

RSPO Jurisdictional Approach Certification Systems Document

**Accompanying document
June, 2019**



Preamble



What have we done?

A [Jurisdictional Working Group](#) (JWG) was endorsed by the Board of Governors in March 2018. The JWG was set up to: 1) Provide high-level guidance on all work related to the jurisdictional approach to RSPO certification, focused on the development of an approach centered around local applicability, acceptance by the market, and pragmatic development over time; and 2) Ensure alignment and information exchange with current JA initiatives, including the jurisdictional pilots, to identify best and worst practices. Since March 2018 the JWG has had 5 physical meetings, organized around two sub-groups, and numerous (sub-)group, and bi-lateral calls to further develop the approach.



Where are we now?

The Certifications Systems Document (CSD) put online for public consultation is a result of the work of the JWG, and this accompanying document functions as a reading guide to the Certification Systems Document and to provide further background information and reasoning for the proposals included in the CSD. This document is at a stage where it is developed enough to receive constructive feedback from a wider audience, but early enough in the process to incorporate any suggestions to improve it.



What do we need?

To improve the CSD we need critical and constructive feedback from a wide group of stakeholders through public consultation on the approach and specific requirements included in the CSD. Please refer to the CSD for further detail, and corresponding survey to provide feedback. Your help is much appreciated.



What will happen next?

The comments provided through the Public Consultation (both online and from physical meetings) will be digested and discussed by the JWG. The CSD will be adjusted accordingly, and responses to the issues that were raised will be provided. The CSD will be discussed by the RSPO board and at the General Assembly at the end of this year. In addition to the requirements laid out in this document and corresponding pending changes, several components of the overall Jurisdictional Approach are to be worked out in further detail. These will be developed by the RSPO. These include: 1) Requirements on external auditing; 2) RSPO membership; 3) Compensation, remediations, sanctions, and exclusion; 4) and further work on market incentives.

RSPO JA Pilots | As part of the JWG, the RSPO JA pilots have provided significant input to the approach

Key lessons from the pilots integrated into the Certification Systems Document

The RSPO JA pilots



In **2015**, the State Government of **Sabah, Malaysia** committed to have all crude palm oil (CPO) produced from Sabah to be certified as sustainable palm oil or CSPO by **2025**.



Ecuador is aiming to achieve a sustainable and efficient oil palm production nationwide, starting with the **Amazon region**. Relevant (government) stakeholders committed to this in **2014**.



The district of **Seruyan, Indonesia** committed to the RSPO jurisdictional approach in **2016**, as part of a broader agenda to ensure all commodities coming from the district are produced sustainably.

Key lessons from Sabah

- A Government commitment:** Operating within a jurisdiction means engagement with government, and being bound by government policies. These change with political changes (e.g. elections). This means a legal framework with legal instruments is important for the JE to continue functioning. This is very different to voluntary certification, with a focus on business-to-business and consumers.
- B Spatial planning:** The jurisdiction-wide HCV assessments link to broader spatial planning, which also includes broader policy objectives. For example, Sabah is clear that ‘no deforestation’ is commodity neutral. Further, there is a difference between HCV assessments where there is a clear scaling advantage (e.g. HCV 1-4) and those where more on-the-ground detail is required (e.g. HCV 5-6).
- C Human rights.** Similarly, to address key human rights issues on a jurisdictional level, broad legal assessments are required, which are linked to the existing legal and regulatory framework, which are broader than palm oil alone (e.g. FPIC, labour rights)
- D Producer incentives:** There needs to be a clear incentive framework for different producers in the jurisdiction, including (independent) mills. For example, MSPO/MPOB in Malaysia has partially addressed differences in incentives through a framework of: most payments to smallholders, some payments to middle-sized growers, and least payments to larger growers.
- E Certification services.** Tasks may involve, *inter alia*: extension services, price information, multi-stakeholder fora, feedback on laws & policies, framework for continuous improvement, grievances. This will require substantial staffing, and therefore secure financing. This is particularly challenging during the JE set up period, before income accrues to the JE when jurisdictional trading is in place.

