

Land Issues in Voluntary Standards for Investments in Agriculture

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Short summary:

This paper discusses the effectiveness of private sector initiatives for voluntary regulation in relation to the governance structure of those initiatives. It analyzes examples from private sector initiatives and commodity supply chain initiatives (on forest products, palm oil, soy, cotton, etc.) and asks how relevant these initiatives are for voluntary regulation of land issues in agricultural investments. The article concludes that present financial initiatives are weak on land issues. Although commodity related initiatives contain land related criteria, they are not effective because of the missing link with governments. The Extractive Industries Initiative EITI appears to provide a promising governance model.

key-words: voluntary standards, investors, commodity supply chains, private sector

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Summary

1. Land issues are becoming increasingly important for private sector players.
For the financial sector, land issues are linked to highly relevant opportunities and risks in financial transaction linked to investments in agriculture. For players in the commodity supply chain, land issues are linked to (market, cost, supply chain security, reputation) risks and opportunities related to sourcing commodities from newly developed agricultural areas.
2. Land issues have been included in voluntary standards (for the financial sector, for commodity supply chains) to different degrees.
3. The implementation of criteria for land issues in voluntary standards is crucially dependent on three factors: (a) the quality of the criteria, (b) the business case for implementation, (c) the governance structure of the standard setting and implementation initiative.
4. Operational clarity and focus:
 - a. Land use criteria are only likely to be implemented effectively if they are operationally clear and focused on the solution of well-defined problems. They should not try to cover all areas of agricultural investment, but focus on a limited set of well-defined land issues.
 - b. In most existing standards (for the financial sector and for commodity supply chains), land-use criteria have been formulated on a rather general (and operationally not too clear) level.
5. Business case for applying the standard
 - a. For the financial sector, there is a strong business case for taking into account criteria on land issues when investing in large scale agriculture as it will contribute to the reduction of investment risks;
 - b. The business case for taking into account criteria on land issues is becoming stronger for players in commodity supply chains, at least for players linked to sensitive consumer markets (food, fiber) and to government subsidized bio-fuel markets.
6. Governance structure
 - a. Apart from general governance requirements for voluntary standard setting and implementation initiatives (such as proper inclusion of knowledge and interests, transparency and accountability), setting and implementing standards on land issues requires the proper inclusion of government on different levels, in addition to the proper inclusion of business interests (financial players, supply chains) and civil society.
 - b. In most existing voluntary standard setting and implementation initiatives, government is not well-represented, which results in weak implementation with regard to land issues.
7. Typical development
 - a. In many cases, a typical development from single (competitive) company initiatives towards non-competitive voluntary industry or supply chain initiatives can be observed.
 - b. Often voluntary industry or supply chain initiatives are not the alternative to government regulation but create inputs into national or international public sector policies and regulation.
8. The coming development of 'land criteria' and their inclusion in voluntary standards

- a. An operationally clear and focused set of criteria should be developed, solution oriented, based on clear priorities and bringing together criteria from existing standards.
 - b. A governance structure for the definition and implementation of these criteria should be set up, taking into account the need for active participation of governments.
 - c. Existing sector specific initiatives for the financial sector and for commodity supply chains should use this set of land issues related criteria when updating their standards.
9. The development of such criteria should be started with a selective group of companies. The motivation of single private sector companies, who are willing to take the risks and to pick the fruits of being 'champions' in this field, should be used to create momentum in the development of these 'land criteria'.

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Introduction

This paper develops some arguments for the further development of the inclusion of land issues in voluntary criteria for large scale investments in agriculture. It does this by discussing a number of lessons learned from voluntary standard initiatives in agricultural supply chains. It looks specifically at the content of their criteria and the way land issues have been dealt with, and the governance structure of the initiatives.

For the effectiveness of voluntary criteria to be applied by the private sector, the central question is: is there a business case and what is influencing the business case for the private sector player? This question will be asked for a number of existing initiatives and will be asked again for the inclusion of land related criteria in existing and new standards.

It is then discussed how single company initiatives can evolve into sector initiatives and how sector initiatives can contribute to or be incorporated into public policies. On the basis of this discussion, some first ideas will be presented on developing a private sector initiative on including land related criteria in standards for large scale agricultural investments.

This paper does not pretend to contain final analyses, final answers to many questions or an operational plan for starting a new initiative. The paper should be read as a discussion paper, mainly based on the author's 25 years experience in dealing with sustainability issues and standard setting processes.

The Issue

Land issues are becoming increasingly important for private sector players.

For the financial sector, land issues are linked to highly relevant opportunities and risks in financial transaction linked to investments in agriculture. For players in the commodity supply chain, land issues are linked to (market, cost, supply chain security, reputation) risks and opportunities related to sourcing commodities from newly developed agricultural areas.

Financial Sector

Land issues are becoming increasingly important for private sector players. For the financial sector, issues about land rights and land claims may directly influence the profitability of major investments in agriculture or other land-intensive sectors (such as mining). It is generally recognized that, as long as companies operate in the framework of national law, these issues are not the financial sector's prime responsibility, but should be dealt with by national governments and their institutions. Nevertheless land issues may create huge investment risks. Therefore, players in the financial sector do have a positive interest in effective and transparent regulation of transactions that deal with large scale land lease or other transactions that change access to land or rights of land use. In situations where national governments do not (yet) provide the stable and transparent regulatory framework that is needed, players in the financial sector have developed an interest in self-regulation on the basis of voluntary standards, as will be shown later in this article.

Commodity Supply Chains

Also in food and energy related agricultural commodity supply chains, land issues create business risks (and opportunities) for players at various positions in the supply chain. Companies producing for consumer markets have to deal with increasing public pressures resulting from sustainability issues and with the associated reputation risks. Commodity producers (farmers), processors and traders are subject to increasing pressures from retailers and brand owners to produce according to sustainability standards. Main issues addressed by these standards are nature conservation and biodiversity, carbon and climate, and an increasing number of social and development related issues. Land issues are linked to biodiversity (e.g. destruction of rainforests), climate and, more recently, social issues. Corporate policies have to find an answer to the ongoing emotional discussion on 'land grabbing', if they do not want their brands to be damaged. Pressures from civil society and consumers on the private sector have resulted in a number of voluntary sustainability standards, often the result of multi-stakeholder initiatives. Not surprisingly, many of these standards contain one or more social criteria related to land issues, mainly focused on land rights and tenure. There is a tendency to address food security issues as well.

In the following chapter, a number of relevant voluntary standard initiatives will be described. It will be shown to what extent and how different land related issues are being addressed.

Land Issues in Existing Voluntary Standards

Land issues have been included in voluntary standards (for the financial sector, for commodity supply chains) to different degrees.

Commodity Supply Chain Standards

The Emergence of Voluntary Commodity Standards

The use of voluntary standards for self-regulation of the sustainability of (agricultural) commodities and end products is a relatively young phenomenon. Although there have been voluntary industry standards, related to technical standardization, quality and safety, for a long time, the main environmental and social voluntary standards were developed after 1990 (see also De Man, 1996, De Man et al., 1998) and the bulk of them even after 2000. The best known standard, FSC for forests and forest products, was developed after the 1992 Rio Earth Summit. The first FSC forests were certified in the late 1990s. Many similar commodity supply chain initiatives followed: RSPO on palm oil (2004), BCI on cotton (2005), RTRS on soy (2006), BSC on sugar cane (around 2006). There were various initiatives on coffee as well, which developed from the beginning of this decade (4C association, UTZ, etc., see also Potts, 2003).

Originally, the main driver of setting these standards was biodiversity (protection of forests, limits on forest conversion, water, ...). Social issues, including land issues, were added later in most initiatives. Climate change issues are becoming more prominent. Most initiatives were set up as multi-stakeholder initiatives with private sector and civil society as main stakeholder groups. As a rule, governments are not directly involved. The Roundtable on Sustainable Palm Oil appears to be the 'template' for a number of similar commodity initiatives (initiated by or at least with an important role for WWF, the Worldwide Fund for Nature), both with respect to the content of the criteria and governance structure. Apart from sustainability standards and certification systems for the production of the primary commodity (agriculture), including the development of new fields/plantations, most initiatives also have established systems for controlling and certifying the supply chain (chain of custody certification).

Standards for Social Compliance

The best known social standard (on working conditions, largely based on the ILO conventions), SA8000 (SAI, 2008), was founded in 1997. Many similar initiatives followed, such as BSCI (see BSCI, 2009), Ethical Trade Initiative (ETI, see ETI, 2001) and GSCP (GSCP, 2008). Some of these initiatives (such as SA8000 and ETI) are multi-stakeholder initiatives. Other initiatives are business owned and business driven (such as BSCI). Most social standards do not (yet) address land issues. The developments of the social compliance initiatives and their governance models can be relevant for the development of land related standards, however.

(Meta-)Standards for Bio-Fuels

The ongoing discussion on the sustainability of bio-fuels has given rise to standards and so-called meta-standards (standards that benchmark existing standards) that are primarily used by government agencies that want to judge the acceptability of bio-fuels, e.g. in the framework of climate policies and related subsidy programs. In this context, the Roundtable on Sustainable Biofuels (RSB, see RSB, 2009), the Dutch 'Cramer criteria' (Testing Framework for Sustainable

Biomass, see Project Group, 2007) and the meta-standard on sustainability reporting within the UK Renewable Transport Fuels Obligation (RTFO, see Ecofys, 2008) will be discussed.

How do Commodity Standards deal with Land Issues?

As the rights to access, to use or to acquire land titles is always regulated by national law, as a rule, the standards in these commodity initiatives contain criteria that oblige the private sector player to obey the local law and to document the legal and customary rights related to the land that will be used or is being used for the production of the commodity. Most standards refer to criteria for 'land rights' in general and to the 'rights of indigenous people' in particular. A third element, not present in all criteria, is related to 'food security' issues, often related to large-scale changes in land use.

- Land rights

As a rule, the criteria require a clear proof of land rights involved¹. Moreover, they expect the private sector company to document and to respect any existing legal or customary rights. Procedures for conflict resolutions should be in place. FSC principle (FSC, 2002) no. 2 on "Tenure and use rights and responsibilities" mentions the "clear evidence of long-term forest use rights to the land" (2.1.), "legal and customary tenure of local communities" (2.2.) and "appropriate mechanisms ... to resolve disputes over tenure". It is difficult to obtain an FSC certificate in case of substantial conflicts: "Disputes of substantial magnitude involving a significant number of interests will normally disqualify an operation from being certified". RSPO, in its criteria 2.2 and 2.3, RTRS in its criterion 1.2 and RSB in Principle 12 are basically formulating the same requirements. Most standards contain a phrase about 'free, prior and informed consent', such as RSB's criterion 12b: "Free, Prior, and Informed Consent shall form the basis for all negotiated agreements for any compensation, acquisition, or voluntary relinquishment of rights by land users or owners for biofuel operations."

The RTFO meta-standard summarizes the land right criteria under its Principle 7 as a criterion on land right issues (7.1) and includes a criterion on consultation and communication with local stakeholders (7.2). RSPO (RSPO, 2007) is conforming to the land rights criterion in the RTFO meta-standard. The social standard SA8000 and the food-related standard EurepGAP are not.

- Indigenous People

The rights (and claims) of indigenous people is obviously an important issue in these supply chain initiatives with supply chains sourcing from countries and regions where there may be considerable lack of clarity and high levels of conflict about the rights of indigenous (or: migrated) people. Some initiatives only state that the law should be obeyed. BCI criterion 4.2 (BCI, 2009): "The use and conversion of land to grow cotton conforms with national legislation related to agricultural land use." Other standards are a bit more specific. FSC principle no. 2 states that "the legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources shall be recognized and respected." This is then specified in a number of more specific criteria. RSPO has a clause on respecting "the legal rights, or customary rights, of other users", whereas RTRS (RTRS, 2009) calls for "a comprehensive, participatory and documented community rights assessment" in case of a dispute on these issues. BSI (on sugar cane, see BSI, 2009) links its criteria for land rights to ILO conventions 117 (on social policy) and 169 (on indigenous and tribal peoples), including

“Respect and safeguard rights to lands and natural resources traditionally occupied and used; respect for customs of inheritance; no forced removals; compensation for loss and injury”

- **Food Security**

Food security issues are only recently being introduced in food and bio-fuel commodity standards. The driver is the bio-fuel debate. Bio-fuel development is potentially leading to substantial changes in land use and may therefore be in conflict with food production, food markets and, as a result, food security. The Roundtable on Sustainable Biofuels (RSB, 2009) states in Criterion 6a that “biofuel operations shall assess risks to food security in the region and locality and shall mitigate any negative impacts that result from biofuel operations.” It gives a number of detailed instructions on how and when to perform certain assessments. Similarly the Dutch ‘Cramer Criteria’ (Project Group, 2007) include the criterion that “the production of biomass for energy must not endanger the food supply and other local applications”, although no operational criteria have been formulated yet. In contrast, the UK government’s RTFO meta-standard does not contain any clause (yet?) on the food security issue. This may be caused by the difficulty of making such a criterion operational. In the other commodity initiatives studied (on wood/forest, palm oil, soy, cotton, sugar cane), the issue is only being addressed indirectly through the land rights issue.

