

Regulating Land Investments: the role of the private sector

lessons learned from voluntary
standard initiatives in the financial
sector and in commodity supply
chains



Land use and investment issues

- I have been working as a consultant
 - supply chains & sustainability
 - setting up / advising Company and Industry Initiatives
 - Pulp & Paper chain (Finland, Russia, South America)
 - RSPO, Better Cotton, CmiA, ...
 - sustainable mining South Africa

- A shifting portfolio
 - 10 years ago. 90% ecology, 10% social issues
 - today: social issues, land rights issues in 80% of my projects



The ongoing discussion – a personal impression



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- over-emphasis on principles
 - → *also Elinor Ostrom keynote address*
- too much energy into coordination between initiatives, platforms, etc.
- THE REAL PROBLEMS ARE
 - in implementing (existing) criteria
 - in monitoring on the ground
 - in making private and public players fully accountable



Regulating Land Issues in Agricultural Investments - the role private sector voluntary standards

Part I:

Examples from the Financial Sector
and from Agricultural Commodity
Supply Chains

Selected Voluntary Standards (Finance)

Initiative	Start	Objectives	Members
UNEP Finance Initiative	1992	Best environmental and sustainability practice at all levels	global financial sector in partnership with UN
Global Compact	2000	mainstream ten principles in business around the world, support MDG, etc.	CEO level of business organisations
Equator Principles (EP)	2003	ensure social responsibility and environmental management in project finance	signatories = banks
Principles for Responsible Investment (PRI)	2005	Incorporate Env., Soc. and Corp. Gov. issues into investment practice	asset owners, inv. managers, etc.
GRI	2000	transparent and reliable exchange of sustainability information	global network ...
Private sector sustainability rating agencies, e.g. DJSI	1999	to provide reliable sustainability information as a basis for portfolio management	not membership organisations

Selected Voluntary Standards



Initiative	Start	Objectives	Members
Forest Stewardship Council FSC	1993	responsible forest management by standard setting, certification, etc.	social/indigenous, environmental, economic
Roundtable on Sustainable Palm Oil RSPO	2004	advance the production, procurement and use of sustainable palm oil products by standard development, stakeholder inv.	growers, processors, manufacturers, banks, env. NGOs, social NGOs
Better Cotton Initiative BCI	2005	make cotton production better for producers, the environment and the textil sector.	producers, retailers/brands, suppliers, manuf., civil society
Roundtable on Responsible Soy RTRS	2006	encourage responsible soy production = reduce social and environmental impacts by standard development, stakeholder inv.	Industry, Trade, Finance, Civil Society
Better Sugarcane Initiative	2006	ensure that current and new sugarcane production is produced sustainably	growers/producers, processors, end users, intermediary, civil society.
4C Association Coffee	2002 /2006	beneficial situation for producers, workers, rural communities, trade & ind., cons., environment	producers, traders, industry, civil society
Roundtable on Sustainable Biomass	2008	sustainable production of biofuels	multi-stakeholder organisation with 11 chambers
RTFO Metastandard (Biofuels)	2006	scheme developed in the framework of the UK's biofuels policy	not a membership organisation



Palm Oil: issues & interests

- The issues
 - rapid conversion of land into palm oil plantations (Malaysia, Indonesia,)
 - major contribution to loss of primary rain forest and irreplaceable biodiversity
 - adverse social of large scale plantation development
- The interests
 - NGOs: preventing deforestation, fighting social injustice.
 - Retailers and producers of consumer goods: supply chain security and corporate reputation issues.
 - Palm oil producers/investors: securing oil palm expansion and palm oil markets/investments.



