level for ISH to maintain water tables and undertake the required monitoring.

Slope Data

9. There needs to be a procedure for deriving slope (e.g., maximum pixel size). The area that is greater than the slope threshold. E.g., in broken terrain there may be many very small areas of steep terrain but overall, the landscape is rolling. Managing and remediating many tiny steep areas is impractical. Additionally how is it verified in the field (e.g., over what distance is the slope measured).

Watershed – hydrology areas.

10. River course data – need to define what is the river course and how to handle situations where rivers clearly move from side to side frequently (braided rivers).

11. Swamp data – need to define what is a swamp and BMP for these areas are not provided in the riparian management guidelines.
12. Watershed boundary data is available or can be derived from GIS.

HCV-HCS assessments

13. Large Growers – May have an HCV assessment. In the case of older HCV assessments, these assessments may not necessarily be of sufficient quality to end the period of NCLC.
14. Medium Growers – likely, they will not have an HCV Assessment conducted for their areas.
15. ISH – there is a simplified procedure for HCV for ISH. This simplified procedure needs to be integrated with the HCV requirements for large growers. There is the HCV mapping tool, using a handphone application which assists ISH to map HCV areas. However, the application still would require an expert to use. The data that it generates cannot be submitted directly, it must be downloaded into a GIS and reformatted before being submitted. This requires specialist GIS skills.
16. Smallholder HCV assessments are not submitted to any third-party review. Whereas the growers over 50 ha must submit the assessments for review. Therefore, there is an inconsistency here.

Others

17. There is a lack of an effective monitoring mechanism for the monitoring of the compensation projects.
18. Overreliance of external third party with absolute decision making for review and evaluation process. Although this mechanism is put in place for impartiality, the disadvantages are that the external third parties have perverse incentives to find fault, therefore, delaying the RaCP process even more. Additionally, it appears that a single submission is given to multiple reviewers, which means that companies address all the issues in one review, only to have completely new issues emerge in the next review.
19. High staff turnover – institutional memory is lost, new staff are not sufficiently trained to facilitate the lengthy and complex process, leading to further delay in the process.
20. Lack of emphasis on the timeline for the review, evaluation and approval process within the RSPO Secretariat. Although the SOP is available, the timeline for these internal processes is not certain, for example, the approval of a compensation plan could range from one to two years.

Overall JA Gaps that go beyond the RaCP requirements

PT Hijau Daun suggests the following gaps to be addressed by the RSPO Jurisdictional Working Group (JWG):

1. It is the opinion of PT Hijau Daun that the Jurisdiction, when it adopts the JA, should publicly state its commitment to the JA. This commitment should remain on the jurisdiction's website.
2. The RSPO needs to clearly state whether the JA must necessarily apply to all growers in a jurisdiction (or just a subset of growers)
3. The pilots have developed the plans required in Step 1. However, the plans were never reviewed by RSPO as there is no clear process for review and approval of the plans within the RSPO. T
4. In Indonesia many of the growers have planted blocks on "Kawasan Hutan", which is illegal so they cannot obtain titles over these blocks. This raises the issue where a jurisdiction has

growers with legality issues – the JA has to state clearly whether these growers can become members / get certified. Though based on the interview with the Seruyan pilot, this issue does prompt the government to initiate a dialogue to resolve these long running issues (e.g., through a social forestry programme or TORA).

5. Landscape Performance Indicators plans from Step 1 of Stepwise Approach do not get reviewed or approved. Pilots proceed to Step 2 without having to complete the requirements of Step 1. The lack of the approval process within Secretariat:
 - a. makes it difficult to accurately gauge the pilots' progress, hence, defeating the purpose of having a Stepwise Approach set up in the piloting framework.
 - b. has meant that the Sabah JE have gone ahead and done an HCV and RaCP that are unlikely to be acceptable to the RSPO. Furthermore, Sabah has not done HCS mapping. The situation could well arise where the HCV and RaCP are endorsed by the Sabah Government but not accepted by the RSPO.
6. The lack of guidance on JE membership halted the establishment of JE in (e.g.: Seruyan). Without the JE, which acts as an executing body, execution of the requirements is delayed, this includes the execution of the RaCP requirements.
7. Different actors within the jurisdiction may have different level of readiness for RSPO certification.
8. The outcome of the RaCP is a liability in the form of FCL, that the government needs to compensate. This will basically mean that the RSPO will be requesting government/jurisdictions to assume a huge liability. It is unclear from the JA Pilots so far on the level of acceptance of this 'liability' that comes with the RSPO membership.