Introduction | The RSPO JA seeks to address challenges of producer inclusion, landscape-level action, and broad stakeholder involvement

The RSPO jurisdictional approach consists of three key components



Three main barriers are blocking progress towards a sustainable palm oil sector:

- 1) **Inclusion of all producers:** Sustainable production requires the inclusion of all producers, instead of 'islands of certification in seas of business-as-usual'. This requires including non-certified, disinterested, and unregistered producers.
- 2) **Covering the entire landscape:** Site-specific certification has limitations (e.g. for wildlife, river systems, leakage) that can be addressed through broader spatial planning.
- 3) **Broad stakeholder action:** Sector-wide, structural problems go beyond the capacity and responsibility of producers and require broader government and stakeholder involvement.

The Jurisdictional approach provides a way to:

- **organize** all palm oil producers in a defined region;
- **ensure** collective compliance of these producers with the local legal framework and the RSPO P&C;
- **support** compliance through a regional entity that has the incentives, scale, and resources to do so; and
- **tackle** structural issues, which are beyond the capacities of producers to address, at a relevant scale and with broad stakeholder involvement.

To achieve this, the jurisdictional approach is organized around three key components:

- 1 The jurisdiction will move towards full compliance **through a step-wise approach** (Chapter 3 in the CSD).
- 2 This process is facilitated by the **a Jurisdictional Entity**, including broad stakeholder, and strong government involvement, to ensure commitment to tackle structural issues (Chapter 4 in the CSD).
- 3 All producers in the jurisdiction will **apply the RSPO Principles and Criteria**, including specific roles for the jurisdiction (Chapter 5 in the CSD).

