

Sabah's RSPO Jurisdiction Certification 2025 (JC2025)

a progress update in brief - 26 November 2017

1 HISTORICAL CONTEXT

On 21 October 2015, the Sabah State Cabinet approved a multi-stakeholder proposal to move Sabah to 100% RSPO certified sustainable palm oil (CSPO) production by 2025. The Sabah Forestry Department and Natural Resources Office (NRO) under the Chief Minister's Department were the government co-initiators of the proposal, with key support from civil society and industry groups. In early 2016, the Jurisdiction Certification Steering Committee (JCSC) was established with equal parts government, industry and civil society representation, co-chaired by the two initiating agencies, with the Roundtable on Sustainable Palm Oil (RSPO) and Forever Sabah (FS) as non-voting technical advisors. Terms of Reference were drafted and finalized and a first convening was held in the first quarter of 2016.

2 2016 OVERVIEW

After the establishment of the JCSC, key 2016 milestones were identified, and core to these were the setting up of four working groups: High Conservation Value (HCV); Remediation and Compensation; Free Prior and Informed Consent (FPIC) and; Smallholders. (HCV and Remediation and Compensation were later combined as one group.) These groups also reflected the cross-sector spirit of the JCSC. In August, about 50 people across these working groups gathered in a planning process and mapped out the Action Plan 2016-2020. This was presented in the last quarter to the JCSC for consideration and comments; year one of the plan was adopted, while further consideration was needed for the larger plan. SFD pledged to allocate RM1 million towards year one activities across the three working groups.

One preparatory and three JCSC meetings (12.01.16, 18.03.16, 30.16.16, 10.10.16) were held over the course of 2016, which saw some central and critical issues more openly discussed and deliberated than in the past. While the committee started off as disparate sectors and institutions, relationships and understanding cautiously grew over the months. The three working groups convened independently as needed to progress (and regress) their respective activities, targets and goals, and reported to the JCSC meetings.

3 2017 OVERVIEW

It was determined that the Action Plan 2016-2020 required the approval of the State Cabinet due to high level issues and legal and institutional changes inherent in the plan. A smaller grouping of a few JCSC members and technical advisors addressed key language and concepts that were potential "red flags" to high-level decision-makers e.g.

zero deforestation. Recommendations were then made to the JCSC for language changes e.g. achieve no loss of High Conservation Value (HCV) and High Carbon Stock (HCS) forests, which were accepted. A high-level government meeting was convened and chaired by the Sabah State Secretary on 29.08.17, gathering heads of government agencies, the JCSC co-chairs, technical advisors and reps from industry and civil society. The gathering was presented with a progress update as well as a description of Action Plan 2016-2020, and a selection of key high-level issues that required decision-making. As an outcome, a cabinet paper was prepared and submitted for State Cabinet deliberation in December, highlighting key decisions and actions for moving forward.

Photo showing high-level meeting convened by Sabah State Secretary



Three JCSC meetings have been held in 2017 (10.01.17, 27.04.17, 24.07.17) and one more will be held in December to close the year. 2017 has seen further progress in building cross-sector cohesion and understanding, and delving deeper into difficult issues and systemic conflicts.

The progress of institutional building, finance, and the three working groups will be described under the respective following headings.

4 INSTITUTIONAL BUILDING AND FINANCE

There is some discussion about building the secretariat for this Sabah process, moving beyond the interim secretariat that has been housed under SFD. Funds for this have been budgeted in the Action Plan 2016-2020, but not yet raised. NRO have offered substantial office space in their large, new spaces in the State Administration building. An executive decision is required to move this process forward.

Earlier funds raised for FPIC (US\$50,000 in 2016 from RSPO to LEAP) to fund workshops, a consultation process, and the drafting of Sabah FPIC Guide will see the process through to an approved Sabah FPIC Guide targeted for early 2018.

AAK, a Swedish vegetable oil company, gave a one-year grant to Forever Sabah to begin the smallholder organizing and certification readiness process in the identified pilot area

of Telupid, Tongod, Beluran and Kinabatangan (TTBK). This grant is for activities up till April 2018 and there is discussion for it to be renewed. (AAK have requested for the grant amount to be kept confidential.)