Land rights issues at the First Roundtable on Sustainable Palm Oil

After a short preparation phase, the Roundtable on Sustainable Palm Oil was initiated at the First Roundtable meeting, in Kuala Lumpur, August 2003. The main goal of the meeting was to set the agenda of the coming initiative in the form of a “Statement of Intent”, which would be the basis for the initiative’s future mission. The different stakeholder groups were invited to give presentations with their views on a sustainable future for palm oil.

As is not unusual in these type of meetings, a part of the program was devoted to break-out sessions on different subjects. Break-out sessions were planned on the definition of sustainability criteria, certification, chain-of-custody issues and land rights and land tenure issues.

The break-out session on land rights and tenure issues had to be cancelled when it turned out that not more than four or five people (of the more than 200 participants) had decided to take part in this session. For most participants, especially from the Indonesian and Malaysian palm oil sector, it was too hot a political issue, which could not yet openly be discussed in a meeting like this. It took some time before a session on this issue could take place and criteria could be defined.

Implementation and Public Governance

It can be summarized that most standards developed in commodity supply chain initiatives contain some clauses about ‘land rights’ and ‘indigenous people’. The main obligation is to conform to existing law. The second obligation is to deal properly with customary rights and land conflict issues. Some (bio-fuel related) standards require an assessment on the impacts on food security as well.

The implementation of these standards will largely depend on the quality of the legal system, including the existence of transparent information about land titles and the validity of land claims. Only by living up to the standards set in the commodity initiatives will not solve the real problems on the ground. It may limit some of the liability and the reputation risks of the private sector player, but it will not necessarily solve governance problems. Whether RSB’s Criterion 6b will solve any food

security problems related to bio-fuel expansion, is questionable, as it will be very difficult to apply clear criteria and to produce reliable data on the real effects of such an expansion. This argument will be elaborated in the next chapter, when discussing requirements on governance.

Financial Sector Standards

UN Initiatives

Here some voluntary standards that have been developed by the financial sector will be discussed in relation to their potential contribution to solving the land issues in large scale agricultural investments. As this is not the author's main area of expertise, only a very brief summary can be presented, largely based on Bernd Schanzenbächer's presentation at the Rome FAO meeting on January 24, 2010 (Schanzenbächer, 2010). We have reviewed four initiatives that were developed in close interaction with UN institutions.

- UN Global Compact (see UNGC, 2008).
- UNEP Finance Initiative (see UNEP, 2007a, 2007b)
- Equator Principles (see Equator Principles, 2006)
- Principle for Responsible Investments (see <http://www.unpri.org/principles/>)

For more information see the tables in the Annex to the article.

Although all principles contain useful elements on general sustainability and the way sustainability should be embedded in the financial organization's management and reporting structures, the specific link with land issues in (agricultural) investments is virtually absent in Global Compact, PRI and the UNEP Finance Initiative. Only the Equator Principles contain a very clear operational standard, IFC's Performance Standard 5 on "Land Acquisition and Involuntary Resettlement". The focus of this principle is on involuntary resettlement and how to deal with compensation issues.

It may be concluded that land issues are not being addressed in the financial initiatives studied in any operational detail with the exception of involuntary resettlement issues in the Equator Principles. This leads to a highly relevant preliminary conclusion, which will be developed further in this report: unsolved land related issues in large-scale agricultural investments may create considerable risks. Investors will most probably bear the highest risks, followed by private sector companies operating in agricultural supply chains. Ironically, the standard development on land issues in supply chain initiatives seems to be much ahead of financial sector initiatives.

Other Criteria relevant to Financial Players

Private sector financial players, such as banks and private investment companies, are not only participating in the above mentioned financial initiatives. They are also member of commodity based initiatives such as the Roundtable on Sustainable Palm Oil.

Apart from the initiatives mentioned above, another angle to including land issues in investment decisions is important here: (sustainability) rating of companies quoted on the stock market. Such ratings can be an important guidance for (institutional) investors, including pension funds. The best known sustainability rating, the Dow Jones sustainability index, does not appear to contain any detail on land issues yet.

In this context, the GRI reporting requirements (GRI, 2006) could be important as well. However, GRI reporting requirements only contains one reference to land issues in relation to biodiversity. Criterion EN11 requires reporting on “location and size of land owned, leased, managed in, or adjacent to, protected areas and areas of high bio-diversity value outside protected areas.” There is no explicit reference to land issues in the chapters ‘human rights’, ‘society’ and others.

Inclusion of land issues in both stock rating instruments and reporting guidelines could be important drivers for putting the issue on the corporate agenda.

Successful Implementation of Land-Related Criteria

Conditions for Success

The implementation of criteria for land issues in voluntary standards is crucially dependent on three factors: (a) the quality of the criteria, (b) the business case for implementation, (c) the governance structure of the standard setting and implementation initiative.

To what extent are voluntary standards, as set by industry and multi-stakeholder initiatives, a success? What are the main factors that determine this success?

- In the first place, the results of applying a certain standard are not likely to be better than the quality of the criteria themselves;
- Whether the standards, which are voluntary, are applied at all, is crucially dependent on the motivation of the business players. This motivation is, apart from ethical consideration that may play a role, primarily defined by whether there is a clear business case for applying the standards;
- The governance structure of (voluntary) standard setting initiatives may have an important effect on the overall results for two reasons. In the first place, the governance structure (especially the way the different supply chain and stakeholder interests have been represented) may have a strong influence on the level of the standards themselves (see first bullet point). In the second place, implementing the standard may require coordination and cooperation with several non-business players. The way these players are participating in the initiative may have a strong influence.

In the following text, these three factors will be explored with reference to experiences in existing voluntary standard setting initiatives and the question will be asked what lessons can be learned for the better inclusion of land issues in existing standard setting initiatives or in new initiatives specifically dealing with such issues. The arguments developed in this chapter will be the basis for the last chapter of this article.

The Quality of the Land-Related Criteria

Operational clarity and focus:

Land use criteria are only likely to be implemented effectively if they are operationally clear and focused on the solution of well-defined problems. They should not try to cover all areas of agricultural investment, but focus on a limited set of well-defined land issues.

In most existing standards (for the financial sector and for commodity supply chains), land-use criteria have been formulated on a rather general (and operationally not to clear) level.

Level, Scope and Clarity

From a logical point of view, the implementation of such voluntary standards is not likely to produce better results than the quality of the standards themselves. At least three dimensions can be distinguished:

- the 'level' of the standard (i.e. how demanding is the standard),
A standard on pesticide use may be very strict (as in organic agriculture) or give more freedom (as in certain forms of integrated pest management).
- the scope of the standard
The scope may be narrow (e.g. concentrating on a few pesticide issues) or broad (encompassing all major social and environmental aspects related to a certain crop). Narrowing the scope can result in less implementation problems but may also lower practical relevance.
- the clarity of its formulation (i.e. how easily the standard can be defined in operational terms).
The standards may be stated in rather general terms with considerable room for interpretation (as in certain principles for the rights of indigenous people in the initiatives studied for this article) or they may be very strict and precise, giving exact values on inputs (e.g. allowable quantities of chemical inputs) or outputs (e.g. on water pollution levels) that can be measured on the ground. In some cases, the values prescribed may be very clear, but difficult to test, because of the availability of transparent data, e.g. on land-use and land right issues.

Land Use Criteria in Existing Standards

When we apply these distinctions to the land related criteria in the initiatives considered in this article, the picture does not look too bright. In the financial initiatives studied, there is hardly any inclusion of clear land related criteria with the exception of IFC's Performance Standard in the Equator Principles. For the standards that do include land issues, the following can be concluded.

- Level
the criteria set in the standards are not highly demanding. Basically all standards state that companies have to stick to the law (which they also have to without the standard) with respect to land rights. Moreover the companies have to take into account customary rights and existing conflicts over land issues. The emphasis here is on proper reporting. Between the different standard initiatives, some differences may be observed, the bio-fuel initiatives having a bit more demanding criteria than average. Unfortunately also the leading sustainability reporting standard GRI is weak on land issues.
- Scope
The financial initiatives studied do not contain any reference to land issues apart from the IFC standard in the Equator Principles. Social compliance initiatives (such as SA8000, GSCP, BSCI, etc.) and food supply chain initiatives (such as GlobalGAP) do not refer to any land issues either. Most of the more recent multi-stakeholder commodity initiatives do cover general land rights and indigenous people issues (apart from land issues related to biodiversity loss as a result of land conversion). The food security issue is gradually being added to the criteria for bio-fuel production. It is an element in the RSB Roundtable on Sustainable Biomass. It is mentioned in the 'Cramer Criteria' (as yet without a clear indicator), but it is not yet included in the UK RTFO meta-standard for benchmarking bio-fuel related commodity standards.
- Clarity
The criteria in the standards discussed are mainly procedural (e.g. obligations to perform

certain assessments) and relate to obligations to provide documentations. They generally do not refer to clear and measurable actions by the private sector companies whose transactions are guided by these standards. This is fully understandable since the private sector player cannot do much more than state that he or she has followed the law and gone through the procedures required in a certain legislation. Where the legislation and the institutional setting do not provide a clear framework for defining legal and customary rights of local people, for example, there is not much a private player can do, apart from deciding to refrain from agricultural investments in such a region.

The Business Case for Applying the Criteria

Business case for applying the standard

For the financial sector, there is a strong business case for taking into account criteria on land issues when investing in large scale agriculture as it will contribute to the reduction of investment risks;

The business case for taking into account criteria on land issues is becoming stronger for players in commodity supply chains, at least for players linked to sensitive consumer markets (food, fiber) and to government subsidized bio-fuel markets.

When is there a Business Case?

Why should a private sector player apply voluntary standards at all? Apart from ethical considerations, which may certainly play a role, companies are only willing and capable to apply voluntary standards on environmental and social sustainability issues (including land related issues) if there is a 'business case'.ⁱⁱ

What is actually meant by the 'business case' for ecological improvements or sustainability? It usually means something like 'attractive from a business point of view', 'contributing to business value' or 'economically profitable'. In this article, we use the terminology as defined at the 'Forum for Corporate Sustainability Management' (CSM) of the international business school IMD in a project which was carried out in close co-operation with WWF (Steger ed., 2004) For details, we refer to the professional publications. Here we only summaries what is essential for understanding the approach chosen in this study.

The notion of a 'business case for sustainability' is linked to the concept of 'external effects'. Companies create external effects through their operations or actions. These may be positive or negative. Companies may decide to reduce their negative external effects (e.g. by stricter pollution controls, use of other materials, re-designing products) beyond what is required by law or regulations.

This may involve the use of resources and eventually lead to higher production costs. In a market economy, companies cannot afford to have higher production costs than a competitor who does not reduce its external effects, unless the market is willing to pay for their additional efforts. Efforts into enhancing 'sustainability' are only justified as long as they produce tangible business advantages. Companies cannot contribute to sustainability (beyond some symbolic level of donations of a charitable nature) just for the sake of sustainability.

The relationship between environmental/social performance ('sustainability') and the absolute economic performance of a company can be conceptualized as an inverse U-shape. If a company increases its environmental/social performance beyond the legally required minimum, its economic

performance may at first increase (for many different reasons: more efficient production technologies, better product designs, more favorable costs of capital, availability of qualified personnel, etc.). At a certain level, however, the economic performance will decrease until a point where the company will spend real cash for sustainability. The area above legal compliance level where the economic performance is increasing is called the 'smart zone'. This is where companies can position themselves in their best economic self-interest.

Value Drivers for Sustainability

In many cases, there is a 'smart zone' that enables companies to go beyond legal complianceⁱⁱⁱ. Enhancing environmental and social performance produces economic value at the same time. There are many potential value drivers. Here only some broad categories are mentioned. Specific drivers for agricultural investors and commodity chain chains will be discussed later.