Palm Oil: RSPO Principles



1. Commitment to transparency
2. Compliance with applicable laws and regulations
3. Commitment to long-term economic and financial viability
4. Use of appropriate best practices by growers and millers
5. Environmental responsibility and conservation of natural resources and biodiversity
6. Responsible consideration of employees and of individuals and communities affected by growers and mills
7. Responsible development of new plantings
8. Commitment to continuous improvement in key areas of activity



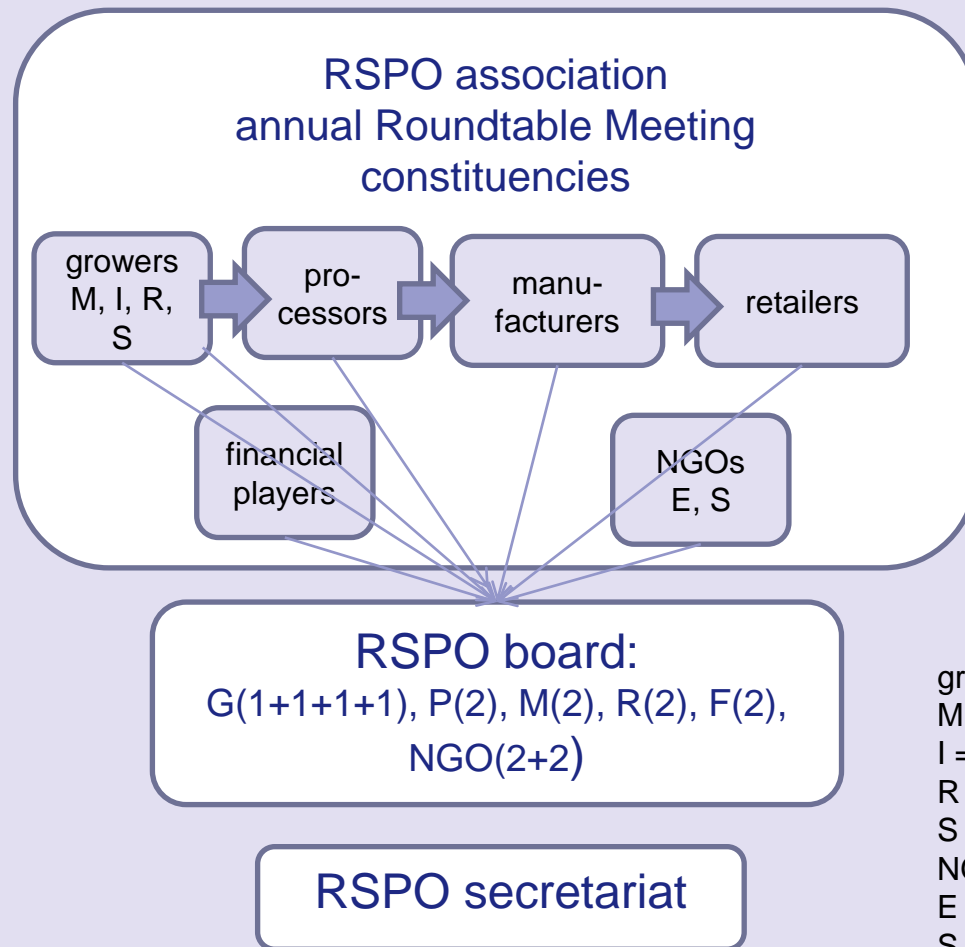
RSPO Criteria (on land rights)

- 2.1 Clear evidence of long-term forest use rights to the land (e.g. land title, customary rights, or lease agreements) shall be demonstrated.
- 2.2 Local communities with legal or customary tenure or use rights shall maintain control ... over forest operations unless they delegate control with free and informed consent to other agencies.
- 2.3 Appropriate mechanisms shall be employed to resolve disputes over tenure claims and use rights. Disputes of substantial magnitude involving a significant number of interests will normally disqualify an operation from being certified.
- 6.4 Any negotiations concerning compensation for loss of legal or customary rights are dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions.





