

Regulating Land Investments: the role of the private sector

lessons learned from the
plantation sector and extractive
industries



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Regulating Land Investment the role of the private sector

Part I:

Examples from the Plantation & Extractive Industries sectors

Land use and investment issues



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- 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





Voluntary Standards

- In an ideal world
 - governments would regulate business transactions by appropriate legislation and implementation
- But in today's world
 - governance in major production countries is weak
 - governments in major consumption countries are restricted by WTO etc.
- Therefore
 - voluntary private sector self-regulation on ecology, climate, labour rights, land rights etc. is the only short term option
 - as a (temporary) alternative to public regulation and an input into (future) public regulation.



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 effects 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



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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

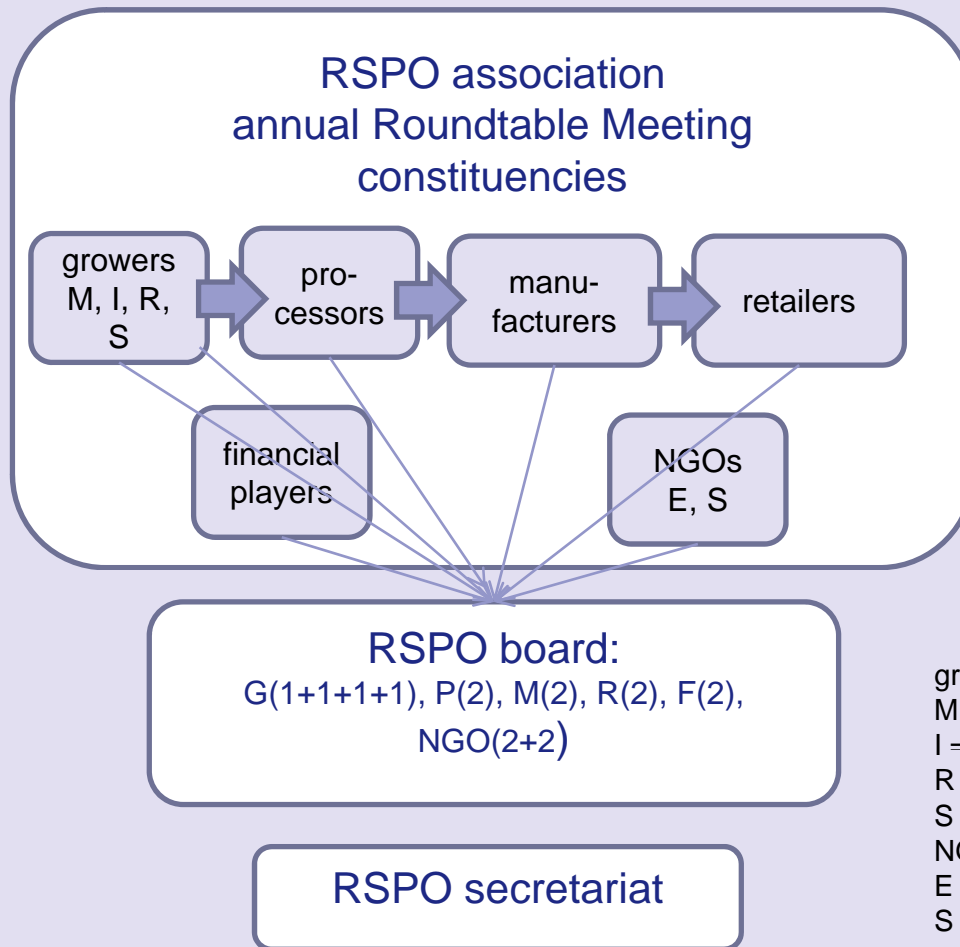


RSPO Criteria (examples)

- Criterion 6.4
 - Any negotiations concerning compensation for loss of legal or customary rights are dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions.
- Criterion 7.3
 - New plantings since November 2005 ... have not replaced primary forest or any area containing one or more High Conservation Values.



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



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- 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:
 - board consensus rule,
 - lack of inclusiveness,
 - purely interest based: important issues and facts not allowed on the negotiation table.

Mining (EITI): issues and interests



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- The 'resource curse'
 - in resource rich countries, large parts of the population live in extreme poverty
 - companies are paying huge sums to corrupt government officials
- The interests
 - government populations and their governments need income from natural resources for economic and social development
 - private sector investors and mining companies need a reliable governance situation for securing their operations and protecting their reputation



EITI criteria

1. Regular publication of all material oil, gas and mining payments by companies to governments ... and all material revenues received by governments ... to a wide audience
2. ... payments and revenues are the subject of a credible, independent audit, applying international auditing standards.
3. Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards
4. This approach is extended to all companies including state-owned enterprises.
5. Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate.
6. A public, financially sustainable work plan for all the above is developed by the host government, ... , including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.