1. Cost savings in the production process, reduction of risks.
2. Quality improvements, better design leading to a better market price and or higher demand.
3. Interest of consumer market in sustainability characteristics (e.g. organic or fair trade food, green electricity), creating new, expanding markets.
4. Contribution to brand and company reputation, protection against reputation risks, less vulnerable to NGO attacks.
5. Positive influence on investors (better scores on investor ratings, etc.), easing access to capital.
6. Better chance of attracting well-educated critical employees.

What the drivers for a specific company are entirely depends on the character of the company and its operations, the position in the supply chain and the wider market and institutional context. A major driver for sustainability in companies is brand and company reputation, but only for companies with strong brands and high visibility, which is a minority. The position of retailers with globally known brand is completely different from the position of an almost anonymous commodity traders.

Is there a Business Case for Applying Existing Commodity Standards?

Before dealing with the question whether there is a business case for applying land related criteria in voluntary standards, the question is asked here, how the business case for applying existing commodity standards looks like. The fact that these standards such as RSPO, RTRS, FSC, BCI, etc. have been developed and that business players actively participated in their development shows that there was at least an expectation that business value would be created. But what is the value creation in practice and does this value justify the costs of conforming to the standard?

A good answer would only be possible on the basis of a systematic economic study of the use of several standards in different industries, which is beyond the scope of this paper. Here only some general trends can be stated. The analysis can be simplified by distinguishing between two different cases: FSC timber and RSPO palm oil.

- In many markets for wood and wood-based products, FSC or equivalent standards belong to minimum requirements. Although FSC certification comes at a cost, the costs are easily earned back in the business. In many markets, it is almost impossible to sell wood or wood-

based products that are not certified. In these markets, certification does not yield a positive premium. Uncertified wood has a negative premium.

- The palm oil market looks quite different. Although huge palm oil areas have been RSPO certified or would easily classify for RSPO certification, only a very small proportion of the potential volume of certified palm oil is being sold as certified palm oil. Almost no company appears to be ready to pay the added costs for sustainability and its certification. Here we see an apparent contradiction. There is a strong support for RSPO from players along the entire supply chain in terms of RSPO membership, but demand for certified palm oil is hardly developing. Apparently there is a business case for being RSPO member, not (yet) for buying RSPO certified palm oil.

Is there a Business Case for Including Land-Issues in Voluntary Standards?

The question now is: can companies, who adhere to stricter principles or standards for land issues than is legally required position themselves in the above mentioned smart zone? What business values will it create? Will it create more value than costs? A general answer is impossible to give as this depends on the position of the different companies. Below, a preliminary answer, based more on plausible hypotheses than hard facts, will be given for two groups of companies: private investors and players in commodity supply chains linked to large scale agricultural investments. The preliminary answers are meant as an input into coming discussions only, in which they should be challenged and improved.

Business Case for Private Investors

A business case for private investors will be given if enough business value can be created by applying criteria on land related issues. A first analysis on the basis of the above-mentioned value drivers:

- cost savings / risk reduction
The main reason for private investors to comply with voluntary standards on land issues when preparing and implementing large scale agricultural investment is risk reduction. To the extent that applying such standards can effectively reduce the risks of investments in agricultural investments, the positive business value can be highly significant. The central question here is whether the standard and its implementation are good enough to provide real protection against real risks. Present financial sector standards do not provide any real protection. Some of the commodity standards (to which also financial players dealing with palm oil, soy, cotton, etc. subscribe) are a bit more specific but it is questionable to what extent they provide real protection. The central issue here is the interplay between private sector and the governments that are crucially important when implementing the standards.
- better quality
not relevant in this context
- new markets
not likely.
- brand and company reputation
This may play a role, especially for large investment companies, but most probably not to the same degree as with brand owners and companies operating on consumer markets.
- access to capital
may be relevant.

- good employees
may be moderately relevant.

Business Case for Companies in Commodity Supply Chain

Land Issues as Opportunities and Risk for Companies in Agricultural Commodity Supply Chains: Examples from the Paper Industry

Access to land, or at least access to the primary commodities from the land, is a basic condition for planning profitable investments in agriculture. There are many options to what ‘access’ means in practice. It may be the acquisition of land titles, leasing land or contract farming arrangements, to mention only a few (see the important work by IIED on different business models, e.g. Cotula & Vermeulen, 2009). As a manager from a large paper company said recently: “We do not care about who owns the land. We do care about the fiber.”^{iv}

The company challenges related to access to land or to commodities from the land are sector, supply chain, region and company specific and cannot be dealt with in any detail here. For the sake of the arguments presented in this paper, some selected experiences from the pulp and paper industry will be presented here.^v

Paper Industry Examples

The international paper industry and their markets are changing rapidly. Not only are the patterns of paper consumption shifting towards new consumers in rapidly developing countries such as China and India. Also the fiber sources are shifting from their traditional base in Northern Europe and North America towards regions in the Southern hemisphere, including Latin America and South East Asia. The Finnish paper industry has to react to an additional challenge. As Russia has been changing its forest and timber export policies in a way that makes Russian timber imports into Finland uneconomically expensive and the Finnish paper industry is structurally dependent on imports (from Russia and the Baltic states), the Finnish paper industry is now closing part of the Finnish production capacity and heavily investing in new capacities for pulp and paper production, both in Latin America and in China. Expansion in Latin America (Brazil, Uruguay, ...) includes planning and constructing state-of-the-art very large pulp mills (up to 1 million tons a year) and securing land to provide these mills with a secure flow of eucalyptus wood. Both greenfield pulp mill construction (e.g. Botnia’s pulp mill in Fray Bentos, Uruguay) and different plantation developments were confronted with a high level of uncertainty, risk and costs. Building and starting up the pulp mill not only created a high level of local and regional conflict. It even led to a conflict between the governments of Uruguay and Argentina, subject to a legal case at the international Court of Justice in The Hague.

The movement of Landless Peoples created head-aches for the Finnish Stora Enso company, for example. Things proved to be much more complicated than in Northern Europe: unclear legal situations, agreements with national governments that could not easily be implemented on the project level and, last but not least, a high level of conflict on land access issues. For Finnish companies, such as Stora Enso or UPM-Kymmene, such conflicts do not only produce operational costs in terms of delays in starting up major forestry and pulp mill operations. They also create important image and reputation problems. International organizations, such as social and environmental NGOs, put the local conflicts in Latin America on the global corporate social responsibility agenda. At this point, the issue becomes an issue further up the supply chain as well. Magazine publishers with critical audiences, such as Axel Springer Berlin, exert pressure on the

Finnish companies to develop effective practices to deal with their critical stakeholders both in the commodity production countries and in the countries where their reader audience is. Northern European investors, still highly important for the Scandinavian and Finnish paper industry, are becoming increasingly worried about the reputation of ‘their’ companies. Land conflicts are certainly an element of these worries.

As a result, paper companies have developed a strong interest in professionally dealing with land related issues and to contain land related conflicts as much as possible. They appear to be learning fast, as can also be seen by quotes from Stora Enso’s recent Annual Report. The key to solving these problems appears to be proper stakeholder involvement and effective communication.

Land issues in South Africa have a quite different background. They are still very much linked to the legacy of apartheid and the resulting conflicts over land ownership rights. Large parts of the plantation land the paper industry is sourcing from is contested. For example, of the 371.000 ha of land owned by the paper company Sappi (Sappi, 2010) in South Africa, still 110.000 ha is under land claims. These land claims evidently present costs and risks to the company, but they are of a different order from the risks the Finnish companies in South America are confronted with. The Finnish are investing in greenfield pulp mill capacities and plantations without much experience in the country. They may bring economic development, but by some they are easily seen to ‘grab the land from the poor’.

AN EXAMPLE FROM THE PAPER INDUSTRY

Plantation Conflict

“On March 4 2008, more than 800 women of the Vía Campesina movement in Brazil invaded the Tarumã Plantation in the state of R o Grande do Sul. The farm’s monoculture of trees are grown on 2,100 hectares belonging to the Swedish-Finnish firm, Stora Enso, the second largest paper company in the world. The women began pulling out the eucalyptus trees in the morning, replacing them with native species in protest against the alarming spread of “green deserts” in the country. State governor Yeda Crusius rushed to defend the interests of the company, sending in a military brigade, which violently fired rubber bullets at those occupying the farm, wounding more than 50, and detaining the majority of those present by enclosing them in sports stadium.

.....

This recent action is only one of many protests carried out by the women of V a Campesina across Brazil marking March 8, World Women’s Day. These protests have taken aim at mono cultivation of trees, sugar cane, against proliferation of transgenic corn, and other activities of multinational agribusinesses.”

NACLA North American Congress on Latin America, website, 18 March 2008, by Silvia Ribeiro

Mediated Solutions

“In Brazil the distribution of land has been a national issue since the 1950s, giving rise to several local movements, among them the Landless Peoples’ Movement (Movimento dos Trabalhadores Rurais Sem Terra or the MST). The MST was established in Brazil in 1984 to address unfair access to land and the need to implement a policy of land reform in a country with the world’s second highest

concentration of land ownership. The MST has criticized our land use and plantation operations. In 2009, the MST invaded and occupied several properties at Veracel, leaving only after lengthy negotiations involving the local government of Bahia. Veracel and the local MST are continuing discussions in Bahia, mediated by the local government, to find common ground for better co-operation. We have found this to be the only successful approach to such issues.”

StoraEnso, “Planting for our Future”, Annual Report 2009.

The Business Case for Applying Land Related Criteria

A business case for companies in commodity supply chains will be given if enough business value can be created by applying criteria on land related issues. A first analysis on the basis of the above-mentioned value drivers:

- cost savings / risk reduction
For retailers and brand owners, the main costs of problems related to land and land conversion arise from damage to brand and company reputation, see below. For producers of agricultural commodities (such as eucalyptus pulp, see the above examples), huge risks and costs (such as the costs of not being able to run processing facilities at planned capacities) may result from supply chain security problems (including supply interruptions) as a result of land related conflicts.
- better quality
not likely
- new markets
It is not likely that there will be new markets for ‘land use friendly’ commodities. It will be an increasingly important requirement, however, in existing commodity standards.
- brand and company reputation
From the experience in supply chains such as the timber/paper, palm oil, soy and cotton chain, it is known that for most companies at the end of the supply chain, the retailers and brand owner, this is the dominant value driver. Companies do not want to be associated with negative issues in the public debate and they are afraid of the harm such issue may do to their (branded) end user products. Land related issues are only one – at the moment not very central – element of commodity standards and for most companies probably not the most important source of reputation risk. With land use conflicts, especially in Africa and South America, becoming more intense and increasingly recognized by the media and civil society, there are clear signs that the land issues, especially issues of land access and food security, will gain in importance and that the private sector will feel a growing need to include them in a more specific and detailed way in voluntary supply chain standards .
- access to capital
After the brand and company reputation issue, access to capital may be the most important value driver to be considered. The Dow Jones Sustainability Index is the leading index for assessing a company’s efforts on sustainability. The sustainability index has proven to be a good measure for the general economic performance of a company, also beyond sustainability issues. This index and similar indexes are guiding investors (including institutional investors, pension funds) in their investment decisions. It is an open question

whether the Dow Jones Sustainability Index and similar indices will include land related criteria in the future. There could be good reasons to do so, as the issue becomes increasingly important for pension funds and similar investors, for investing in sustainable agriculture development, including bio-fuel.

- good employees
may be moderately relevant

Requirements on Governance of Voluntary Standard Setting Initiatives

Governance structure

Apart from general governance requirements for voluntary standard setting and implementation initiatives (such as proper inclusion of knowledge and interests, transparency and accountability), setting and implementing standards on land issues requires the proper inclusion of government on different levels, in addition to the proper inclusion of business interests (financial players, supply chains) and civil society.

In most existing voluntary standard setting and implementation initiatives, government is not well-represented, which results in weak implementation with regard to land issues.

Governance Issues that Influence the Effectiveness of Voluntary Standards

Apart from the factors described above, the quality of the standards themselves and the required business case for applying them voluntarily, the way voluntary standard initiatives are being governed is a major factor that influences their effectiveness. Based on the experience gathered with commodity supply chain standards, including bio-fuel related standards, three factors appear to be of central importance. These three factors relate to the degree of stakeholder inclusiveness:

- inclusion of civil society players (such as social and environmental NGOs),
- inclusion of government and intergovernmental organizations,
- inclusion of independent scientific and technical expertise.