Palm Oil: RSPO governance



growers:
 M = Malaysia
 I = Indonesia
 R = Rest of the World
 S = Smallholders
 NGOs:
 E = Environmental NGOs
 S = Social NGOs

Palm Oil: RSPO strenghts and weaknesses



- Strengths
 - agreement on principles, criteria, certification within 5 years
 - RSPO certified palm oil on the market from August 2008, major plantation areas now certified
 - positive influence on policies in production and consumption countries.
- Weaknesses
 - demand for certified palm oil not developing
 - no problems to market non-certified palm oil
 - **no major influence on land-use issues**
 - failing to deal with climate/CO₂ issues
- Weaknesses are linked to governance issues:
 - governments not member,
 - lack of inclusiveness,
 - purely interest based: important issues and facts not allowed on the negotiation table.



Regulating Land Issues in Agricultural Investments - the role of the private sector

Part II: Lessons Learned

Land Issues in Voluntary Standards (Finance)

Initiative	Start	Bio-diversity	Use Rights	Indigen. People	Food Security	Reference
UNEP Finance Initiative	1992	Yellow	Red	Red	Red	
Global Compact	2000	Red	Red	Red	Red	
Equator Principles (EP)	2003	Yellow	Green	Green	Red	IFC Performance Standard 5
Principles for Responsible Investment (PRI)	2005	Yellow	Red	Red	Red	
GRI	2000	Green	Red	Red	Red	
Private sector sustainability rating agencies, e.g. DJSI	1999	Yellow ?	Red ?	Red ?	Red ?	

Land Issues in Voluntary Standards (Commodities)



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Initiative	Start	Bio-diversity	Use Rights	Indigen. People	Food Security	Reference
Forest Stewardship Council FSC	1993	Green	Green	Green	Red	
Roundtable on Sustainable Palm Oil RSPO	2004	Green	Green	Green	Red	
Better Cotton Initiative BCI	2005	Green	Green	Yellow	Red	
Roundtable on Responsible Soy RTRS	2006	Green	Green	Green	Red	
Better Sugarcane Initiative	2006	Green	Green	Green	Red	ILO Conventions
4C Association Coffee	2002 /2006	Green	Yellow	Yellow	Red	
Roundtable on Sustainable Biomass	2008	Green	Green	Green	Green	
RTFO Metastandard (Biofuels)	2006	Green	Green	Green	Green	

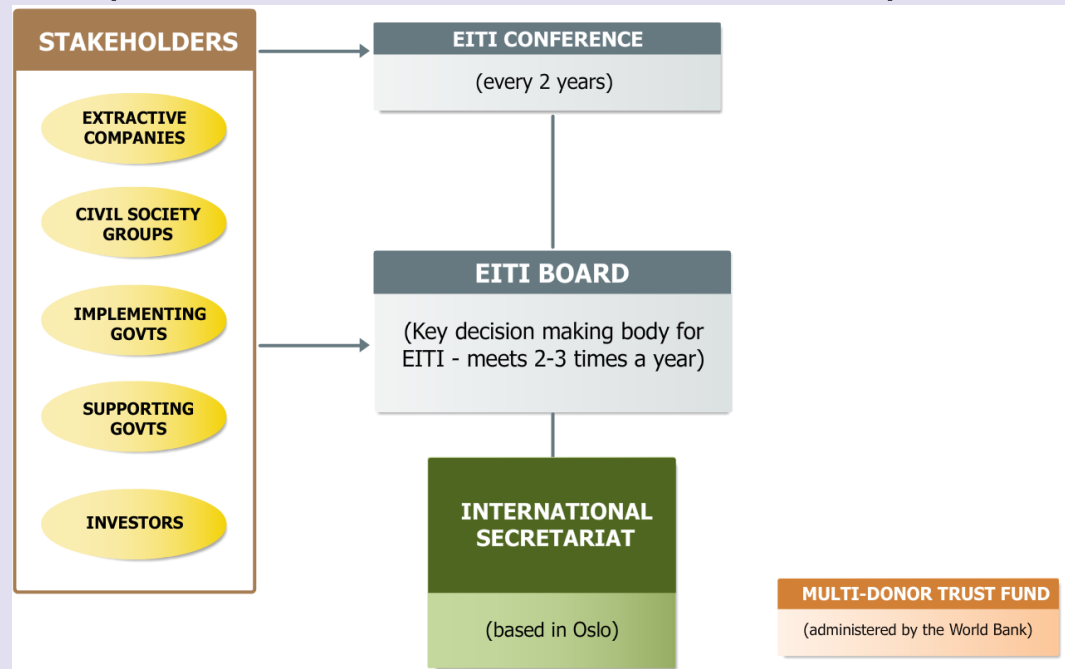
Governance Lessons (1)