Through RSPO, the UNEP 10 Year Food Program is awarding US\$200,000 - plus a US\$100,000 match from RSPO - over 22 months to be shared equally between the Sabah and Seruyan (Central Kalimantan) Smallholder processes, which includes a lesson-sharing exercise across the two jurisdictions. This will bring much needed capacity to the ground, for smallholder mobilization and farm management training, and such.

A Terms of Reference document was prepared for the SFD RM1 million allocation for year one activities for the three working groups. Although this approval process was started in early 2017, and has appropriately gone through Ministry of Finance scrutiny, the funds are yet to be disbursed, resulting in some delay to overall progress. The FPIC and Smallholder work areas were able to move with the RSPO and AAK grants, but the HCV-HCS work has been impeded, with many (individuals/professionals and organizations) contributing time, expertise and costs in kind through the year to prevent work and momentum from grinding to a halt. For sustainable and steady progress to be made, this situation must be rectified at the onset of 2018.

In addition to these funds, RSPO and WWF Malaysia contributed - US\$300,000 and US\$58,177 respectively - in 2016 to the Carnegie Airborne Observatory (CAO) campaign of mapping Sabah's carbon and biodiversity landscape. This investment was intended to support both the HCV and HCS mapping process for Sabah.

US\$15,000 was recently granted by HCSA (High Carbon Stock Approach) executive committee to support the Sabah HCS process.

A final significant point is that the co-chairs and technical advisors of the JCSC have integrated the Sabah JC process into their institutional DNA and this has been critical; other organizations will need to follow suit to pave the way forward.

5 HCV-HCS & COMPENSATION

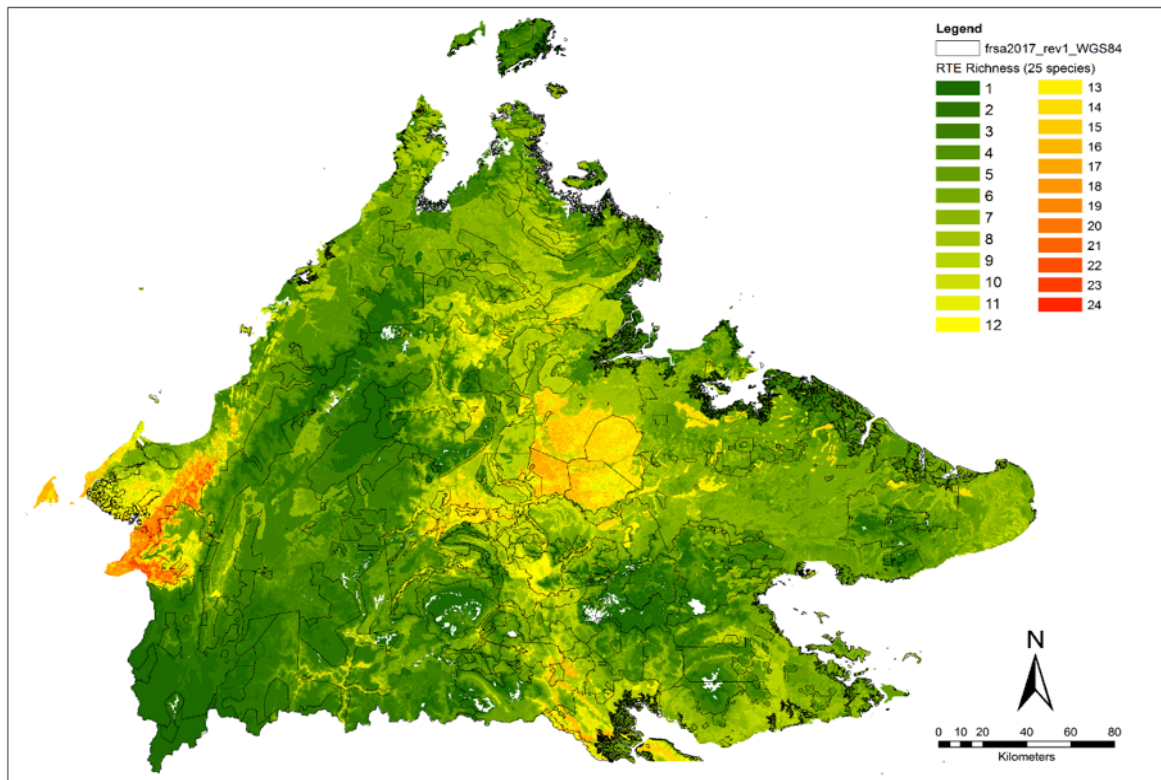
A diverse team of researchers and professionals spanning multiple organizations - Forest Research Centre (FRC), Universiti Malaysia Sabah (UMS), FS, PACOS Trust, and growing - is carrying out the work on HCVs 1 to 6. After a shaky start with a large working group, the decision to regroup into a smaller working team led by FRC and a cross-sectoral advisory group released the gridlock.