These factors will be explained and discussed below. The question will be asked to what extent these factors influence the level and quality of the standards and their implementation and to what extent they define their acceptance with major stakeholders. Examples from existing commodity initiatives will be used to support the arguments, but it should be noted that these arguments do not necessarily imply that they will be valid in other contexts, such as setting land related criteria for agricultural investments. There is no guarantee that what works in the examples quoted will work elsewhere.

The reader should also be aware that there are no easy 'solutions' for deciding on a governance structure for a voluntary standard setting and implementation initiative. As a rule, there will be trade-offs between the inclusiveness of the initiative (the number of different stakeholders and stakeholder groups on board), the speed of decision making and implementation, the level of the standard, the acceptance in the market and thereby the effects on the ground. On the one hand, there may be extremely slow and rather inflexible initiatives with a high degree of stakeholder

support. On the other hand, there may be very quick business driven and business owned initiatives that appear to be highly effective, but in the end lack sufficient stakeholder support, for example.

Inclusion of Civil Society players

Basically there are two models (and some forms in between) with respect to the inclusion of civil society players, such as environmental and social NGOs.

Business Owned and Business Driven Standards

On the one hand, there is the classical model of business driven and business owned self regulation. This model is much older than the sustainability debate of the last decades. We find such initiatives where there is a clear business interest to define shared standards, in many cases of a technical nature or related to health and safety issues, that ease the functioning of markets. Quality specifications and standards for various commodities (e.g. the specification of cotton grades) are just one example. Supply chain related industry and trade standards on agricultural products and food (such as GlobalGAP) are other examples.

This basically technical model of industry standard setting is increasingly being applied to social and environmental sustainability issues as well. Whereas the basic governance structure of such initiatives, as a rule organized as an association of private sector players with board members from the relevant business sector responsible for decision making, gives decision power to business members only, the initiatives increasingly set up stakeholder advisory groups, in which the relevant social and environmental NGOs are represented, for allowing two-way communication between the standard initiative and its (critical) environment. Examples are GlobalGAP (on food supply chains), BSCI and GSCP (both on social compliance).

In the forestry and timber sector, PEFC, the Pan European Forestry Certification system, was set up as an alternative to the earlier FSC, mainly as a result of the European forest owners' resistance against the dominance of environmental NGOs in FSC. PEFC created a system, which in some respects appears to be more acceptable to especially smaller forest owners. As it did not have the same strong multi-stakeholder basis as FSC, it was not attractive to many retailers and brand owners producing for end-consumers. As a result, PEFC's success was limited to the "B2B" market and PEFC was hardly accepted in the "B2C" market. Finnish producers, for example, lost important part of their business to the UK DIY market, as a result of the Finnish decision to go for PEFC (See De Man, 2005).

Multi-Stakeholder Standard Initiatives

On the other hand, there are the more recent multi-stakeholder initiatives, mainly on environmental and social sustainability issues. The environmental debate of the end of the last century, especially after 'Rio' and during the years between 'Rio' and 'Johannesburg' has led to a rapid growth of different types of private and public-private partnerships, in which the role of the private sector and civil society organizations in implementing sustainability goals was increasingly emphasized.

FSC – the Mother of Multi-Stakeholder Commodity Initiatives

In that political and social climate of the early 1990s, the Forest Stewardship Council (FSC) was set up as the first major voluntary sustainability commodity standard initiative. In a way, it can be regarded to be the mother of all subsequent multi-stakeholder sustainability initiatives for forestry and agriculture based commodities, not only with respect to the criteria in the standard, the inclusion of supply chain issues and certification issues, but also with respect to the inclusion of stakeholders in

their governance structures (see Cashore et al., 2004). In the first place, the initiative to set up FSC came from civil society, with WWF playing a major role.

It was not a classical business driven initiative. This is visible in its governance structure, which strongly emphasizes the equal representation, not only of different interests, but also of the South versus the North. FSC's basic governance structure is based on three different 'chambers': (1) social and indigenous organization, (2) environmental organizations and (3) economic interests, with Northern and Southern 'sub-chambers' with equal voting rights. Undoubtedly, FSC's governance structure has led to complexities in decision making, but it has strongly contributed to FSC's legitimacy and its acceptance, not only by civil society but also by business. Business players expect such a standard to provide at least a shield against criticism in the press and NGO campaigns. This shield is best provided by a standard that is strongly endorsed by civil society.

Although private sector companies generally welcome standard diversity and therefore will not choose for one standard only, they do have a strong preference for multi-stakeholder initiatives. The Ikea company, for example, has formulated their own criteria for wood sourcing, which can be used as a meta-standard for judging existing standards. Based on these criteria, which include requirements on stakeholder inclusion, Ikea prefers FSC certified wood over PEFC certified wood for example.

The RSPO Family of Multi-Stakeholder Standard Initiatives

Also the Roundtable on Sustainable Palm Oil was initiated by the Worldwide Fund for Nature (WWF). When the initiative was set up, one idea was to copy FSC's governance structure. Competing ideas were to set it up more as a classical business initiative. RSPO was then set up by a group of private sector players from the palm oil and food industry in cooperation with WWF^{vi}. The resulting governance model was less complex than the FSC model. Nevertheless it was set up as a multi-stakeholder initiative rather than as a business initiative. RSPO has members in different member segments: oil palm growers, palm oil processors, consumer goods manufacturers, retailers, banks/investors, environmental NGOs and social NGOs. In RSPO's board, the seats are allocated to these different segments.

RSPO's governance structure has been copied, with adaptations and modifications where necessary, to similar initiatives (in which WWF usually plays an important role) on soy, sugar cane and cotton.

As in all multi-stakeholder initiatives that cooperate with business, there is a tension between the civil society players who are member of the initiative and, as a result, become parties in all sorts of negotiation and compromise and players who position themselves at critical distance to the initiative. In the case of RSPO (palm oil), moderate and cooperative NGOs such as WWF and Oxfam decided to become part of the initiative and play their role in the RSPO board. Other organizations, such as Greenpeace and Friends of the Earth decided either to be critical outsider (Greenpeace, actively protesting against RSPO) or to play a double role (Friends of the Earth: promoting the RSPO standard as a minimum standard, criticizing RSPO for low standards and insufficient implementation).

Another important tension is between respected international NGOs, who are increasingly in the board seats of multi-stakeholder standard organizations, and local or regional NGOs who are representing grass-root interests in production countries. When, for example, in 2005, the Roundtable on Responsible Soy (RTRS) was constituted during a meeting in Foz de Iguazú, Brazil, local

NGOs were protesting against the initiative and against the international NGOs who were in the meeting room. According to a recent publication of the 'Corporate Europe Observatory', "in 2006, protesters surrounded the RTRS conference held in Asunción. Nearly all Paraguayan NGOs and urban and rural movements have signed a declaration opposing 'responsible' soy." According to the same publication: "There is widespread international rejection of the RTRS process, which is about to determine a set of criteria at its 4th conference 26-28 May 2009. The reality of 'responsible' soy in Paraguay illustrates the criticism against the RTRS: it supports rather than stops soy expansion; GM RoundupReady soy will be labeled 'responsible' while causing major damage; the overall set of criteria is very weak."

As a result of the tensions between the moderate and cooperative global NGOs on the one hand and the more radical NGOs and the grassroots NGOs on the other hand, conforming to these commodity standards does not protect companies against the risks of well-targeted NGO attacks. When the first RSPO certified palm oil came available, Greenpeace did not only campaign against the first palm oil tanker transport from Indonesia, they also targeted Unilever's top brand 'Dove' as a symbol of primary forest destruction. Being founder, member and chair of RSPO did not sufficiently protect the 'Dove' brand. Unilever had to make concessions. In response to the campaign, Unilever joined several other companies in calling for a moratorium on Indonesian deforestation, signaling that it did not consider the current forest conversion and greenhouse gas criteria to be sufficiently strong enough (see also Nikoloyuk et al. 2010).

Governance of the Roundtable on Sustainable Biomass

Most voluntary commodity initiatives have chosen a somewhat simpler governance model than FSC, see the text on the RSPO family of initiatives above. However, the Roundtable on Sustainable Biomass appears to have chosen for a chamber structure that looks even more complex than FSC.^{vii} Interestingly, there are distinctive chambers for environmental NGOs, Right-based NGOs and community-based civil society organizations. The addition of the third category might avoid the sort of problems that are seen in RTRS because of insufficient representation of local grassroots. It is only logical that the climate change issue is clearly represented in BSB's governance. The importance of government and intergovernmental organizations is shown by the inclusion of the last chamber. The inclusion of government will be discussed below.

How Important is Civil Society Inclusion?

Applying voluntary standards is only attractive to private sector players as long as there is a demonstrable link with the creation or protection of business value. The most important value driver for companies at the end of commodity supply chains (retailers and brand owners) is protection of company reputation and brands. As the main attacks on reputation and brands is potentially coming from civil society, civil society inclusion is crucially important for all companies who are in direct or indirect contact with consumer markets. With equivalent standards, companies tend to choose for the standard with the best stakeholder inclusion. The PEFC forestry and timber standard may be (nearly) as good for the forest as the FSC standard, but it is, because of its inferior participation of civil society stakeholders, not an option for any company that wants to protect its business.

Just including some major cooperative social and environmental NGOs is not enough, however, as companies in the palm oil and soy chains are gradually discovering. Having RSPO palm oil or RTRS soy does not stop the company's problems and conflicts with more radical or local grassroots NGOs.

There is no easy solution to this problem: including more demanding NGOs (if they agree to be included at all) will most probably mean tougher standards and smaller markets and, as a result, not necessarily a better net contribution to sustainability on the ground. Any standard setting initiative has to find the right balance between stakeholder inclusion and the need for workable standards that are accepted in the market. One lesson learned from RSPO and RTRS is that there is a need for solving or at least containing the conflicts between global NGOs and local or regional civil society. BSB's governance model could provide first ideas for the direction to go.

The downside of extensive civil society inclusion is the resulting complexity, sometimes with the result that decision making becomes slow and difficult. Therefore the best way of including civil society is also dependent on the time scales available. For this reason, stakeholder involvement has been deliberately limited in a number of business-driven initiatives. The business social compliance initiative (BSCI), for example, was set up as a business initiative and not as a multi-stakeholder initiative. The main reason was that the member companies needed an effective system for complying with ILO conventions in the supply chain at controllable costs. Multiple stakeholder involvement would have taken too much time and would have created risks of complicated and costly control systems. However, BSCI could only do this by referring to an existing multi-stakeholder based standard, SA8000, which gave the member companies a reasonable protection against NGO campaigns. Interestingly, BSCI has grown so rapidly and has become so visible (and vulnerable) that many members today feel that the business initiative has to be changed into a multi-stakeholder organization. Similarly, the German based initiative 'Cotton Made in Africa', an initiative that aims at developing a new model as an alternative for traditional development aid to cotton farmers in Africa, decided to be a pure business initiative. This has indeed allowed the initiative to develop remarkably fast, on the basis of a number of simple sustainability criteria and a common sense business model, and thus demonstrating the possibility of the new model on the basis of concrete outcomes^{viii}. However, there may be a need for future stakeholder involvement in order to gain more acceptance not only from civil society, but also from governments.

Inclusion of Government and Intergovernmental Organizations

The Absence of Government

In the majority of the voluntary standard setting initiatives discussed above, government is absent. This is both the strength and the weakness of such initiatives. In many cases, these initiatives create a form of voluntary self-regulations in fields where governments are still relatively weak as a result of the absence of legal frameworks and policies or as a result of weak implementation. Standards may contain criteria that are well above legal standards in producing countries but that are required by markets and critical stakeholders. There are no laws by which purchasing of legally produced and legally exported palm oil from South East Asia can be forbidden. Consumers, however, may require palm oil with more guarantees than the local laws and their implementation can provide. Taking the palm oil supply chain and the RSPO standard as an example, the consumers and civil society organizations have formulated environmental and social requirements in mainly two areas: plantation management and development of new plantations.

The first area is the prime responsibility of the plantation company and may include environmental criteria on set-aside areas, management of wildlife near and in the plantation, prevention of erosion, limiting fire risks, etc. and social criteria on worker or small-holder rights, labor safety, etc.

The second area contains environmental and social criteria for developing new plantations. The environmental criteria are about the protection of primary rain forests or ‘high conservation forest areas’ into plantations. The social criteria are about taking into account legal or customary rights in the area and similar issues that are all related to converting the land from its original use into the use as a plantation area.