- **Multi-Stakeholder Commodity Supply Chain Initiatives**
 - have been set up rapidly by private sector + external stakeholders
 - are effective on issues such as plantation management
 - lack effectiveness when it comes to land-related issues (despite the presence of land-related criteria in the standards)
- The problem of these initiatives is the absence of governments



Governance Lessons (2)

- Inclusion of governments is key to future success.
- EITI's governance model should be used a source of inspiration (see Ravat's presentation).





Regulating Land Investment the role of the private sector

Part III:

Conditions for an effective private sector contribution

Private sector initiatives as a trigger for public regulation (examples)

Single Company Projects



competitive benchmark setting innovation

Industry Self Regulation with stakeholder participation



1990-2005



non-competitive consolidation



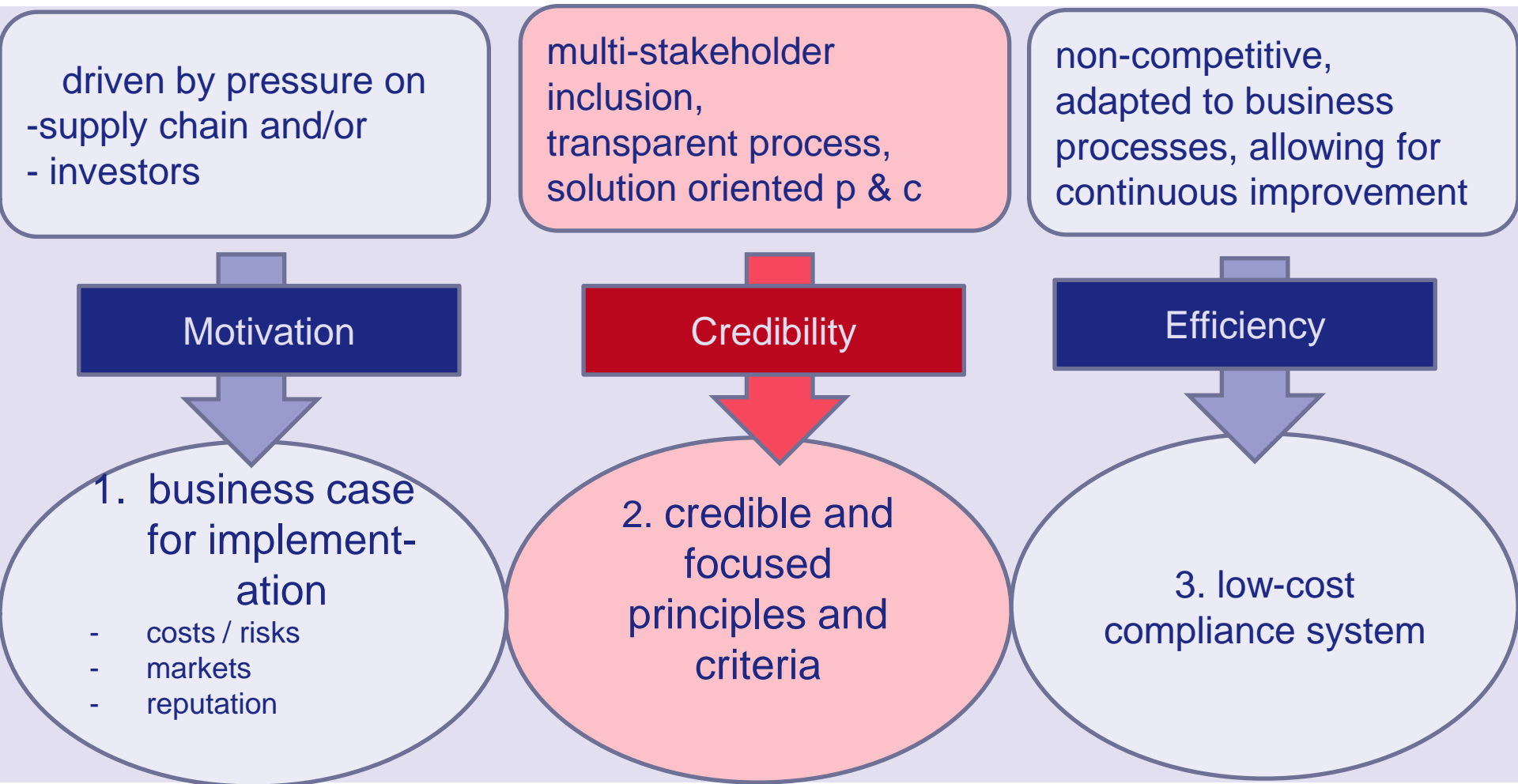
2005-...