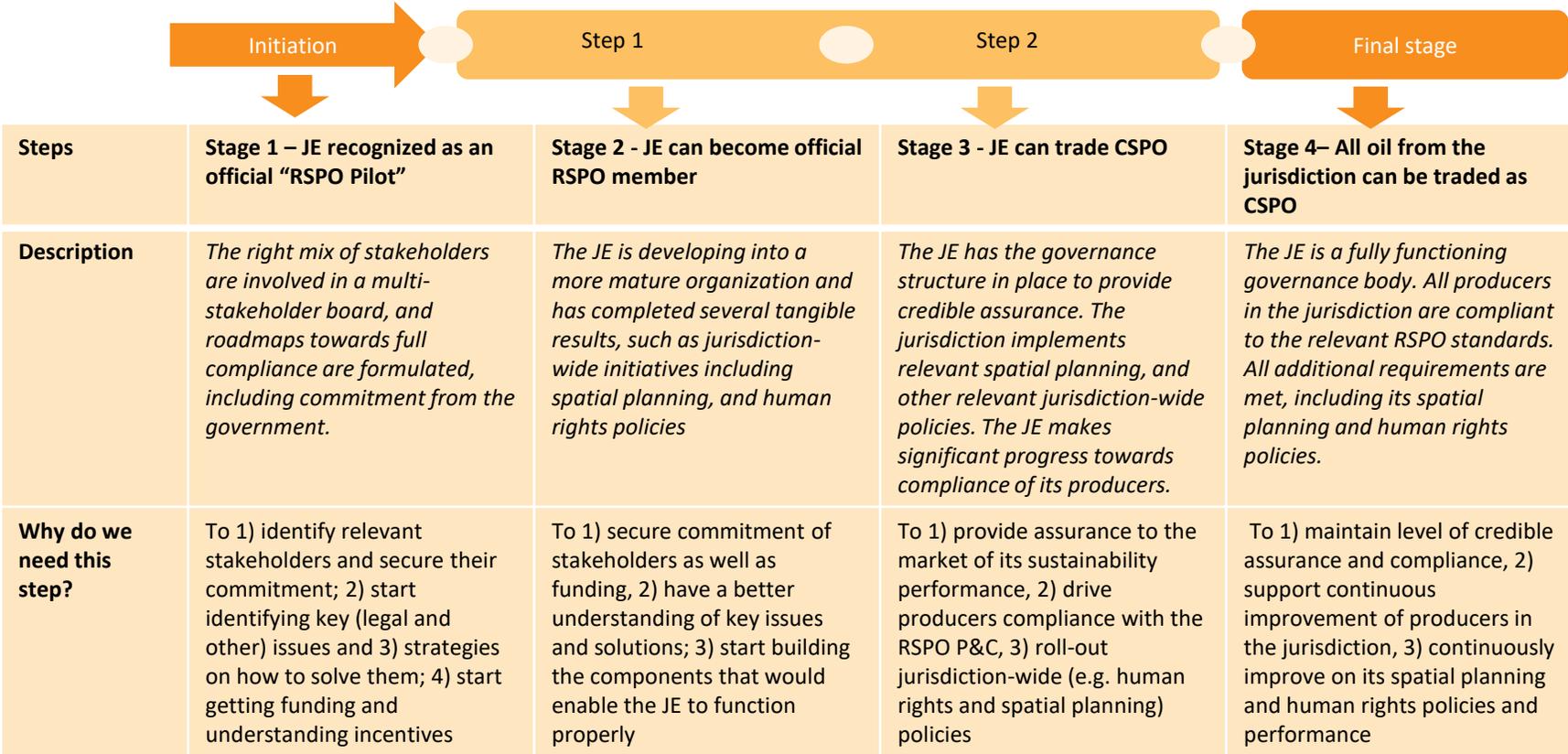


Step-wise approach | To move towards full compliance through a step-wise approach

See CSD Chapter 3

The four steps of the RSPO jurisdictional approach

The road towards full compliance of all producers in a jurisdiction is a challenging and time-consuming process. To provide incentives for jurisdictions to progress towards this aim, and recognize the commitment from the stakeholders and secure these, the JA introduces a step-wise approach. At the same time, the rewards related to the sustainability performance should adhere to the standard RSPO requires (e.g. no green washing).



Note: The CSD requires jurisdictions to develop their own timebound plan, due to the different scale and challenges for jurisdictions

Jurisdictional Entity | The functions of the Jurisdictional Entity

See CSD Chapter 4



Administration

Depending on existing governance structures, **an effective and efficient governance structure of the Jurisdictional Entity may look (very) different** depending on the jurisdiction. However, the functions a JE should perform are the same across jurisdictions. To allow for these differences we prescribe **what the JE should achieve rather than how the JE should achieve this**.

- Administration

- Governance
- Legality
- Monitoring, information & data gathering:
- Internal Grievance, Redress & Sanction Mechanism
- Producer Accountability
- Certification services
- Internal auditing

Why should the JE perform this function?

- The JE should be a transparent, efficient, and effective organization to provide assurance to the market, and be effective in the services it delivers.

What is required?

- The JE should have a solid organizational infrastructure and transparent record keeping (e.g. data for compliance, accounting procedures). The JE has to plan, provide, document, and manage its infrastructure efficiently and effectively, and regularly assess its functioning. It should employ appropriately skilled staff.

What could this look like in practice?

- The 'secretariat' that is envisioned under the JE's structure, implies that JE employs appropriately skilled staff to satisfactorily carry out the JE's functions, activities, and administrative and legal requirements, and that it this is properly documented and managed. The exact nature of that secretariat is not prescribed (e.g. it could even be a government department/para-statal entity). E.g. in Ecuador, the secretariat is part of a government ministry.

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Governance

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Why should the JE perform this function?

- The JE should continuously be held to the scrutiny of a wide range of representative stakeholders to safeguard the JE from bias and rent-seeking and ensure it represents all interests fairly.

What is required?

- The supervisory (multi-stakeholder) board shall consist of a balanced representation of stakeholder groups relevant to the sector within the defined jurisdiction. At the minimum, the following stakeholder groups should be represented: Producers (mills, plantation, outgrower/small grower and smallholder), Social NGOs, Environmental NGOs, relevant Supply Chain, Local and/or National Government.

What could this look like in practice?

- In Sabah, Malaysia an equal parts government, industry and civil society Jurisdictional Certification Steering Committee (JCSC) was set up in 2016, co-chaired by the Sabah Forestry Department and Natural Resources Office.

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Legality

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Why should the JE perform this function?

- One of the key differences between jurisdictional certification and the existing system is the strong link with the government existing legal framework. A key aspect is understanding the relation between the RSPO Principles and Criteria and the legal framework, and developing a strategy on how to bridge the gap between the two.