The first area contains criteria that are directly related to management, which is the plantation company’s responsibility. Private sector standards and related certification systems can be appropriate and are not very different from standard and certification systems in other areas such as quality control or food safety.

Governance Problems with Applying Land Criteria

The second area of criteria, however, is not so much about management but much more about rights, specifically about the rights to use land or to change land use patterns, when converting forest land or traditional farm land into plantations. In an ideal situation, the rights to use or to convert land have been regulated by the national government and its administrative bodies on different levels. Once a company has the right land titles, it should be free to use this land according to its wishes, as long as it does not violate any laws or regulations related to that land. Apart from requiring that the company has the legal titles for using a particular piece of land for a plantation, voluntary standards can ask more than that. They can, for example, as RSPO and similar initiatives do, require that this land was not converted from virgin rain forest into plantation land after a certain date, that the land does not contain certain highly important biodiversity components, or that converting the land will not create a highly negative CO₂ balance, for example. Implementing such standards, as a rule, requires active participation of national and regional governments, since they bear prime responsibility for land issues and since they have – or at least should have – the administrative systems and data needed for effective management of land issues.

The absence of government as stakeholders in these commodity initiatives – which in the first place may have speeded up the standard setting process: RSPO needed less than four years to define the RSPO principles and criteria – may become a barrier in effectively implementing land-related criteria, such as main criteria on biodiversity and land rights. As has been mentioned above, the Roundtable on Sustainable Biomass appears to recognize this problem and has included a ‘chamber’ for governments in its governance structure.

Inclusion of Independent Scientific and Technical Expertise

Multi-stakeholder initiatives for setting and implementing environmental and social sustainability standards can be seen as mechanisms for settling, or in other cases preventing, conflicts between private sector players and civil society groups that defend environmental and social interests that may be threatened by the activities of the private sector. The results are negotiated settlements, in which the social and environmental damage is reduced to acceptable levels and in which the private sector can secure the continuity its operations. In exchange for setting aside nature protection areas, not going into valuable forest areas, respecting the rights of indigenous people and smallholders, the industry can continue to expand their production of cotton, soy, palm oil or eucalyptus pulp. As a result, the dominant logic of multi-stakeholder standard initiatives has become negotiation, often of a rather tactical and implicit nature. In such a context, open dialogue and exchange of information on key strategic issues may become difficult.

During setting up the Roundtable on Sustainable Palm Oil, one such issue was (and it is still today) the question to what extent palm oil expansion in South East Asia is responsible for deforestation. Figures presented by the food industry during the starting phase of RSPO provided strong evidence that the direct contribution of palm oil was, although still relevant, many times less than as brought forward by the environmental NGOs. Because of the huge interests involved – both the interests of the environmental organization and the interests of the oil palm plantations – an open discussion in the context of the Roundtable has proven politically impossible until today. This example – and other examples from similar initiatives – point at an important governance weakness of this type of multi-stakeholder voluntary standard initiatives. They are interest-based to the extent that independent and critical scientific and technical knowledge can play hardly any role other than supporting existing positions. Realities are being negotiated and facts are being defined in political rather than technical and scientific processes. In the end, this makes such initiatives vulnerable to making decisions on the basis of weak factual evidence and to avoiding difficult discussions on important issues.

Requirements for Land Related Standards

From the examples of commodity related voluntary standard initiatives reviewed in the above paragraphs, different lessons may be learned.

In the first place, there are lessons to be learned about general requirements on their governance structures. The examples show the importance of the multi-stakeholder character of the initiatives, without which the standards would generally not protect private business against a range of business risks. They also show the relevance of including a sufficiently broad range of civil society stakeholders and to find ways for including scientific and technical advice that is not immediately controlled by the stakeholders.

In the second place, there are lessons to be learned about how suitable their governance structures are for specifically dealing with land issues. The examples show that most initiatives are still weak on land issues, for the simple reason that governments are not included in their governance structures, whereas without government involvement such issues cannot be solved. There is no evidence yet on how successful attempts at including governments and intergovernmental organizations, for example in the Roundtable on Sustainable Biofuels, really are. Maybe the dominant governance model developed in the commodity supply chain is just not what is needed for dealing with land issues, and considerably different structures should be developed. Alternative models could imply a much stronger role for governments. An inspiring example could be EITI, the Extractive Industry Transparency Initiative (see EITI, 2009).

Inspiration from the Extractive Industry Transparency Initiative

The EITI is an initiative with the objective of making financial transactions between (mining) companies and governments transparent. It does this on the basis of six principles:

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's governance structure could be highly relevant for (future) initiatives on land issues and agriculture as well, since, contrary to the agricultural commodity initiatives discussed in this paper, it includes governments as members. In EITI, the following stakeholders take part: Implementing and supporting countries (governments), Companies and investors, Civil society organizations. This is only logical since the initiatives is about making financial transactions between companies and governments transparent, with a watchdog role to play for the civil society.

Similarly, land acquisitions by the private sector (long term leases, etc.) are transactions between governments and the private sector. A governance model with a similar structure as EITI could solve the problem that governments are not well represented in present commodity initiatives, which makes the initiatives weak on land issues.

The Development of Voluntary Standards

Typical development

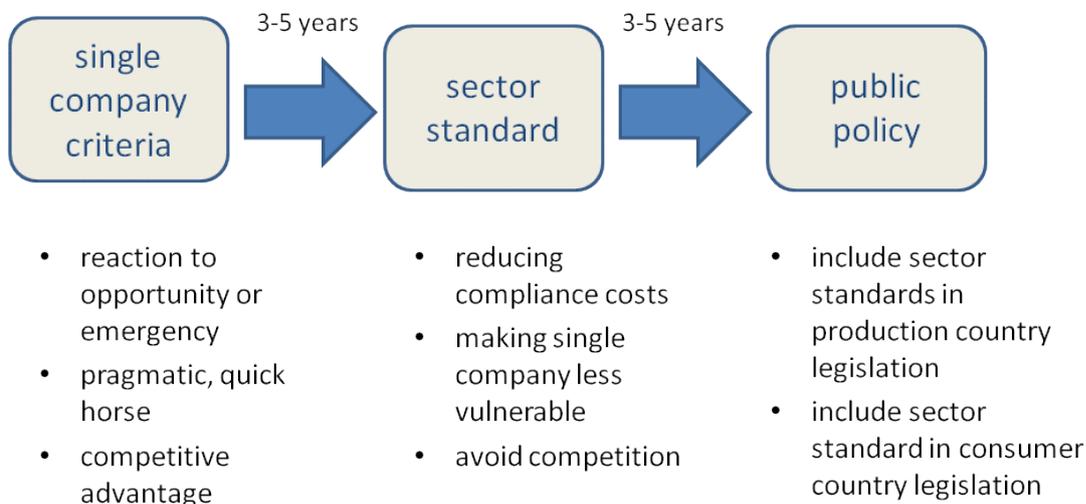
In many cases, a typical development from single (competitive) company initiatives towards non-competitive voluntary industry or supply chain initiatives can be observed.

Often voluntary industry or supply chain initiatives are not the alternative to government regulation but create inputs into national or international public sector policies and regulation.

A Typical Development Scenario

As a rule, the voluntary standards for sustainability, including land issues, discussed in this paper, have been developed at the (international) industry level or at the industry supply chain level, including several industries along a supply chain. These standards for industry self-regulation are sometimes regarded as alternatives to government policy and regulation. Although this was a popular rhetoric during the development of the 'post-Rio' Johannesburg partnerships (see for example Glasbergen et al., 2007) and is still being used by private sector companies and their associations, this is a strong simplification and distortion of the factual relationships between company behavior, voluntary sector or supply chain standards and public policies on different levels.

A Typical Development over Time



In some cases, these voluntary standards may indeed constitute an alternative for public regulation, in case public institutions either do not have the resources or do not have the freedom to regulate, for example because of limitations in international trade agreements. In other cases, the voluntary standards are, at best, a temporary solution until appropriate public regulation is in place. Voluntary industry standards, including those that have been defined in multi-stakeholder initiatives, may create pressure on, or inputs into, the formulation of public standards.

In many cases, the development of private and public (sustainability) standards follow a three step process.

- single company criteria
In the first step, individual companies or coalitions between individual companies (for example in a supply chain) create company specific standards and management systems as a response to a new (sustainability) challenge. These early movers may pick the fruits of being the first. They also bear the costs and risks. During the first step, multiple competing company approaches may be developed.
- non-competitive sector standards
In the second step, we may see a consolidation of individual company approaches into harmonized sector standards and compliance systems, moving the issue away from competition towards a non-competitive industry standard.
- inclusion in public policy
There may be a third step, in which the industry standards are integrated into government policy and even become part of government regulation. Below the transitions between the first and the second step (from company to industry initiative) and between the second and third step (from industry initiative to public regulation) will be discussed and illustrated by some real-life examples.

Company and Industry Initiatives

How Pragmatic Company Initiatives set the Agenda for Sector Standard Setting - An Example from the Forestry and Paper Sector^{ix}

The pulp and paper industry has been confronted with ever-changing sustainability issues. During the 1980s the main issues were still the classical air, soil and water pollution problems, including the negative effects of chlorine bleaching. At the end of the 20th century most of these problems had been solved, as a result of strict regulation and systematic environmental management. The dominant issue became sustainable forestry management. Environmental NGOs, such as Greenpeace, stepped up their pressure, not only directly on paper companies, but increasingly also on their customers in the magazine publishing sector. Campaigns, which attracted high media attention, included blocking transport of timber and paper from harbours and preventing magazines to be delivered to the consumer.

Individual magazine publishers developed their individual strategies. In 1993, the German publishing house Axel Springer reacted by designing their first questionnaire on environmentally friendly paper sourcing^x to be answered by all its suppliers. This was about five years before the first FSC certified timber would come onto the market. The Axel Springer company did not wait for the multi-stakeholder processes to agree on their balanced standards, but decided to go for quick and pragmatic criteria based on common sense and a healthy dose of opportunism.

Building upon the success of applying its environmental timber sourcing criteria (which not only contributed to Axel Springer's positive environmental reputation, but also diminished the business risks of NGO attacks and negative media attention), the company developed, from 1998 onwards,

the first integrated supply chain approach to environmentally optimised paper sourcing in a project (“OPTI: Optimisation of the Paper Chain”) with the Norwegian paper company Norske Skog, Norwegian forest owners, WWF and other partners, long before any industry standard for chain-of-custody certification was developed, and before the final version of the Norwegian forestry standard and certification system ‘Levende Skog’. Similarly the company developed cooperation projects with Finnish paper companies on transparent wood sourcing from Russia and took the step to go beyond environmental criteria and to include labor safety and anti-corruption issues, long before these became dominant issues in the sector (see De Man, 2008; Soikkeli, 2008, IACC, 2008). These ‘quick horse projects’, as the company’s sustainability manager uses to call them, have demonstrably created value for the company and its suppliers. When the Finnish company Stora Enso was heavily criticized at the Johannesburg WSSD meeting (2006), its main competitor UPM-Kymmene, its customer Axel Springer and other partners were in the positive spot-lights when, at the same time, they received one of ten International Chamber of Commerce (ICC) rewards for excellent sustainability partnerships. Axel Springer is now preparing similar projects on Southern hemisphere plantation and pulp mill projects in cooperation with business partners and NGOs.

Axel Springer started to address several issues (sustainable forest management, chain-of-custody certification, labor issues in the forest, anti-corruption, land issues in plantations) before they were part of any industry-wide and multi-stakeholder based initiative such as FSC. Over time, these issues are gradually becoming part of the industry main-stream and are being incorporated into the relevant standards. Single company initiatives are important to set agendas and to speed up standard setting processes. In the forestry sector, Ikea is another company that is continuously creating pressure on industry-wide initiatives by being many steps ahead of the average suppliers, often in close cooperation with leading NGOs such as WWF.

Company initiatives are often preceding sector initiatives. Examples from the forestry and paper sector show how companies such as Ikea (Sweden) and Axel Springer (Germany, see text box above) have been ahead of the developments in the sector and have thus contributed to setting the agenda for future sector standard setting. Company initiatives can be based on simplified and pragmatic standards and do not need long negotiations in difficult multi-stakeholder settings. They can try out solutions before there is general agreement on them. In other words, single company initiatives are superior to sector initiatives with regard to speed and innovation potential. They may therefore be an indispensable input into future standard setting processes. Similarly, the Roundtable on Sustainable Palm Oil was preceded by single-company initiatives, the most relevant being Unilever’s sustainability criteria and comparable criteria as set by the Swiss retailer and food producer Migros long before the RSPO was set up. The innovative partnerships on sustainable cotton of the Swiss Coop company in cooperation with the cotton trader and processor Remei were shaped long before anything like a Better Cotton Initiative was even discussed.