For HCV chapters 1 - 4: mapping of species distribution models for various taxa of flora and fauna; species distributions of mammal and bird species; GIS layers for ecosystem red-list of the different forest types; data on tagal, water intake, rainfall, nature barriers for fire; mapping IUCN listed fish distribution, and more is underway.

To illustrate how the HCV work is being approached, here is a brief update for HCV 1 (threatened species). The team started by applying IUCN Red List criteria to Sabah's 1045 endemic plant species; noting that of the 268 categorized as threatened nearly half (125) are Dipterocarps, themselves often keystone species in Sabah's forests. We have now

assessed 27 of 41 pre-selected Dipterocarp species in nine genera at landscape scale using standard IUCN protocols (and will publish this in the Sabah Forest Record). The next stage is to determine the ecological distribution of the critically important flora species using well established software (e.g. MAXENT) to produce geographic layers that depict areas of high conservation values. These can then be referenced against habitat assessment layers under HCV 2 and HCV 3 to identify where best to protect these species, while also identifying immediate and potential threats as well as remedial management and monitoring actions.

Map (in progress/preliminary) showing distribution of threatened species richness in Sabah, Malaysia



RSPO sponsored a training session on HCVs 5 and 6 by Daemeter Consulting who will continue to support the process and review reports as needed. As there has been concern surrounding these HCVs, a brief update is included here. Work to-date includes: a number of GIS datasets being developed and/or validated to identify communities with HCV 5 and/or 6 areas close to their villages that could be threatened by oil palm development. Concurrent to this, is the gathering of secondary data on: community boundaries, natural resource maps, HCV assessments, Social Impact Assessments, questionnaire data, etc. These data are being processed and relevant information extracted, standardized, and linked to coordinates of village locations. PACOS Trust is identifying gravity-fed system water supply points. Additionally, seeking to gather more information e.g. HCV assessments from RSPO certified oil palm companies, government data on villages with piped water, electricity infrastructure, cultural sites, and such.

Datasets are being collected across government agencies (Forestry, Wildlife, Fisheries, Water, Meteorological, DID, Health, others), NGOs and research (PACOS Trust, Hutan, Danau Girang Field Centre, WWF Malaysia, Forever Sabah) to compile and analyze HCV layers, and craft contents for the HCV report. Wild Asia has agreed to review this content

and augment as needed for HCVRN readiness. HCVRN will assess the report with regard to consistency of methodology. Draft Zero of the HCV map is targeted for June 2018.

In 2016, Sabah engaged in a partnership with the Carnegie Airborne Observatory (CAO) to map Sabah's carbon and biodiversity landscape. It was expected that the outcomes of this campaign would contribute to and be integrated with both the HCV and HCS processes, although schedule delays and technical issues means this has not started to happen yet. A 30m2 resolution Sabah carbon map was delivered in October 2017, with the metadata and data layer containing estimate of sampling error in carbon density values necessary for its use to follow. There are concerns about the accuracy of carbon density values for forests outside the range of lowland Dipterocarp forests, and field validation of carbon density estimates is required, particularly in landscapes vulnerable to conversion to oil palm. This will be necessary if CAO data are to be useful for establishing the "no-go" zones. The anticipated map of Sabah's functional diversity may become available by the end of the year; however at least for the present, the HCV process advances using existing Sabahan datasets.

