

Update on the Development of the National Interpretation in Malaysia, Indonesia and Papua New Guinea



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Good afternoon, ladies and gentlemen.

In addition to Mr. Jan-Kees Vis, president of the RSPO, and myself, there are two other RSPO members, Johan Verburg and Tim Stephenson, here today. So, they too can explain to you some of the RSPO processes.

This afternoon I am going to speak about National Interpretations, which have been approved for three countries: Malaysia, Indonesia and Papua New Guinea. I won't go into detail for each of these National Interpretations. Instead, I will explain the framework for National Interpretations and some of the considerations that should be taken into account.

For any organization or country intending to carry out a National Interpretation (NI), there are two documents which need to be considered. One is the RSPO Principles and Criteria for Sustainable Palm Oil Production (P&C) –the outline document from October 2007, CWG revision– because they lay out the generic guidance and indicators. They are not the March 2000 RSPO P&C, which constitute simply a background document. For indicators, you need to review the 2007 document. It is available on the website; if you can't find it, you can e-mail the Secretariat and we will send you a copy.

The other document that you need to look at is the RSPO Certification Systems document, which was approved on June 6th and is available on the website. Again, you can e-mail us if you want a copy.

In this document the particular section that's important is Annex 1: Procedure for Endorsement of National Interpretations, found on page 17. So these two documents will be reference material.

I am now going to talk about the key requirements for a National Interpretation. There are five components. The first is the Overview. National Interpretations require endorsement by the RSPO. Endorsement, in turn, will require compliance with four elements:

- Participation: This is guaranteed by a national multi-stakeholder working group.
- Content: There are specific requirements for this.
- Process: Again, there are specific requirements for this.
- Endorsement: The National Interpretation must be presented to the RSPO for formal endorsement.

Firstly, with regards to participation, the National Interpretation must be initiated by one or more RSPO members. This requirement exists so that there is coordination with, and a link to, the RSPO. The member or members who initiate the process will chair the working group, will provide Secretariat-style functions, and will ensure public consultation, because they will be the key link between the RSPO and the working group. In the case of Colombia, for example, the member organization is Fedepalma.

The National Interpretation Working Group will then include self-elected representatives from the four sectors. This is the core stakeholder group.

For large producer countries, at least one member of each stakeholder group must be an RSPO member. That means, say, that someone from an environmental organization and someone from a social organization must be an RSPO member.

We appreciate that for small producer countries it may not be possible to get RSPO members in all four core stakeholder groups. In this case, the Working Group should inform the RSPO, which will study the particular circumstances.

The four core stakeholder groups are producers, supply chain stakeholders, environmental stakeholders, and social stakeholders.

The producer category includes smallholders. This is extremely important because it is the first point at which smallholders come into the RSPO process. There will be representatives of smallholders, cooperatives, etc.

Investors and government representatives should also be invited to participate. The government representation could be in any of those core groups. And then, obviously, the National Interpretation Working Group can have technical experts either as members or guests. This is particularly important when you start looking into which laws or pieces of legislation are applicable to the creation of indicators.

The invitation to participate in the Working Group should be widely circulated and, of course, you can use the RSPO website to this end. This is just for the setting up of the Working Group; we are not yet talking about stakeholder consultation.

In the case of Malaysia, the National Interpretation Working Group has 62 members, representing various sectors. The Indonesian group has 32 members and the Papua New Guinean group 21. For the Colombian Working Group, Fedepalma will inform us of the number of members. This number is not a final figure, because some participants will withdraw after a couple of meetings. However, there will be a core working group.

The second component of the National Interpretation is Content.

The National Interpretation will provide specific interpretation for some or all of the RSPO Criteria. There may not be interpretation for all the criteria or all the indicators. In some cases, the Verification Working Group may consider that there are already directly applicable indicators and therefore that there is very little reason to create new ones. However, what's important is that the indicators and guidelines are applicable at a national level.

The National Interpretation should include the identification of applicable legal requirements. Sometimes there may be conflicts between the RSPO Principles & Criteria and national legal requirements. In such a case, then the matter should be referred to the RSPO. There is a special group within the Board called the Standards and Certification (S&C) Subgroup, which



will look into how to resolve conflicts between RSPO requirements and national legislation.