How a Single Company System developed into a World standard: An Example from the Textile and Clothing Sector

Somewhat later than the discussion on environmental standards, the discussion on social requirement in the textile supply chain started. Child labor and workers rights issues created huge risks to retailers and brand owners. From 1989 onwards, the international Clean Clothes Campaign, in which labor unions and different rights-based NGOs are cooperating, has been creating public

pressure on the textile supply chain, especially on retailers and brand owner with high reputation and brand risks. Well-known brands, such as Nike, Puma, Adidas and Wal-Mart, were the campaigns prime target. As a response to the public and media pressure on social compliance issues, many companies developed their individual standards and control systems during the early 1990s.

The Otto Group, a leading German mail order company with a substantial turn-over in textiles, despite being the undisputed sector leader on sustainability issues (or maybe because of that), was repeatedly attacked for the social problems in their foreign supply chains. At first, the company developed its own criteria and control systems, as did many other German companies. The company's owner and board chair Michael Otto strongly felt at the time that the issue should not be a single company issue and certainly not an issue for competition. Therefore he took the leadership of creating a German industry-wide standard system in a private-public partnership^{xi} with German government under the responsibility of the German retailers association AVE^{xii}.

The AVE standard combined the work developed by the Otto Group with inputs from other German companies. It succeeded to be recognized as a common sector code that could be implemented step-by-step by individual companies without too high compliance costs. The AVE standard was rapidly accepted by German textile retailers and an increasing interest in applying the AVE standard was developing in other West and North European countries, such as the Netherlands, Sweden and Switzerland. Already in 2002, the system developed in the German partnership was brought to the European level by creating the BSCI initiative (Business Social Compliance Initiative) under the responsibility of the Brussels-based Foreign Trade Association. Since then, BSCI has been growing from a small informal initiative of a handful of companies to an organization of more than 400 members.^{xiii}

From Voluntary Standards to Public Regulation

Voluntary standards, as developed in industry initiatives and multi-stakeholder settings, cannot simply be regarded as alternatives to government regulation. In many ways these standards do influence government policies, can be precursors to government regulation, or even become included in government regulation. Whether this is the case and what the precise relation between private sector voluntary standards and public policy is, depends on the specific context in which the standard setting and implementation process is taking place.

With regard to commodity supply chain standards, at least two government contexts should be distinguished: government in the commodity producing country and government in the country where the commodity or the commodity-based product is consumed.

No doubt the application of commodity standards, such as the palm oil, soy, sugar cane and other commodity standards discussed above, can have (and often has) an influence on legislation and its implementation in producer countries. It would require additional research to find out to what extent the RSPO standard has influenced or is influencing legislation and the quality of its implementation in countries for which palm oil is a major export commodity, but it is plausible that such an influence of RSPO on the policies and legal requirements in Indonesia and Malaysia exists, provided that market volumes for certified commodities are relevant.

The inclusion of standards, which are the result of voluntary industry or multi-stakeholder initiatives in the government policies of consumer countries, is even more prominent and can be shown for

different commodity standards. In other words, 'voluntary' standards are no longer 'voluntary' as governments prescribe these standards as part of their policies. Although there are certainly limits to what governments can do in the context of WTO rules without being accused of creating protectionist trade barriers, governments can set clear requirements, for example with respect to bio-fuels.

In the framework of the European "directive on the promotion of renewable energy" in the transport sector, there is a clear aim to limit the use of bio-fuels to bio-fuels from sustainable sources, with a proven net positive greenhouse gas saving effect and without negative effects on biodiversity and land use (see for example European Commission, 2007). European and national guidelines on the use of bio-fuels (for transport or for electricity production) increasingly refer to standards that were developed in private sector standard setting initiatives. Voluntary standards are no longer voluntary.

The Dutch 'Cramer Criteria', for example, is explicitly referring to both RSPO and FSC with respect to the rights of indigenous people when dealing with land conversion issues (Project Group, 2007). Similarly UK policies on bio-fuels contain sustainability criteria and refer to existing commodity standards. RTFO, the renewable transport fuel obligation, is the UK implementation of the European directive and contains strong requirements on sustainability reporting: there should be a clear proof on net greenhouse gas savings and on the sustainability of the bio-fuel. The sustainability reporting model makes use of existing voluntary agri-environment and social accountability schemes to minimize the cost and administrative burden of compliance. These existing standards have been benchmarked against an RTFO Sustainable Biofuel Meta-Standard. The meta-standard defines what elements of existing standards may be used to report on sustainability. This creates a direct link between the 'voluntary' commodity standards and the obligatory UK standard on bio-fuels.

How to Develop Effective Land-Related Criteria for Voluntary Industry Standards?

The Envisaged Result

The coming development of 'land criteria' and their inclusion in voluntary standards

An operationally clear and focused set of criteria should be developed, solution oriented, based on clear priorities and bringing together criteria from existing standards.

A governance structure for the definition and implementation of these criteria should be set up, taking into account the need for active participation of governments.

Existing sector specific initiatives for the financial sector and for commodity supply chains should use this set of land issues related criteria when updating their standards.

Starting from a Private Sector Standard

This chapter starts from the assumption that it might be useful to start an initiative for setting a land related standard to guide the decisions of private sector players, in the first place investors and in the second place companies from other major agriculture related sectors. It is not assumed that this will be a panacea to solving land issues in agricultural investments. It is only assumed that such an initiative can play an important role in creating practical experience and finding solutions for land related investment problems. Private sector players should play a central role in this initiative. The initiative will eventually lead to standards that, similarly to the initiatives that have been discussed above, will be applied in a wider context than private sector decisions alone. The standards should also be seen as inputs into the formulation and implementation of future public policies at all levels.

This chapter summarizes the lessons learned from different sectors. It does this in two ways. First, it includes the general lessons learned from private sector voluntary standard setting initiatives. Second, it takes into account the lessons learned from success and failure of the inclusion of land related criteria in existing standards.

Focused Criteria

To be acceptable to business players, the criteria should be focused. They should not try to encompass every single issue related to investment in large scale agriculture. They should be limited to land related issues and they should focus only on a selection of issues that are high priority today.

The good news is that most ingredients appear to be already present in existing standards, especially in commodity standards, including bio-fuel standards. The criteria as set by FSC, RSPO and similar initiatives are the starting point for general land rights and indigenous people criteria. Food security issues are still generally weak, but a basis can be found in bio-fuels related criteria.

The main work will be to make them more concrete and suitable for operational testing.

Major work is still to be done on criteria for guiding large scale agricultural investments. The voluntary standards and criteria for the financial sector discussed in this article do not include anything that will give sufficient guidance on land issues. Either land criteria have to be included into the standards for the financial world or the standards have to refer to existing commodity standards

for this purpose. Additional opportunities can be found in the inclusion of land related criteria in sustainability reporting (e.g. through GRI) and in financial rating systems.

A Suitable Governance Structure

There is a definite need for multi-stakeholder participation. Just a business-driven initiative will not provide the legitimacy and the protection of business values that is needed. Unfortunately, the governance structures found in business driven and multi-stakeholder commodity standard initiatives does not appear to directly suitable for developing and implementing a land related standard. Generally the lack of government representation or government participation is a problem in dealing with land related issues. Much stronger government involvement is a pre-requisite. The Extractive Industries Transparency Initiative may provide a first inspiration on how such a structure might look like.

Relations with Existing Initiatives

Land issues have been included in many different industry-driven and multi-stakeholder standard initiatives. The number of such initiatives will most probably grow in the near future. There are two problems to this development. First, most initiatives will face the same fundamental problems of including land related issues in basically private sector initiatives for which governments are primarily responsible and for the solution of which cooperation with governments is indispensable. Second, all initiatives are basically working on the same issue and are trying to invent the same wheel.

For those reasons, it can be highly advantageous to have a common 'module' on land issues to which all sorts of initiatives, on different issues and with different constituencies to be served, can refer. This is not an unusual situation. With respect to social compliance initiatives, for example, the common denominator is given by a set of ILO conventions. The 'market leader' of voluntary social compliance standards, SA8000, is referring to these ILO conventions. Other initiatives, such as BSCI or GSCP also refer to these ILO conventions, either directly, or indirectly by referring to SA8000.

It appears to be a good idea, which has to be discussed in more detail, to work on a generic land standard to be used in relation to investments in large scale agricultural projects, to be used by all standard initiatives that see a need for criteria on land issues.

A Proposal for First Steps

The development of such criteria should be started with a selective group of companies. The motivation of single private sector companies, who are willing to take the risks and to pick the fruits of being 'champions' in this field, should be used to create momentum in the development of these 'land criteria'.

It looks promising to make use of the 'natural' development of standard setting initiatives, as explained earlier in this article: from company initiatives to industry standards, which, in a later stage, may be included into different elements of government policy and legislation. This 'natural' development makes optimal use of the commitment, knowledge and energy of motivated companies, and even uses competitive forces between companies to speed up the process.

This means that it is not advisable to start with a consensus process with a large number of companies or sector representatives. It is better to start with a group of companies that already today are actively engaging in solving land related issues and that are motivated to pick the fruits of

being 'champions' in the field. These could be investment companies that have developed special internal criteria and procedures for dealing with land issues, pulp and paper companies that are engaging in new forms of dialogue and conflict settlement when developing eucalyptus plantations or companies active in bio-diesel from *Jatropha* in Africa.

A set of criteria developed in a 'coalition of champions' could be the first step in developing a broader international multi-stakeholder standard initiative on land issues in large scale agricultural investments.

Notes

ⁱ An exception is the Cotton Made in Africa (CmiA) standard, which does not contain a word on land rights.

ⁱⁱ The following text is adapted from : R. de Man, *Promoting Sustainable Cotton from West Africa – potential supply chain strategies*, Report to UNEP and FAO in the framework of

‘Expanding the Environmental Benefits and Volume of Sustainable Cotton Production in West Africa: a Market-Based Approach’, Leiden/Paris, 2006.

ⁱⁱⁱ Or: to decide to comply with existing laws in situations of weak or virtually non-existing law enforcement. In such a case, private sector ‘voluntary’ standards that require to report on effective law enforcement can make a real contribution.

^{iv} Anonymous quote from the author’s consultant practice.

^v Based on the author’s experience in working with publishers and paper companies.

^{vi} The author played an important role in designing and setting up this initiative between 2002 and 2004. He was also responsible for organising the first RSPO Roundtable in Kuala Lumpur, 2003.

^{vii} Chambers:

1. Farmers and growers of biofuel feedstocks
2. Industrial biofuel producers
3. Retailers/blenders & the transportation industry
4. Banks/investors
5. Rights-based NGOs (including land, water, human, and labour rights)
6. Rural development and food security organisations
7. Environment and conservation organisations
8. Climate change and policy organisations
9. Trade unions
10. Smallholder farmer organizations and indigenous peoples’ organisations/community-based civil society organizations
11. Intergovernmental organisations (IGOs), governments, standard-setters, specialist advisory agencies, certification agencies, and consultant experts.

^{viii} The author has been involved as a consultant in the early phase of this project.

^{ix} See also De Man & Burns, 2006.

^x Publication paper and the Environment: Questions to Paper Suppliers asked by AxelSpringer, Hamburg 1993.

^{xi} The Public Private Partnership run between 2002 and 2006. Partners were the German Development Cooperation Ministry BMZ and its agency GTZ (public) and AVE (private).

^{xii} AVE = Außenhandelsvereinigung des deutschen Einzelhandels.

^{xiii} In 2009 and 2010, the author worked as a consultant to BSCI.

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About the author

Dr Reinier de Man (1948) was trained in chemistry and has a PhD in social science. After working as a researcher at several Dutch universities, he started his career as an international consultant for sustainable business development, since 1989 in his own consulting company (based in Leiden, the Netherlands). He is specialized in organizing sustainable commodity supply chains, especially for agricultural commodities such as timber, palm oil, soy and cotton. He has a long experience creating transparent and sustainable supply chains for forestry projects and paper, mainly for publishers and large paper companies. He developed similar projects on sustainable cotton from Africa. For WWF, Unilever and partners, he designed and set up the Roundtable on Sustainable Palm Oil (RSPO). More recently, he set up the Roundtable on the Sustainable Production and Use of Platinum Group Metals. He regularly works as a facilitator for international meetings on climate change and biodiversity issues.