Representatives from HCVRN (High Conversation Value Resource Network) and HCSA (High Carbon Stock Approach) attended a CAO update meeting in Sabah in October 2017, and efforts are initiated to understand the complexities and interface of the HCV and HCS standards, and integrate them so they are useful and helpful and not an impediment to the Sabah process. HCSA is developing a proposed approach for the HCS assessment at the Sabah state level, using the data available from the CAO carbon maps.

6 FPIC

The first FPIC Working Group (WG) meeting was held in July 2016, and a total of five meetings have been held to date. The WG is chaired by NRO and consists of up to five representatives each from government, civil society and industry, and up to two independent experts.

The Sabah-specific FPIC Guide draws from RSPO's FPIC Guide (2015) and the Malaysian National Interpretation of RSPO's Principles & Criteria, among other relevant guidance. The first phase to develop the Sabah FPIC Guide included three community workshops and consultations as well as a large multi-stakeholder forum held between July and October 2016. On that basis, a Draft Zero Guide was prepared in November 2016 and subsequently a Draft 1 in January 2017 that addressed feedback from the FPIC WG and RSPO Secretariat. Based on substantive feedback on Draft 1, particularly concerning the scope and structure, Draft 2 was produced in October 2017. Whereas Drafts 0 and 1 went into extensive detail about the RSPO Principles & Criteria and specific guidance for different elements of FPIC, Draft 2 intentionally steps back from the detail and zooms out to consider how FPIC can be embedded in Sabah's permissions framework. It takes a systems-level approach and provides a framework for the Sabah State Government to implement FPIC for oil palm produced in Sabah to be certified as sustainable; it was also developed with the intention of synergising with other state-level initiatives related to FPIC (e.g. on REDD and PES). Sabah government entities responsible for implementing the FPIC system for the Jurisdictional Certification are intended as the main 'users' of the

Guide. Other users include Indigenous peoples and local communities, oil palm producers and third parties such as CSOs, academics and experts.

Photo showing Sabah FPIC Forum with public and private sectors and civil society



Draft 2 is currently undergoing review and consultations with WG members and other relevant government agencies. A Draft 2.1 will be produced by mid-December for further review and potential approval by the FPIC WG in early 2018 (though subsequent drafts will be produced as needed based on feedback). The FPIC WG will also prepare a plan and oversee the implementation of a field-testing phase to work through the practicalities and realities of putting FPIC into practice in Sabah's unique context (including Indigenous peoples' customary laws and practices, legal and institutional frameworks and social norms). In line with the Action Plan 2016-2020, next steps include strengthening stakeholder capacity for the application of FPIC in Sabah (by 2019) and creating an enabling environment for FPIC within current law and policy (by 2020).

**SABAH
FPIC GUIDE**

Prepared by Agnes Lee Agama & Adam Murphy
For the Sabah JCSC FPIC Working Group
Draft 2.0, 16 October 2017, Kota Kinabalu, Sabah.

ABOUT THIS GUIDE

What is this guide for?
The Sabah FPIC Guide describes the framework for the Sabah State Government to implement the requirement for free, prior and informed consent (FPIC) for oil palm produced in Sabah to be certified as sustainable under the Roundtable on Sustainable Palm Oil (RSPO) Standards.

This guide is divided into three parts that describe how to set-up the framework for the implementation of FPIC by the Sabah State Government. Part I outlines the context for the application of FPIC in Sabah's Jurisdictional Approach to RSPO Certification and the scope of the FPIC system within this context. Part II outlines the seven stages in the implementation of FPIC, and Part III highlights the components required to ensure that the implementation of the FPIC system is effective. The annexes contain a list of useful reference and a summary of the RSPO's (2013) Principles, Criteria and Indicators (PC&I) relevant to FPIC. Annex 2 will need to be updated each time the RSPO's PC&I are revised.