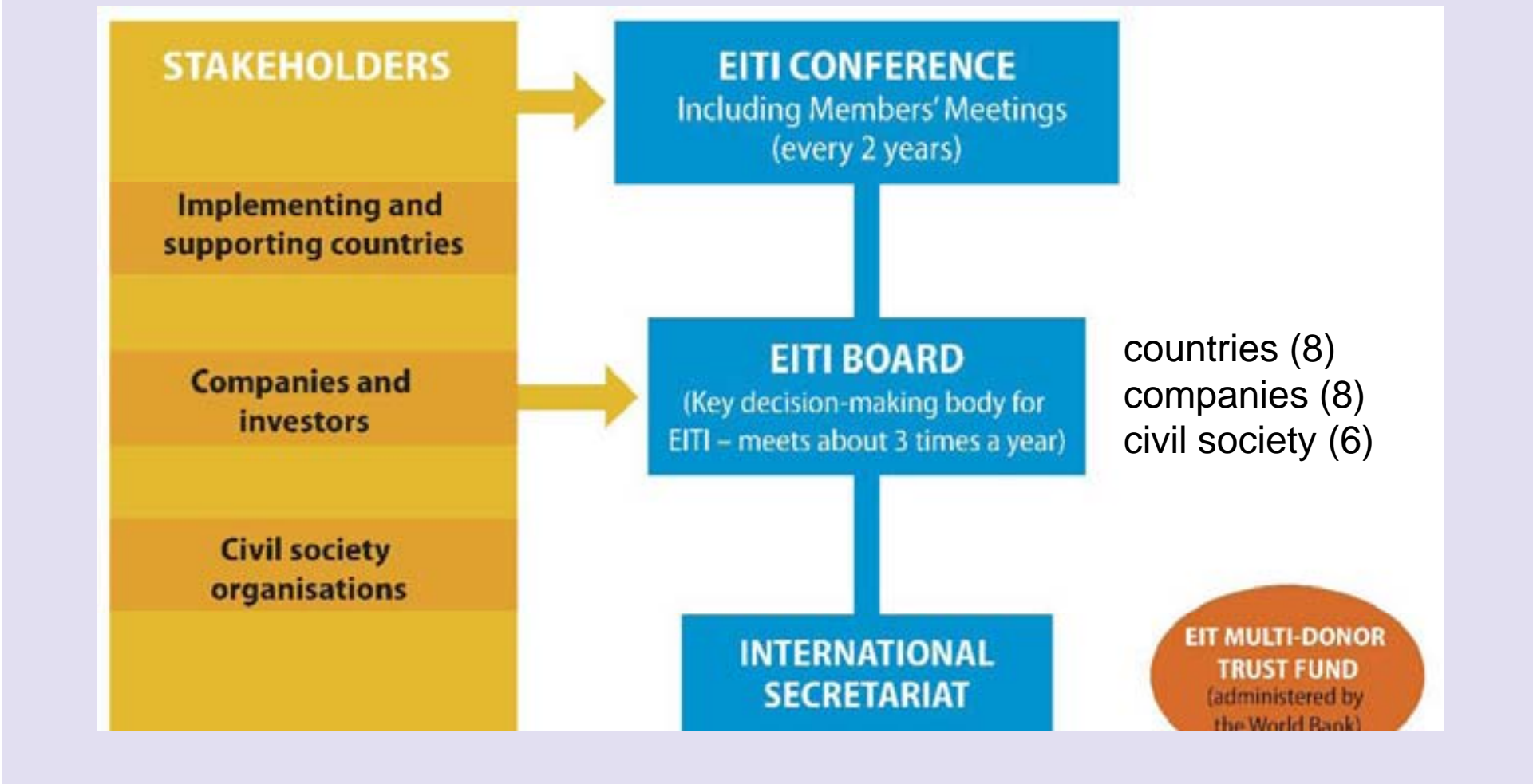


EITI: governance



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Part II:
Conditions for an effective private
sector contribution

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



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1990-2005

2005-...



government policies EU, Indonesia, ...