Annex 1: A Review of Selected Voluntary Standard Initiatives

Financial Sector Related Initiatives

Global Compact

Initiative	Global Compact http://www.unglobalcompact.org	Type of Initiative	multi-stakeholder
Members	company Chief Executive Officers (or equivalent), and supported by the highest-level Governance body of their organization..	Start date	
Other stakeholders	civil society, labor and the United Nations	Mission / objectives	<ul style="list-style-type: none"> • Mainstream the ten principles in business activities around the world • Catalyze actions in support of broader UN goals, including the Millennium Development Goals (MDGs)
Short description	The UN Global Compact is a strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labor, environment and anti-corruption.		
Relevant governance info	The Global Compact Board is a multi-stakeholder advisory body that meets annually (first meeting in June 2006) to provide ongoing strategic and policy advice for the initiative as a whole and make recommendations to the Global Compact Office, participants and other stakeholders. The Board is comprised of four constituency groups - business, civil society, labor and the United Nations – with differentiated roles and responsibilities apart from their overall advisory function. While the Board as a whole holds an annual formal meeting, the constituency groups are expected to interact with the Global Compact Office on an ongoing basis.		
Land related criteria	None of the 10 Global Compact Principles is specifically referring to land issues.		

Equator Principles

Initiative	Equator Principles http://www.equator-principles.com/	Type of Initiative	Financial sector initiative in cooperation with IFC
Members	Signatories (banks)	Start date	2003
Other stakeholders	none	Mission / objectives	“to ensure that the projects we finance are developed in a manner that is socially responsible and reflect sound environmental management practices.”
Relevant governance info	EP Financial Institutions Chair, Steering Committee, Several Working Groups.		

Land related criteria	<p>The Equator Principles refer to IFC's Performance Standard 5: Land Acquisition and Involuntary Resettlement</p> <p>Objectives of IFC Performance Standard 5</p> <ul style="list-style-type: none"> - To avoid or at least minimize involuntary resettlement wherever feasible by exploring alternative project designs - To mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of land by: (i) providing compensation for loss of assets at replacement cost; and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected - To improve or at least restore the livelihoods and standards of living of displaced persons - To improve living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites <p>For details → IFC documents</p>
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Principles for Responsible Investment (PRI)

Initiative	PRI http://www.unpri.org/	Type of Initiative	Financial sector initiative
Members	signatories: asset owners, investment managers, professional service partners	Start date	2005
Other stakeholders	none	Mission / objectives	Incorporate Environmental, Social and Corporate Governance (ESG) issues into investment practice.
Short description	In early 2005 the United Nations Secretary-General invited a group of the world's largest institutional investors to join a process to develop the Principles for Responsible Investment (PRI). Individuals representing 20 institutional investors from 12 countries agreed to participate in the Investor Group. The Group accepted ownership of the Principles, and had the freedom to develop them as they saw fit.		
Relevant governance info	The PRI initiative is governed by an elected Board of 11 representatives from asset owner signatory organizations and two representatives from the United Nations. The Secretariat reports to the PRI Board.		
Land related criteria	The Principles are on a general level ("on the incorporation of ESG Issues"). No specific attention to land issues.		

UNEP Finance Initiative

Initiative	UNEP Finance http://www.unepfi.org/	Type of Initiative	partnership between the United Nations Environment Programme (UNEP) and the global financial sector.
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Members	“Our Members are financial institutions from the global banking, insurance and investment sectors and work together via several sectorial, thematic and regional groups, seeking to understand and address the most current and important sustainable finance issues.”	Start date	1992
Other stakeholders		Mission / objectives	to identify, promote, and realise the adoption of best environmental and sustainability practice at all levels of financial institution operations.
Relevant governance info	<p>The UNEP Finance Initiative is a Unit within the United Nations Environment Programme’s (UNEP) Economics and Trade Branch (ETB), based in Geneva, Switzerland, itself a Branch of one of UNEP’s eight core divisions, the Division of Technology, Industry and Economics (DTIE).</p> <p>Being a global partnership between UNEP and the financial sector, UNEP FI’s Work Programme is determined by a Steering Committee comprised of both Member institutions and UNEP representatives, while broader strategic decisions are made in the context of the Initiative’s Annual General Meeting.</p>		
Land related criteria	General commitment to sustainable development. No principles/criteria on land issues.		

Dow Jones Sustainability Index

Initiative	Dow Jones Sustainability Index http://www.sustainability-index.com	Type of Initiative	N.B. this is not a business or multi-stakeholder initiative, but a financial service to investors
Members	not a member organization	Start date	1999
Other stakeholders	not a stakeholder organization	Mission / objectives	
Short description	The Dow Jones Sustainability World Index (DJSI World) provides investors with an index for global sustainability portfolios. It consists of around 300 companies – the leading 10% in terms of sustainability from the 2500 companies listed on the Dow Jones Global Index. The DJSI rating takes into consideration the economic, environmental and social dimensions of a particular company in general or of an industry, by utilising sources such as company questionnaires, company documentation, media and stakeholders and direct contact with companies		
Relevant governance info			
Land related criteria	The Index consists of three dimensions: economic, environment, social. The social criteria contain the usual clauses on labor practice, etc., but there are no specific criteria on land issues.		

Commodity Supply Chain Related Initiatives

Forest Stewardship Council (FSC)

Initiative	Forest Stewardship Council http://www.fsc.org/	Type of Initiative	multi-stakeholder initiative
Members	Three member groups, see below.	Start date	1993
Other stakeholders		Mission / objectives	FSC brings people together to promote responsible forest management and to find solutions to the problems created by bad forestry practices. FSC does so in providing standard setting, trademark assurance and accreditation services and market access for companies and organizations interested in responsible forestry.
Relevant governance info	<p>Board of Directors elected by members.</p> <p>Members represented by three Chambers in General Assembly with equal voting rights:</p> <ol style="list-style-type: none"> 1. Social & indigenous organizations 2. Environmental organizations 3. Economic interests <p>Northern and Southern sub-chambers (50%-50%)</p>		

Land related criteria	<p>2 Principle #2: Tenure and use rights and responsibilities</p> <p>Long-term tenure and use rights to the land and forest resources shall be clearly defined, documented and legally established.</p> <p>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.</p> <p>2.2 Local communities with legal or customary tenure or use rights shall maintain control, to the extent necessary to protect their rights or resources, over forest operations unless they delegate control with free and informed consent to other agencies.</p> <p>2.3 Appropriate mechanisms shall be employed to resolve disputes over tenure claims and use rights. The circumstances and status of any outstanding disputes will be explicitly considered in the certification evaluation. Disputes of substantial magnitude involving a significant number of interests will normally disqualify an operation from being certified.</p> <p>Principle #3: Indigenous peoples' rights</p> <p>The legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources shall be recognized and respected.</p> <p>3.1 Indigenous peoples shall control forest management on their lands and territories unless they delegate control with free and informed consent to other agencies.</p> <p>3.2 Forest management shall not threaten or diminish, either directly or indirectly, the resources or tenure rights of indigenous peoples.</p> <p>3.3 Sites of special cultural, ecological, economic or religious significance to indigenous peoples shall be clearly identified in cooperation with such peoples, and recognized and protected by forest managers.</p> <p>3.4 Indigenous peoples shall be compensated for the application of their traditional knowledge regarding the use of forest species or management systems in forest operations. This compensation shall be formally agreed upon with their free and informed consent before forest operations commence.</p>
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Roundtable on Sustainable Palm Oil (RSPO)

Initiative	RSPO http://rspo.org/	Type of Initiative	multi-stakeholder initiative
Members	members are member in specific segment: Oil Palm Growers, Palm Oil processors, consumer goods manufacturers, retailers, banks/investors, environmental NGOs, social NGOs	Start date	2004

Other stakeholders	associate members	Mission / objectives	To advance the production, procurement and use of sustainable oil palm products through: <ul style="list-style-type: none"> the development, implementation and verification of credible global standards and, the engagement of stakeholders along the supply chain
Relevant governance info	Executive Board: 16 members (Oil Palm Growers 1 Malaysia, 1 Indonesia, 1 smallholder, 1 rest of the world), 2 cons. goods man., 2 retailers, 2 bank/inv., 2 env. NGO, 2 soc. NGO)		
Land related criteria	<p>Criterion 2.2 The right to use the land can be demonstrated, and is not legitimately contested by local communities with demonstrable rights.</p> <p>Criterion 2.3 Use of the land for oil palm does not diminish the legal rights, or customary rights, of other users, without their free, prior and informed consent.</p> <p>N.B. conforms to RTFO Benchmark 7 on Land Rights and Community Relations</p>		

Roundtable on Responsible Soy

Initiative	Roundtable on Responsible Soy	Type of Initiative	multi-stakeholder
Members	three constituencies: Producers, Industry/Trade/Finance, Civil Society Organisations	Start date	2006

Other stakeholders		Mission / objectives	Encourage current and future soybean is produced in a responsible manner to reduce social and environmental impacts while maintaining or improving the economic status for the producer. Through: <ul style="list-style-type: none"> • The development, implementation and verification of a global standard • The commitment of the stakeholders involved in the value chain of soybean
Relevant governance info	Swiss Association. Simple structure: members = General Assembly (three groups, see above), Executive Board with 5 seats per constituency. Structure appears to be a copy of RSPO.		
Land related criteria	<p>1.2 Legal use rights to the land are clearly defined and demonstrable.</p> <p>1.2.1 There is documented evidence of rights to use the land (e.g. ownership document, rental agreement, court order etc).</p> <p>3.2 In areas with traditional land users, conflicting land uses are avoided or resolved.</p> <p>3.2.1 In the case of disputed use rights, a comprehensive, participatory and documented community rights assessment is carried out.</p> <p>3.2.2 Where rights have been relinquished by traditional land users there is documented evidence that the affected communities are compensated subject to their free, prior, informed and documented consent.</p> <p>4.4 Conservation and compensation of native vegetation</p> <p>4.4.1 Expansion for soy cultivation during field test period may not take place on land cleared of native habitat after May 2009. Exception: Producers who want or plan to clear native habitat after the cut-off date of May 2009 must produce scientific evidence from a comprehensive and professional third-party assessment of the area concerned that identifies the absence of:</p> <ul style="list-style-type: none"> o all primary forest o other High Conservation Value Areas (HCVAs) o local peoples' lands <p>Payment for Environmental Services will be explored during field test period beginning after the cut-off date of May 2009.</p>		

Better Cotton Initiative (BCI)

Initiative	BCI http://www.bettercotton.org	Type of Initiative	multi-stakeholder initiative
Members	membership segments: civil society, producers, retailers & brands, suppliers & manufacturers	Start date	2005
Other	associate members	Mission /	'The Better Cotton Initiative

stakeholders		objectives	(BCI) exists to make global cotton production better for the people who produce it, better for the environment it grows in and better for the sector's future.'
Relevant governance info	"The BCI operates as a not-for-profit membership association and is open to any organization involved in, or with an interest in, the cotton supply chain, and that supports the BCI's mission. This includes producer organizations, suppliers and manufacturers, retailers and brands, and civil society. Participation from all sections of the supply chain in the BCI is essential to ensure that the Better Cotton produced by farmers is linked to the market and that growing demand for Better Cotton can be met."		
Land related criteria	4.2 The use and conversion of land to grow cotton conforms with national legislation related to agricultural land use.		