Who should use this guide?
The main users of this guide are the government agencies and bodies responsible for implementing the FPIC system in the Sabah Jurisdictional Approach to RSPO Certification, which includes inter alia the Sabah Department of Lands and Surveys, Department of Agriculture Sabah, Local Authorities, District Land Utilisation Committees and District Councils. These users need to have a detailed knowledge of this guide.

Other users who need to have a working knowledge of this guide are:

- Local communities, who may be approached and asked for their FPIC;
- Oil palm producers, who may be instructed to engage in the FPIC process whether in whole or part; and
- Third parties, such as civil society organisations, academics and expert individuals, who may play key roles as independent verifiers, facilitators, trainers and supporting partners.

What are the limitations of this guide?
This guide does not contain details on specific rules, criteria or procedures. This is a framework guide that deals only with the setting-up of the FPIC system for Sabah's Jurisdictional Approach. The contents of this guide focus on the systems-level of operations at the state-scale as determined by the FPIC Working Group at the time of writing and supported by an interpretation of available guidance from the RSPO and relevant publications. The specific state- and district-level rules, criteria or procedures will need to be described in subsequent guidance based on the forthcoming deliberations of the FPIC Working Group.

This guide does not address best practice at the finer scale. The application of best practices at all scales will be vital for the integrity and effectiveness of the FPIC system. Users of this guide should, in all instances, refer to best practice manuals and toolkits (e.g. participatory mapping, community engagement, mediation, etc.) in the planning, design and conduct of their activities to ensure that the FPIC process in Sabah adheres to the highest standards of current international practice and delivers the outcomes that meet sustainability requirements.

This guide draws heavily on the FPIC Guide for RSPO Members (2015) and Modules 2 and 3 of The HSC Approach Toolkit (2017). These documents should be referred for detailed guidance.

7 SMALLHOLDERS

The Forever Sabah CSPO field team has carried out a one-year work plan based on the larger Action Plan 2016-2020. It spans four areas of work: centralized activities; baseline study for Telupid, Tongod, Beluran and Kinabatangan (identified as the four contiguous pilot districts in Action Plan 2016-2020); land legalities; and agronomic support. They went through an FPIC process with the respective District Officers and Ketua Kampung and JKKs (village leadership) of the four districts and 20 villages (five per district). Villages were selected to feature the spectrum of issues identified in an earlier study of 42 villages in the Telupid region (funded by Packard Foundation). Meetings and gatherings were held at all levels - village, district, inter-district - to establish community committees, listen to issues, share information, and organize smallholders in the pilot area. A comprehensive baseline study - covering their palm farming, HCV, FPIC, socio-economic, and general issues - was conducted and a report is expected to be ready in February 2018. Community mapping and training and field data collection on farms (legal and illegal), village boundaries, water catchment, HCV, etc. is also being carried out with an expected completion date of October 2018.

Fundamental delays in the overall progress of addressing and establishing methodologies for land legality has been caused by the limited engagement of the Lands and Survey Department who are crucial to this process. The other delay has been in clustering communities with land titles and without, near and far from mills in preparation for agronomic and best management practices training.

Engagement with the Sabah Agriculture Department - for agronomic and best management practices training - has been complicated by the fact that oil palm is no longer within their scope of work, and has been taken over by the Malaysian Palm Oil Board (MPOB) who are proponents for the Malaysian standard MSPO. The process on the ground is hindered by this institutional and practical stalemate.

Aflatoun International visited Sabah in August 2016 and began discussions to pilot a Smallholder Academy program in partnership with RSPO and the Sabah process.