What is required?

- The JE should assess the gap between relevant legal requirements and the principles and criteria, and develop a plan on how to address any corresponding gaps, including a roadmap on how to achieve compliance of all individual (groups of) producers with the RSPO Principle and Criteria within a time-bound plan.
- **Note:** *This exercise does not replace the process of National Interpretation.*

What could this look like in practice?

- For example, in Sabah, the current key focus is on several issues within the region (e.g. land rights), including the development of a detailed FPIC guide and processes.

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Monitoring, information & data gathering

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- Producer Accountability
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Why should the JE perform this function?

- To understand and show its sustainability performance, and tailor the services that should be provided, the JE should have a clear understanding where producers are, and what their progress is towards compliance to the Principles and Criteria.

What is required?

- The JE should establish a baseline and monitor progress against this baseline; as part of this the JE will have to map and track palm oil production areas / producers. The JE shall establish and maintain a documented management and information system covering the needs of its internal organization, the needs of the FFB growers and groups, and the needs of its other stakeholders

What could this look like in practice?

- Mapping could be the result of multiple organizations mapping producers in the jurisdiction and sharing their information with the JE, or through a centralized effort. Methods could differ from “classic” internal control systems, use of mobile applications, or satellite imaging.

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Internal Grievance, Redress & Sanction Mechanism

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- Producer Accountability
- Certification services
- Internal auditing

Why should the JE perform this function?

- Producers and civil society should be able to hold the JE to scrutiny. There should be a proper system of checks & balances in place.

What is required?

- The JE shall have a sufficiently transparent, independent and reliable capacity to receive, review and adjudicate complaints and grievances and take effective action. In addition there will be an escalation possibility for the JE, and for individuals (incl. producers), to the RSPO.
- *Alternatively* an escalation possibility could be created to in the form of independent grievances, complaints, appeals committees within the jurisdiction, external to the JE. This would provide an additional layer of checks & balances before escalation to the RSPO.

What could this look like in practice?

- A three-tiered structure: 1) Producer (workers file complaints within their organization); 2) JE (producers file complaints against other producers); 3) RSPO (individuals file complaints against the JE to RSPO)

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Producer Accountability

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Why should the JE perform this function?

- To be able to ensure all producers in the jurisdiction apply the RSPO principles & criteria, the JE will have to have leverage over the producers to ensure their compliance.

What is required?

- The JE should have a sufficiently transparent, independent and reliable capacity to assess producer compliance with applicable P&C requirements and ensure producers within the jurisdiction are held accountable for non-compliance.

What could this look like in practice?

- The form of this mechanism is not prescribed, and could, for example, be in the form of a obligatory relationship (e.g. through laws, regulations), voluntary contracts, or non-contractual voluntary relationships, or a combination thereof. It could, for example, be the case that producers without a voluntary relationship to the JE become compliant to the RSPO P&Cs through changes in the legal framework (e.g. the jurisdiction requires and enforces compliance). The mechanism may differ by criteria.

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Certification Services

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Why should the JE perform this function?

- The JE has the responsibility to ensure all producers in the jurisdiction will become compliant to the RSPO P&C. This includes relevant services that are required to bring producers to this level.

What is required?

- The JE should develop a roadmap on how to achieve compliance of all individual (groups of) producers with the RSPO Principle and Criteria within a time-bound plan.

What could this look like in practice?

- In all RSPO pilots, certification services do not (yet) focus on the entire jurisdiction as a whole. Rather, activities focus on getting a certain area within the jurisdiction (e.g. district, watershed) compliant to the RSPO, and work towards full compliance step-by-step. The JE does not have to be a service provider of these certification services, but can also act as a facilitator to different activities.

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Internal Auditing

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Why should the JE perform this function?

- The JE should be able to reliably monitor, assess, and report on compliance of producers in the jurisdiction to allow for proper assurance. Note that in addition external auditors will audit the governance of the JE (and compliance of the jurisdiction as a whole) and the JE should be able to provide the corresponding information.

What is required?