Cotton Made in Africa (CmiA)

Initiative	Cotton Made in Africa http://www.cotton-made-in-africa.com	Type of Initiative	Business Initiative Project of 'Aid by Trade Foundation'
Members	not a membership organization	Start date	2005
Other stakeholders	partners: private sector companies, NGOs, government organizations → governance.	Mission / objectives	"The purpose of the Aid by Trade Foundation is to promote environmental protection and to improve social conditions in Africa. An improvement in development cooperation in Africa is also to be achieved by support of regional, sustainable growing of agricultural and forestry products, and their processing."
Relevant governance info	"Cotton made in Africa project is maintained by the Aid by Trade Foundation. The Foundation was founded in 2005 by Dr. Michael Otto. As institutional partners, well-known enterprises, associations and state bodies are involved and represented on its board of trustees."		
Land related criteria	not explicitly mentioned		

Better Sugarcane Initiative (BSI)

Initiative	Better Sugarcane Initiative	Type of Initiative	multi-stakeholder initiative
Members	members from four segments, see 'governance'	Start date	
Other stakeholders		Mission / objectives	"To ensure that current and new sugarcane production is produced sustainably"

Relevant governance info	In Supervisory Board (12-18 members) at least two members from the following segments: Growers/Producers Processors End users / intermediary Civil Society (social and environment)
Land related criteria	<p>PRINCIPLE 1: Obey the Law</p> <p>1.1 To comply with relevant applicable laws (Relevant national laws and international conventions complied with).</p> <p>1.2 To demonstrate clear title to land in accordance with national practice and law. (The right to use the land can be demonstrated and is not legitimately contested by local communities with demonstrable rights.)</p> <p>Those rights can be related either to legal ownership or lease of the land or to customary rights. Legal ownership shall be the official title in the country (e.g. notary, government agency or other). Guidance for customary rights is provided in ILO conventions 169 and 117.</p> <p>ILO Convention 169 (1989) on Indigenous and Tribal Peoples, Article 13-19: Respect and safeguard rights to lands and natural resources traditionally occupied and used; respect for customs of inheritance; no forced removals; compensation for loss and injury</p> <p>ILO Convention 117 (1962) Social Policy (Basic Aims and Standards), Article 4: Alienation with due regard to customary rights, assistance to form cooperatives, tenancy arrangements to secure highest possible living standards.</p>

4C Association Coffee Criteria

Initiative	4C Association http://www.4c-coffeeassociation.org/	Type of Initiative	multi-stakeholder
Members	coffee producers, traders, industry, civil society	Start date	initiative from 2002, association from 2006
Other stakeholders		Mission / objectives	"The 4C Association is aiming at creating a beneficial situation for coffee producers, workers engaged in the coffee sector, rural communities, trade & industry, consumers and the environment."
Short description			
Relevant governance info	"The 4C Association builds on a participatory decision making process. The structure enables a credible consensus building and encourages a democratic and transparent discussion. The main element of the governance process is the tripartite structure consisting of coffee producers, coffee trade and industry and civil society organizations."		

	“The <u>Council</u> of the Association is elected by the General Assembly and is the representative decision making body. It consists of 17 ordinary members in the three chambers, with the strongest representation for the producers' group.”
Land related criteria	Under Principle 1 (Conservation of biodiversity, including protected or endangered native flora and fauna is supported): Each individual farm has a map indicating land use. and a general map of the Unit’s land use exists and a conservation program of natural vegetation and fauna and protection of sensitive areas (slopes, river banks,wetlands) exists and meets at least national law.

UTZ Certified

Initiative	UTZ certified http://www.utzcertified.org	Type of Initiative	Set up as a private initiative, originally of coffee producers and Ahold Coffee company. Multi-stakeholder participation in standard setting and control structures.
Members	not a member organization, stakeholders represented at ‘Stichting’ board.	Start date	2001
Other stakeholders		Mission / objectives	“UTZ CERTIFIED’s vision is to achieve sustainable agricultural supply chains in which: <ul style="list-style-type: none"> • Farmers are professionals implementing good practices which lead to better businesses, livelihoods and environments; • Industry takes responsibility by demanding and rewarding sustainably grown products; • Consumers buy products that meet their standard for social and environmental responsibility.”
Relevant governance info	UTZ CERTIFIED is a (not for profit) Foundation (“Stichting”) established under Dutch civil law by Notarial Act of 3 July 2001. Board (multi-stakeholder), standards committee and technical working group. Detailed rules for stakeholder participation in standards committee (being established now, see website)		
Land related criteria	No explicit criteria on land use and land rights, except for “No deforestation of primary forests” under Environmental Criteria. 11.C.1. Degradation and/or deforestation of primary forest is prohibited. The producer demonstrates that there has been no degradation and/or deforestation of primary forest in the 24 months prior to the date of first		

	<p>registration with UTZ CERTIFIED.</p> <p>11.C.2 The producer does not plant new coffee on land that is not classified as agricultural land and/or approved for agricultural use.</p> <p>11.C.3 Deforestation of secondary forest is only allowed if complied with all of the following:</p> <ul style="list-style-type: none"> - legal land title is available - government permits are available (if required) - there is compensation with at least equal ecological value, to be confirmed by an independent expert report.
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Roundtable on Sustainable Biomass (RSB)

Initiative	Roundtable on Sustainable Biomass	Type of Initiative	multi-stakeholder
Members	see under governance	Start date	2008 (standard first draft)
Other stakeholders		Mission / objectives	
Relevant governance info	<p>“The Roundtable on Sustainable Biofuels is governed by a Steering Board made up of representatives from the eleven stakeholder chambers. To ensure equal representation, most chambers are required to elect one of their representatives on the Steering Board from a country in the global North (developed) and one from a country in the global South (developing). The Steering Board is intended to represent the range of different stakeholders involved in sustainable biofuels production and processing. Steering Board members serve in a personal capacity, and do not represent their company or sector as a whole.”</p> <p>The 11 chambers: (1) farmers and growers, (2) industrial biofuel producers, (3) retailers/blenders/transport companies, (4) banks/investors, (5) rights-based NGOs, (6) rural development and food security organizations, (7) environment and conservation organizations, (8) climate change and policy organizations, (9) trade unions, (10) smallholder farmers, indigenous people organizations, (11) intergovernmental organizations, governments and others.</p>		
Land related criteria	<p>Criterion 6a. Biofuel operations shall assess risks to food security in the region and locality and shall mitigate any negative impacts that result from biofuel operations.</p> <p>If the screening exercise of the ESIA process indicates that biofuel operations will involve a change in land ownership (rights) and take place in a region where food security is a risk, a full assessment shall be carried out according to the RSB food security guidelines.</p> <ul style="list-style-type: none"> ▪ If the screening exercise described in the ESIA guidelines indicates that biofuel operations will not involve a change in land ownership (rights) but will take place in a region where food security is a risk, an RESA can be undertaken with a specialist assessment of the impact on food security ▪ The scope of the impact assessment shall include additional impacts that the biofuel operations may have on cross-cutting requirements for food security including land, water, labor, and infrastructure. ▪ If the assessment indicates a food security risk as a result of biofuel 		

	<p>operations, a mitigation plan shall be developed and implemented through the ESMP.</p> <ul style="list-style-type: none"> ▪ The risk assessment shall identify potential positive impacts on local economic development that can be promoted through compliance with Principle 5 on Rural and Social Development. <p>Principle 12. Biofuel operations shall respect land rights and land use rights. Criterion 12a. Existing land rights and land use rights, both formal and informal, shall be assessed, documented, and established. The right to use land for biofuel operations shall be established only when these rights are determined. Criterion 12b. Free, Prior, and Informed Consent shall form the basis for all negotiated agreements for any compensation, acquisition, or voluntary relinquishment of rights by land users or owners for biofuel operations.</p>
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Dutch Bio-Fuel Criteria

Initiative	'Cramer Criteria' for bio-fuels	Type of Initiative	Dutch government committee
Members	Committee members: Government, business, science and NGOs	Start date	2006
Other stakeholders		Mission / objectives	
Short description			
Relevant governance info	government advisory committee		
Land related criteria	<p><u>Competition with food or other local applications:</u> The production of biomass for energy must not endanger the food supply and other local applications (such as for medicines or building materials). Criteria for this have not been determined yet; reporting on changes in land use in the region and in prices for food and land is of great importance here.</p>		

RTFO Metastandard

Initiative	RTFO Meta-standard	Type of Initiative	Scheme developed in the framework of the UK's policy on bio-fuels (related to Renewable Transport Fuel Certificates (RTFCs)).
Members	not a membership organization	Start date	around 2006
Other stakeholders		Mission / objectives	
Relevant governance info			

Land related criteria	<p>Principle 2: BIODIVERSITY CONSERVATION: Biomass production will not lead to the destruction or damage of high biodiversity areas</p> <p>2.1 Compliance with national laws and regulations relevant to biomass production in the area and surroundings where biomass production takes place. (Indicator: Evidence of compliance with national and local laws and regulations with respect to:</p> <p>Environmental Impact Assessment</p> <ul style="list-style-type: none"> – Land ownership and land use rights – Forest and plantation management – Protected and gazetted areas – Nature and wild life conservation – Land use planning <p>Principle 7. Biomass production does not adversely affect existing land rights and community relations</p> <p>C 7.1 Land right issues: The right to use the land can be demonstrated and does not diminish the legal or customary rights of other users and respects important areas for local people.</p> <p>C 7.2 Consultation and communication with local stakeholders: Procedures are in place to consult and communicate with local populations and interest groups on plans and activities that may negatively affect the legal or customary rights, property, resources, or livelihoods of local peoples.</p> <p>C 7.3 Growers and mills should deal fairly with smallholders and other local businesses:</p> <p>Current and past prices for produce are publicly available.</p> <p>Pricing mechanisms for produce, inputs and services are documented.</p> <p>Evidence is available that all parties understand the contractual agreements they enter into, and that contracts are fair, legal and transparent and that all costs, fees and levies are explained and agreed in advance.</p> <p>Agreed payments are made in a timely manner.</p>
Remarks	<p>For Example:</p> <ul style="list-style-type: none"> - FSC does not meet the social standard - EurepGAP IFA does neither meet the social standard nor the environmental standard - SA 8000 does not meet the environmental standard. It does meet the social standard

Other Supply Chain Initiatives

GlobalGAP

Initiative	GlobalGAP http://www.globalgap.org	Type of Initiative	GLOBALGAP is a private sector body that sets voluntary standards for the certification of agricultural products around the globe.
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Members	GLOBALGAP members include retail and food service members, producers/suppliers and associate members from the input and service side of agriculture.	Start date	1997
Other stakeholders		Mission / objectives	The aim is to establish ONE standard for Good Agricultural Practice (G.A.P.) with different product applications capable of fitting to the whole of global agriculture.
Relevant governance info	Board, Secretariat and Sector Committees. Stakeholder consultation.		
Land related criteria	GlobalGAP does not refer to any land-related criteria` N.B. not RTFO compliant with respect to Land Rights and Community Issues		

SA 8000

Initiative	SA8000 http://www.sa-intl.org/	Type of Initiative	multi-stakeholder standard setting initiative
Members	not a member organization	Start date	1997
Other stakeholders	SAI partners with trade unions, local NGOs, multi-stakeholder initiatives, organic, fair trade, and environmental organizations, development charities, and anti-corruption groups to carry out research, training and capacity-building programs.	Mission / objectives	SAI is a non-governmental, international, multi-stakeholder organization dedicated to improving workplaces and communities by developing and implementing socially responsible standards.
Relevant governance info	<p>The SAI Board of Directors shall consist of at least three persons, with responsibilities and membership as defined in the by-laws of the Corporation. It will evaluate the performance of SAI and its management and provide feedback on this to SAI.</p> <p>The SAI Advisory Board includes experts from trade unions, businesses and NGOs. Board members represent abroad range of expertise in human rights, child and labor rights; socially responsible investing; auditing; and supply chain management.</p>		
Land related criteria	Land issues are not addressed by SA8000		

GSCP

Initiative	Global Social Compliance Programme	Type of Initiative	private sector initiative
Members	→ see governance	Start date	2008 (first reference code)
Other stakeholders	stakeholder involvement through advisory board	Mission / objectives	The Global Social Compliance Programme's vision is to harmonise existing efforts and deliver a common, consistent and global approach for the continuous improvement of working and environmental conditions in global supply chains.
Short description			
Relevant governance info	GSCP Task Force ('members') Executive Board, Advisory Board, Expert Working Groups,		
Land related criteria	Land issues are not addressed in GSCP		

GRI

Initiative	Global Reporting Initiative	Type of Initiative	large multi-stakeholder network
Members	stakeholder groups: public agencies, labor organizations, investors, civil society organizations, consultants, academics, companies, accountants, auditors, training community, ...	Start date	2000 (first reporting guidelines)
Other stakeholders	see governance	Mission / objectives	
Short description			
Relevant governance info	Board of Directors, Stakeholder Council, Technical Advisory Committee The stakeholder council is the central body of this 'network' organization. "One of GRI's strongest attributes is having its governance bodies comprised of a broad mix of people with diverse skills, education, life experiences and cultural backgrounds. Through its governance voting structure, GRI strives to keep this multi-stakeholder representation in place, as it ultimately helps GRI to retain the credibility it has established for the guidance in the Framework."		
Land related criteria	Environment: EN11 Location and size of land owned, leased, managed in, or adjacent to, protected areas and areas of high bio-diversity value outside protected areas. No explicit reference to land issues in the chapters 'human rights', 'society' and others.		