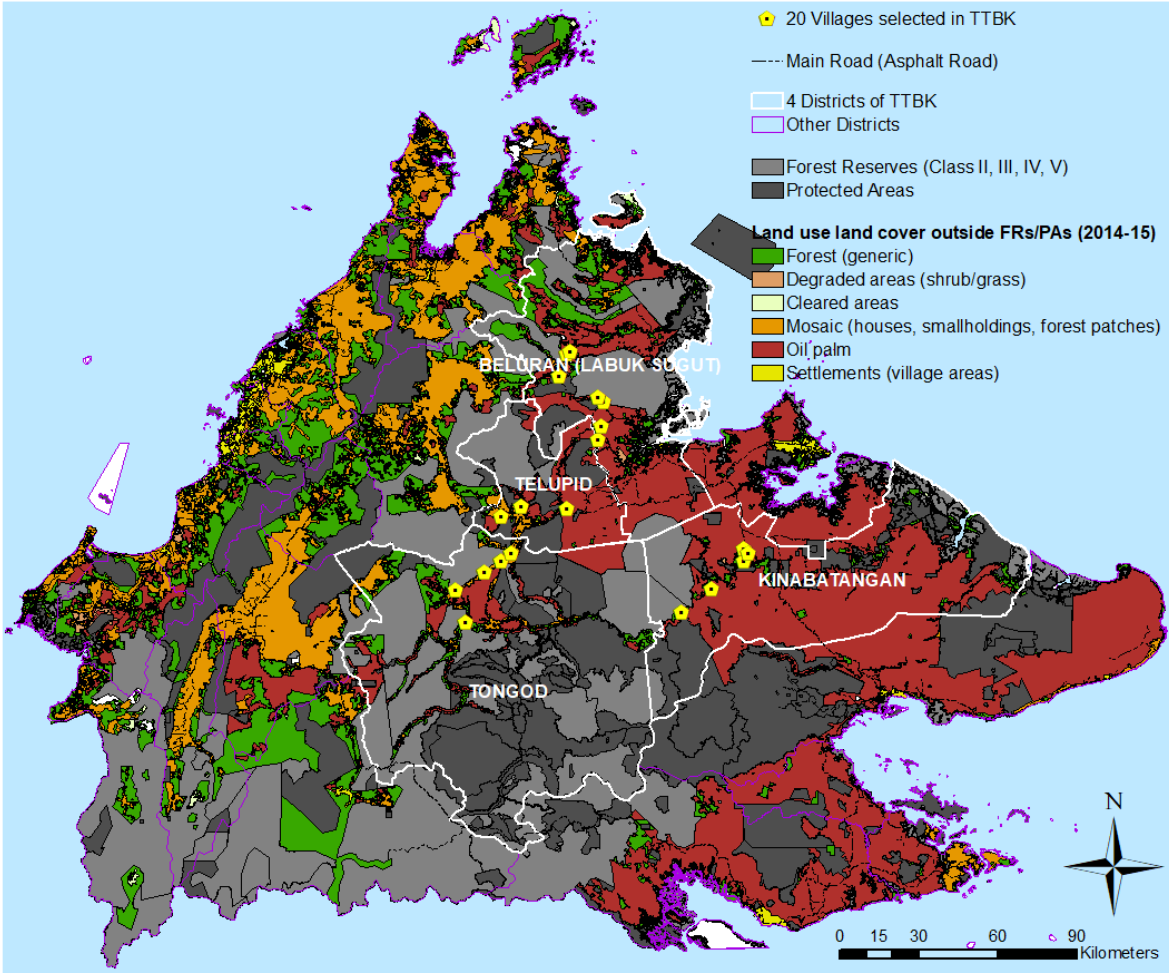
Photo showing smallholder convening in Telupid district