In the documents that I first mentioned there are measurable indicators. The National Interpretation should include acceptable performance levels for these indicators. A good example is water reserves. Such reserves vary from country to country, so that a particular National Interpretation should identify them. The same situation arises, for example, with the BOD levels that are acceptable before effluents are discharged into a body of water. Then, national BOD standards need to be brought into the National Interpretation.

This is also very important: the NI should be confined to the scope of the RSPO Criteria and not include additional elements. The mechanism to bring in additional elements is when the NI and the P&C are reviewed.

The NI is subject to annual reviews and endorsed by the Board, while the P&C undergo reviews every three years and are endorsed by the General Assembly. So, if a particular stakeholder wants additional elements in the NI, which very often will mean additional elements in the P&C, then the process is not through the development of NI.

The fourth component is Process and it includes the following elements:

- There must be physical meetings on at least two occasions. It is not sufficient to do everything by e-mail, despite its convenience these days. Of the two meetings, at least one must take place after the public consultation.
- The National Interpretation must undergo either one period of public consultation, lasting 60 days, or two periods of public consultation, each lasting 30 days. These 30 or 60 days are obviously to give members of the public the opportunity and the time to submit comments. The draft document that goes out for public consultation must be in the language of the country concerned.

As the Working Group must subsequently seek endorsement from the RSPO, it must show evidence that it has sought and taken into account input from the four core stakeholders I mentioned earlier: producers, supply chain stakeholders, environmental stakeholders, and social stakeholders.

There may be field-testing focusing on specific criteria included in the National Interpretation. The Working Group should decide whether a particular indicator needs to be field-tested before it can be taken on board in the National Interpretation.

The National Interpretation Working Group will make decisions based on consensus. This is one of the fundamental principles of the RSPO: that the decisions must be based on consensus or, specifically, general agreement characterized by the absence of sustained opposition to substantial issues by any member of the National Interpretation Working Group with voting rights and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments.

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This is also important. However, consensus does not imply unanimity. Someone who does not agree may abstain, for example, but he or she is not saying no. That is, he or she may have a certain point of view, but decides not to express this opposition in a radical way.

This is a process that requires enormous ability and knowledge on behalf of the Working Group. From my own experience, for example, the Malaysian Working Group almost fell apart because there was sustained opposition to some views. Faced with such a situation, it is for the chair and other members to try to find a way forward.

The review period for the National Interpretation must correspond with that for the RSPO criteria. What this means is when the RSPO P&C are reviewed, then the Working Group must incorporate any changes in the P&C into the National Interpretation. The National Interpretation cannot define a time period that does not take into account changes to the P&C.

The last component of the National Interpretation is seeking endorsement of the final document from the RSPO Board. The RSPO Secretariat and even more importantly the S&C Group will review the proposed NI and recommend to the Board whether or not it can be endorsed. During the process, the S&C Group may find that there are conflicts between the RSPO P&C and the NI. The National Interpretation should not try to resolve these conflicts: the Working Group can give suggestions, but it is for the RSPO to recognize that there are conflicts and to determine a way forward.

The Executive Board will discuss any application for NI endorsement as an agenda item at each meeting. The Board's decision obviously will be final because the RSPO takes responsibility for the National Interpretation.

Once it is endorsed, the NI is accepted as a further specification of the RSPO principles, criteria, indicators and guidance which accompany its international P&C. This is very significant because from this point onwards it becomes an accepted document and an accepted extension of the RSPO P&C. Any other interpretation which does not go through this process will not gain this acceptance. After being accepted, the NI will be posted on the RSPO website and will be available in relevant local languages.

When the National Interpretation arrives at the Secretariat, it goes through a fairly complex process. Firstly, and this is an example from Papua New Guinea, the S&C Group will look into whether the indicators, as proposed by the National Interpretation, are either fully compliant, partially compliant or not compliant with the RSPO's generic indicators and guidance. This is the first thing to be noted: whether or not there are differences.

The second step is to see if the National Interpretation Working Group needs to submit to the Secretariat a list of reference material that was used in the elaboration of the NI. This list obviously should include meetings, original preliminary documentation, and so on.