National, International regulation

government policies EU, Indonesia, ...

inclusion in public policy

Three conditions for effective private sector self-regulation



Many Business and Stakeholder Initiatives – one central reference





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Part IV:

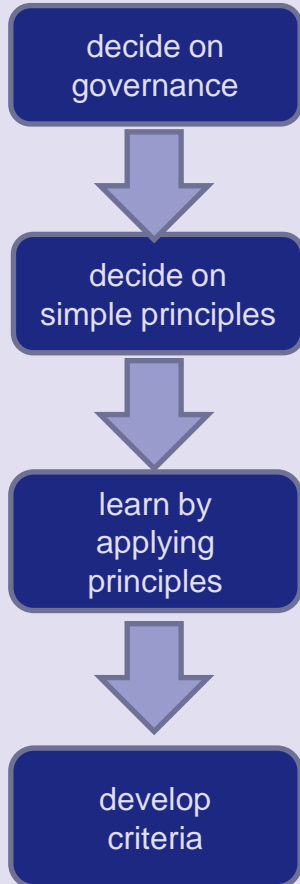
Requirements for Voluntary Land Investment Criteria

Principles & Criteria for Land Investment: Content

- Criteria should be focused:
 - they should focus on the specific requirements for investment in agriculture;
 - they should not try to cover all problems of land rights, labor rights, poverty etc.
- They should, whenever possible, refer to existing principles and systems.
- They should be suitable as a building block for various sector and country or region specific systems.
- No detailed criteria can be developed before gathering concrete experience with implementation and monitoring.
- Existing principles (WB / IFC → Kiene's presentation) are a good start.

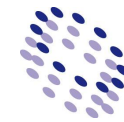


Principles & Criteria for Land Investment: Process



- Simple principles as a basis for an inclusive process with multi-stakeholder participation:
 - EITI governance model can be used as an inspiration;
 - use lessons from RSPO and similar initiatives;
 - private sector + governments + civil society.
- Criteria development as a transparent learning process
 - start with a coalition of motivated companies as business partners
 - private investors
 - bio-fuels and food sector
 - include single company projects for benchmarking

Start implementing and monitoring now!



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More Information

- See discussion paper:
 - R. de Man, ‘Land Issues in Voluntary Standards for Investments in Agriculture – a Discussion Paper’, submitted to this conference.
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