Single Company Projects

Industry Self Regulation with stakeholder participation

National, International regulation

competitive benchmark setting innovation

non-competitive consolidation

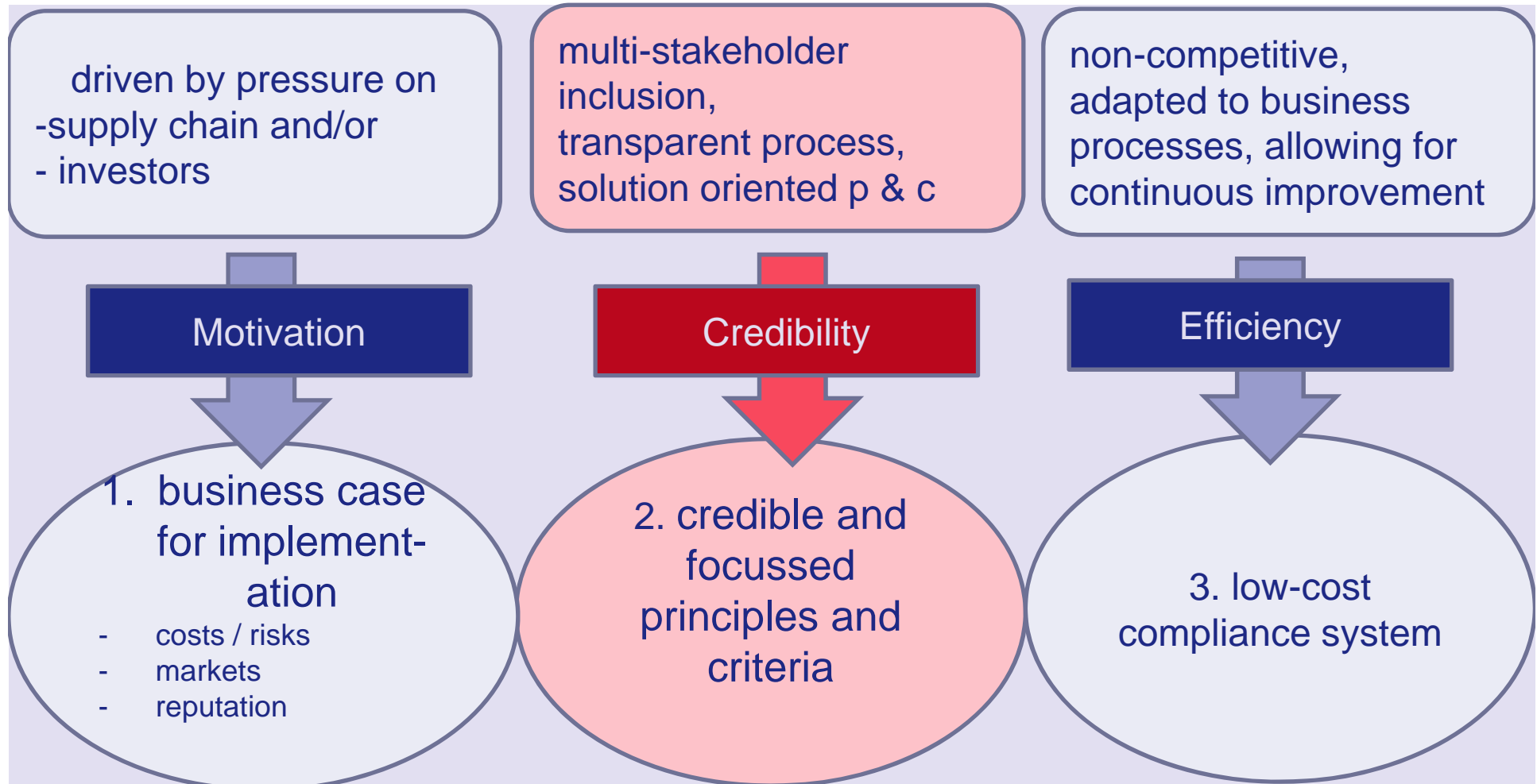
inclusion in public policy

Three conditions for effective private sector self-regulation



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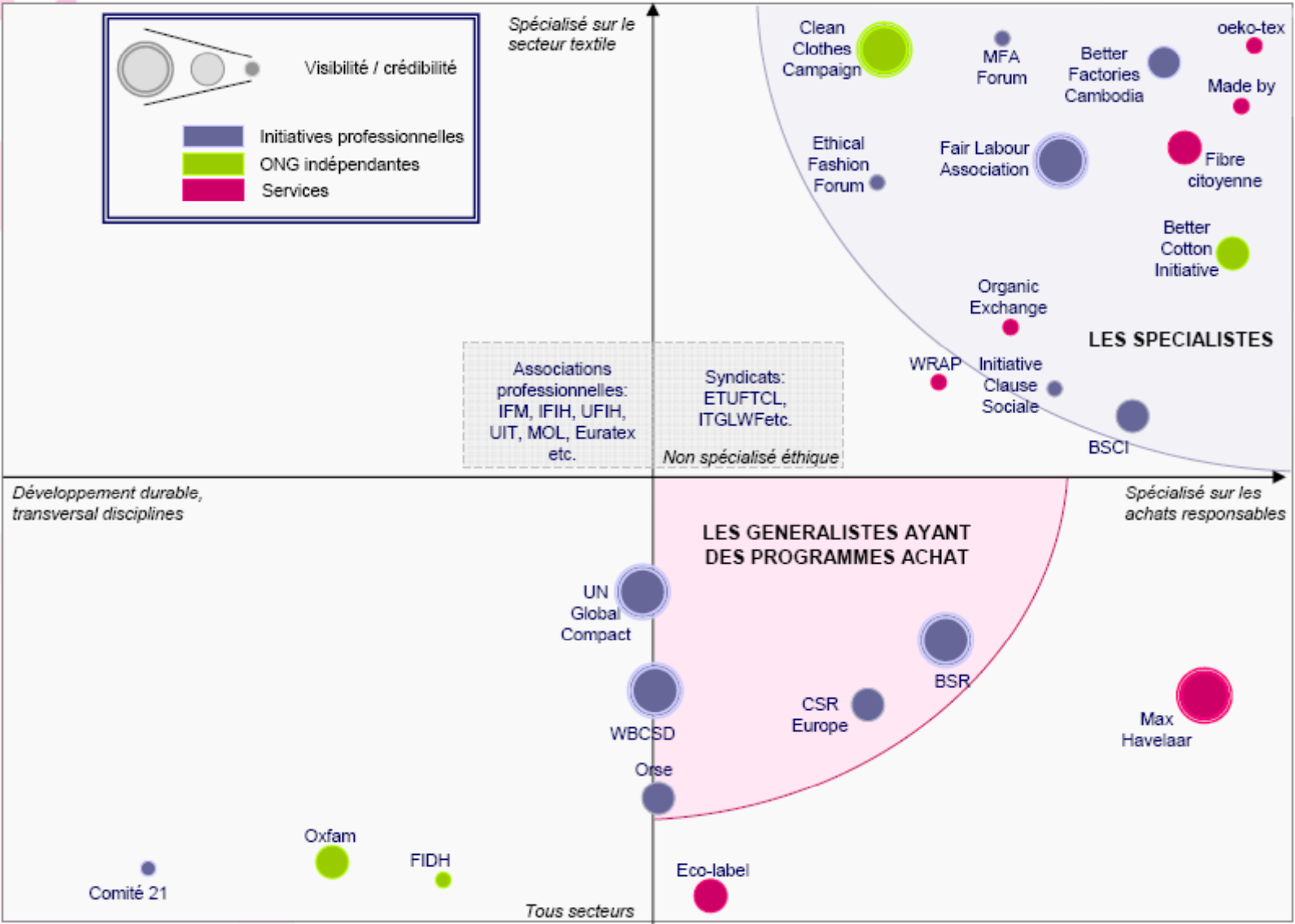
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Responsible (textile) buying ...



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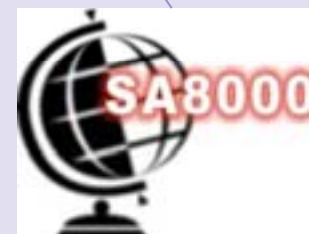


Many Business and Stakeholder Initiatives – one central reference



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Part III: Requirements for Voluntary Land Investment Criteria

Principles & Criteria for Land Investment: Content