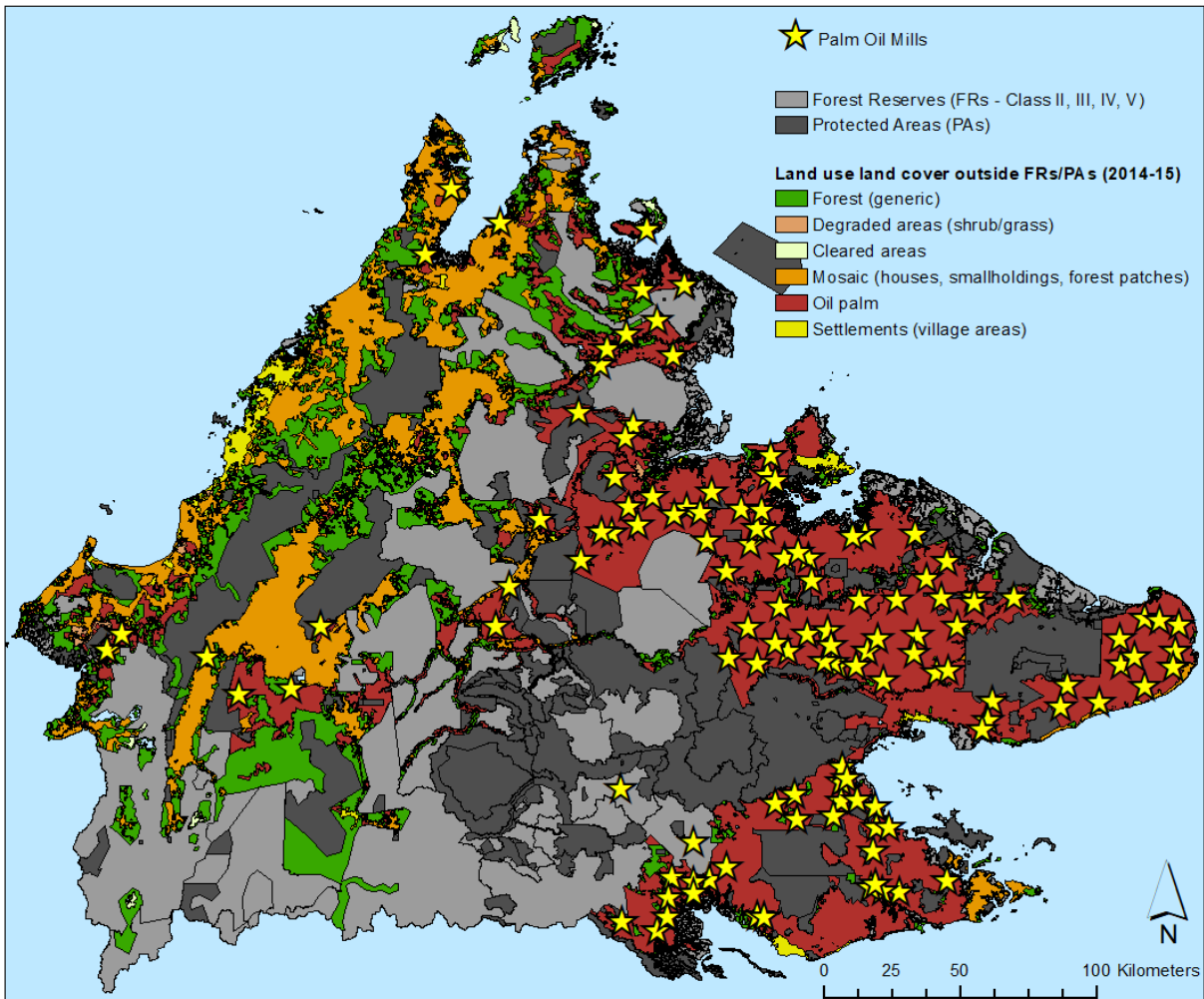
The official Smallholder Working Group - evolving from an earlier smaller working team - was established in 2017, co-chaired by the Agriculture Department and Sawit Kinabalu, with a wide membership of civil society and industry members. Despite this development, the matter of MPOB and Agriculture Department as providers for training in agronomy and farm management requires a federal-state discussion and decision, and a clear mandate to the appropriate agency.

We estimate a 6-month delay compared against Action Plan 2016-2020, largely due to seven key factors: (1) the absence of high-level government directive (2) readiness and capacity of local government at district level as well as at agency level (3) limited industry mobilization (4) the busy and fluid lives of local smallholders - politics, church, celebrations, cooperation, migration (5) an inexperienced field team kick-starting a new process (6) logistics and safety in a rough terrain (7) lack of funds.

Map (in progress/preliminary) showing TTBK (white boundary) & 20 villages (yellow markers) in pilot area



Map (in progress/preliminary) showing palm oil mills in Sabah



8 NEW WORKING GROUPS IN 2018

In alignment with Action Plan 2016-2020, three additional working groups were identified to come online but have not progressed due to capacity constraints. These are: Labor: Governance and Legal; and Monitoring and Evaluation. Initial work in drafting ToRs have begun, and the setting up of these groups will be discussed in the final JCSC meeting of 2017 (December).