- The JE has a responsibility towards RSPO certification in terms of executing, and/or coordinating annual internal audits in the jurisdiction, which allows the JE to demonstrate compliance of its members with RSPO P&C.

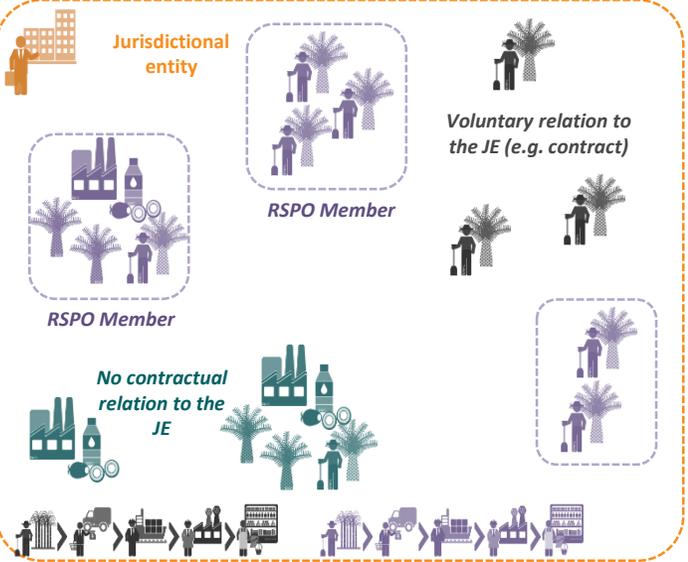
What could this look like in practice?

- The structure of the internal audits is not prescribed to allow for flexibility in its implementation. For example, internal audits can be outsourced to CBs; the JE can hire their own internal auditors; or organize differently (through e.g. government agencies, and/or combine different data collection methodologies such as satellite imagery)

Application of the RSPO standards | Applying the Principles & Criteria to a jurisdictional level

See CSD Chapter 5

The relation between producers and the JE, and the RSPO standards



- A** **RSPO Member.** Producers can decide to remain, or become RSPO member in the jurisdiction, and be subject to the existing (auditing & trading) RSPO system. The relation between RSPO members and the JE will be defined by them.
- B** **Non-RSPO Member with a voluntary relation to the JE.** Producers have a voluntary relation to the JE. The type of relation(s) is left to the jurisdiction to define, and could consist of, for example, a contract and membership fees.
- C** **Non-RSPO Member without a contractual relationship to the JE.** The relation is defined through rules & regulations. The JE can move these producers to full compliance through clear incentives, and otherwise, unless requirements are made legal, the JE will have no relation to them.

See CSD Chapter 4

- **A key role of the JE is broader inclusion of producers in the jurisdiction and their, or moving them towards, compliance.** This implies the JE has a role to play in ensuring producers apply the P&C. Further, for some P&C these are more effectively implemented at a jurisdictional level. In Chapter 5 of the CSD we provide guidance for the JE in terms of responsibility in applying the P&C to the Jurisdictional level
- **The Jurisdictional Entity (JE) is the unit of certification:**
 - **For all criteria the JE is responsible for monitoring, assessing, and verifying compliance** of producers, to ensure the JE can provide assurance that producers are compliant to the RSPO P&C. **Note:** The role of the JE and level of assurance it should provide evolves over time (see step-wise approach, CSD Chapter 3)
 - **For several criteria or indicators the JE has the responsibility to provide guidelines and necessary support** to the Group management and Individual Producers. These include those where rules and regulations are developed on a jurisdictional level, or those where there is a link to the JE management plan.
 - **For several criteria or indicators the JE takes responsibility and administrative burden (“upward delegation”).** These include, for example, management plans, social and environmental impact assessments, New Planting Procedures and mapping of producers.
 - **Note:** RSPO members could benefit from upward delegation as well. In this case, the JE could act as a “service provider” to RSPO members and take over part of the responsibilities of ensuring compliance (e.g. HCV mapping, provision of SOPs)
- **Independent smallholders** will be subject to the **Independent Smallholder Standards** rather than the RSPO P&C 2018. The applied mechanism is the same as the one describe above.

B **C**

B **C**

B **C**

A **B** **C**



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