In the case of Malaysia, the National Interpretation was led by the Malaysian Palm Oil Association (MPOA). The Indonesian NI, as Mr. Jan Kees explained this morning, came in May. This is an example of the scrutiny. A comparison is made between the Indo-

nesian document and the Malaysian and Papua New Guinean National Interpretations. When the Colombian one arrives, then there will be another column here which will place the Colombian NI against the rest. The reason for this is to ensure that, while we adapt the RSPO P&C for individual countries, we do not create great divergence between the interpretation in one country and another. Otherwise we will begin to undermine the P&C.

Some of the S&C recommendations are studied by the Board. When the Board accepts these recommendations, for example the inclusion of guidance maps of appropriate scales, this information will be sent back to the National Interpretation Working Group.

Now, if the National Interpretation Working Group does not agree with the Board's recommendation, there will be an attempt to reconcile differences. If the differences prove irreconcilable, the Board's recommendation will prevail. We have spoken with Fedepalma, and the indications are that there will be Board meetings on November 17th and on November 21st. We hope that the Colombian National Interpretation will be achieved by then. We are in conversations with interested parties in Ghana and in Thailand to see if the National Interpretation processes will begin in those countries.

What is really happening is, as we move to countries which are small producers, the panorama begins to change. There are fewer large companies and fewer organizations that can lead the National Interpretation. Smallholders come more and more into the picture. However, as I mentioned earlier, and Jan Kees mentioned in his presentation, there is parallel work going on at the moment on smallholder interpretation and certification. So we think there will be a convergence between this work and the National Interpretation in some of the smaller producer nations.

Now, what if a country cannot develop a National Interpretation? Nobody wants to take the initiative, and yet there is a company that would like to be certified by the RSPO. At the moment the option available is to ask a certification body to perform a process that is quite similar to the National Interpretation. That will be seen as an interim interpretation until a National Interpretation can be secured.



The fundamentals remain the same. A consultation process, available in the local language, must be submitted to the Secretariat for approval and will be published on the RSPO website. The interim interpretation does not go to the Board, because the documents are not intended to be permanent. Rather, the interim interpretation is seen as the start of the National Interpretation, in the case that the relevant processes in a particular country are slow and that there is a producer, for example, which would like to seek certification.

Any certification body intending to carry out such an interpretation must be in close consultation with the RSPO, because we need to ensure that the interim interpretation is as acceptable as the National Interpretation process. This is particularly important as

much for the certification body as for the company seeking certification. It is pointless to elaborate an interim interpretation that is widely controversial in the country itself – an interpretation which, for example, faces strong opposition from other producers or other stakeholders within the country.

So the process will be very similar. It may not be so complex; for example, the stakeholder consultation may have a national or regional scope. However, it is recommended that the various steps being taken to develop an interim interpretation are discussed with the RSPO. So, for countries that do not have a National Interpretation at the moment, this is the second part.

Thank you very much, ladies and gentlemen.



Audience Question

Good evening. I have a couple of questions. The first one is: to start the certification process, do we need to wait until the National Interpretation Working Group submits the procedures to the RSPO for approval and the RSPO endorses them? Secondly, in situations such as that of Central America, is it necessary that each country has a National Interpretation Working Group or can a group be made up of different countries?

Reply by Vengeta Rao:

Thank you very much for the questions. With respect to the first question, we understand that the Colombian NI is very close to completion. We have asked Fedepalma, which is leading the NI, to submit the documents two weeks before the next Board meetings on November 17th and November 20th. Two weeks would be an adequate period for the Secretariat and the S&C Subgroup to see if the requirements for the NI have been met, and if there are differences with the P&C. We hope to work very fast and quickly with Fedepalma, so we would advise companies in Colombia to wait because we may have the Colombian National Interpretation within a month.

The other mechanism for companies to try to be compliant is to proceed with a pre-audit. If the certification body does a pre-audit with the company and if the same certification body does the RSPO audit, time will be saved.

Now, with respect to the second question on whether it is possible to have a regional interpretation, the S&C Subgroup would be prepared to consider it, provided that it can be proven that there is sufficient representation of all the countries within that region. Obviously, there would be two levels of representation: that of the small individual countries which make up the regions, and that of the multiple stakeholders within each country. The RSPO is not dogmatic that each country, especially small countries, must have a National Interpretation. However, on the other hand, the RSPO would require, whether it is an interim interpretation, a National Interpretation or a regional interpretation, that there is broad consultation with all stakeholders in the region.

Thank you.