9 COMMUNICATIONS

Numerous press statements – local, national and international – have been issued throughout 2016 and 2017. Communications has not become institutional and systematic and the narrative of this process has not reached the larger public. Communications is also part of Action Plan 2016-2020. In October 2017, a local and national media workshop and trip was hosted by the JCSC with RSPO support, resulting in a series of articles, particularly giving rise to the RSPO-MSPO debate. A meeting between

MPOCC (the proponents and certifiers of MSPO) and the JCSC will be held in December to discuss the matter.

A communications action plan will be facilitated with the existence of a permanent secretariat. Both a digital web presence and resource materials will greatly support the growth of the Sabah JC2025 narrative, both at home and internationally.

10 INTERNATIONAL PARTNERSHIP BUILDING

The Sabah RSPO JC2025 story has been shared at various international platforms: Jakarta at the March 2016 Tropical Forest Alliance (TFA) 2020 annual gathering, Bangkok at the November 2016 RSPO RT, London at the June 2017 RSPO EU RT, NYC at the September 2017 TFA 2020 and Forest Trend's Climate Week event, and November 2017 in Bonn at COP23 in a UNFCCC Forests Day event. The latter two events emerged as a result of a visit by TFA 2020 to Sabah in August 2017, with additional input from WWF US for COP23.

Sabah Government and civil society representation at COP23 Forests Day event



Sabah's JC process has drawn interest and curiosity from around the world, regarded as a pioneering initiative addressing a suite of issues surrounding commodity production such as deforestation, land rights, labor, carbon and climate. Opening discussions to develop strategic public and private sector, and civil society partnerships have begun.

A small design group will craft a "Sabah JC package" clearly defining Sabah's partnership opportunities to help guide these discussions moving forward. These will include opportunities for seed funding, purchase pledges of Sabah's JCSP, technical support, collaborative tasks such as secretariat building, amongst others. A proposed high-level international roundtable convening will then be hosted by Sabah with the Chief Minister in

attendance, to present the package and invite potential partners to converge and collectively come onboard to build a Sabah partnership alliance towards achieving the 2025 goals.

11 CONCLUDING NOTES

After a cautious start in 2016, some traction and cohesion was built in 2017, enabling movement forward at both JCSC and working group levels. Despite how much has been achieved, this being another example of Sabah's global leadership, a multitude of challenges held us back: uneven readiness, constrained capacities, inconsistent institutional commitments and systematic fragmentation.

Internal criticism and skepticism within the JCSC and working groups also undermined both the group and the work. Moving into 2018, constructive and productive ways of working together will need to be established so hard work can be made lighter with camaraderie, encouragement and support. Particular tasks were stopped and started, losing precious momentum each time. In the face of limited and delayed funding, many have pushed through to progress the work, often at personal and professional cost.

The interim JCSC secretariat coordinated by SFD with technical advisors RSPO and Forever Sabah are finding their feet, understanding distinct and collective roles to facilitate both movement of the JCSC and the larger process. The establishment of a permanent secretariat in 2018 will enable the process to take root more firmly in the institutional and societal DNA of Sabah.

A flow of sufficient and consistent financing from 2018 onwards is an imperative to move through the testing, piloting, designing and learning stages of 2017-2018, and take the parallel tracks of work to scale across the regions where they can build critical mass towards statewide expansion.

The creation of an RSPO Jurisdiction Certification framework can work in tandem, designing while guiding and building, in a real-time, real-world feedback loop.

The current RSPO-MSPO impasse requires high-level leadership that clears the way forward for a win-win.

The international community will need to raise its game, to less talk and more walk, matching the commitment of local actors and scenarios like Sabah.

In 2018, with the foundational and learning work from 2016 and 2017, with increased awareness and understanding of the path ahead, and with a growing cadre of strategic and committed local, regional and international partnerships, the Sabah RSPO JC2025 can take a definitive leap forward towards the 2025 goals.