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- Principles should be focussed:
 - they should focus on the specific requirements for investment in agricultural land ;
 - they should not try to cover all problems of land rights, labour 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 applying the principles.
- The World Bank, 23/09/2009 presentation is a good start for defining seven principles.

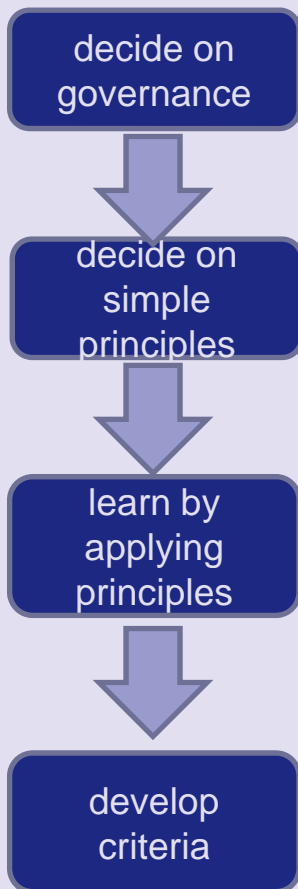


Principles & Criteria for Land Investment: Process



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- 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 as soon as possible
 - learning by doing
 - standards follow action
 - include single company projects for benchmarking

Start now!



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LAND, INVESTMENT AND DEVELOPMENT

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