

ANNEX: Social Principles and Criteria for Sustainable Biofuel Production at the Plantation Level

The following list of social principles and criteria for sustainable biofuel production has been derived wherever possible with reference to relevant international law and conventions. It also references existing sustainability standards. Principles in bold are fundamental.

Principle	Criteria	Relevant Agreements ¹	Comment
Compliance with national laws and ratified international laws (whichever are better) on employment conditions and workers' rights	Applicant must comply with all national laws and ratified international laws (whichever are better) concerning employment conditions and workers' rights		Production must be compliant with relevant laws and ratified conventions, and should exceed them as necessary in order to meet subsequent criteria.
Free, Prior and Informed Consent	<p>The right to use the land can be demonstrated and is not legitimately contested by local communities with demonstrable legal or customary rights.</p> <p>Local people are compensated for any agreed land acquisitions and relinquishment of rights, subject to their free, prior and informed consent and agreements negotiated through their own institutions.</p> <p>Use of the land for biofuel production does not diminish the legal rights, customary rights or traditional rights of other users without their free, prior and informed consent.</p>	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ILO Convention 169 ▪ UNDRIP Article 10 and Article 32(2) ▪ ICESCR Article 1 (1) ▪ ICCPR Article 1 (1) ▪ CEAFRD Article 5 (c) ▪ UDHR Article 17 <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria for Soy ▪ FSC 	<p>The right to Free, Prior and Informed Consent is widely acknowledged in international law, conventions and declarations. For example the UN Committee on the Elimination of Racial Discrimination, which interprets the International Convention on the Elimination of Racial Discrimination, has recommended that to fulfil their obligations under the Convention, states should "ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent."</p> <p>Free, Prior and Informed Consent is also explicitly recognised in the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169.</p>
Consultation and communication with local communities	There are documented and implemented policies and procedures for open and transparent communication with local communities and other affected stakeholders before commencement of any project and on an ongoing basis on for example, plans for expansion, construction, sale of the plantation, restructuring etc.	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ILO Convention 169 ▪ UNDRIP Article 10 and Article 32(2) ▪ ICESCR Article 1 (1) ▪ ICCPR Article 1 (1) <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ FSC ▪ Basel Criteria 	It is also inherent to other human rights reflected in international law, including the right to development and the right to self-determination as set out in the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the UN Charter.

¹ CEAFRD Convention on the Elimination of All Forms of Racial Discrimination
 ICCPR International Covenant on Civil and Political Rights
 ICESCR International Covenant on Economic, Social and Cultural Rights
 ILO International Labour Organization of the United Nations
 UDHR Universal Declaration of Human Rights
 UNCRC United Nations Convention on the Rights of the Child
 UNDRIP United Nations Declaration on the Rights of Indigenous Peoples
 UNNRTC United Nations Norms on Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights

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Biofuel production shall not take place on contested land	There must be no evidence of violent conflict or forced evictions for land for biofuel production.	<ul style="list-style-type: none"> ▪ UDHR Article 25 ▪ ICESCR Article 11 <p>The “Principles and Guidelines on Development-based Evictions and Displacement in the Report of the Special Rapporteur on Housing in the context of the Right to an Adequate Standard of Living”;</p> <p>OECD Common Approaches on Environment and officially supported export credits.²</p> <p>WTO Waiver for the Kimberley Process Certification Scheme for Rough Diamonds³;</p> <p>Global Witness’ Definition of conflict resources⁴</p>	Forced evictions constitute prima facie violations of a wide range of internationally recognized human rights. Therefore, the “Principles and Guidelines on Development-based Evictions and Displacement in the Report of the Special Rapporteur on Housing in the context of the Right to an Adequate Standard of Living” (66 th session of the Commission on Human Rights, E/CN.4/2006/41) shall be respected.
	Applicants must provide an environmental and social assessment for new biofuel production projects, including disaggregate social impacts and alternatives.	According to the OECD Trade Committee, large-scale projects should provide information including potential environmental impacts (e.g. generation of significant air emissions, effluents, waste or noise, significant use of natural resources, resettlement and land-use issues), and results of any public consultations on the project with relevant stakeholders	
Fair wages and compensation rules	Workers must be paid wages at least equivalent to the legal national minimum wage or the relevant industry standard, whichever is higher. In any event, wages should always be enough to meet basic needs and to provide some discretionary income.	International Agreements: <ul style="list-style-type: none"> ▪ ILO Convention 95 ▪ ILO Convention 110 ▪ ICESCR Article 7 (a) ▪ UDHR Article 23 (3) ▪ UNNRTC Section D 8 	
	All workers should be informed of their wages before entering into employment, and at each pay period.	Sustainability Standards: <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria 	
	Workers must be paid in cash, or in a form that is convenient to them, in a regular and timely manner.		
	The applicant should pay the workers for unproductive time due to conditions beyond their control.		

² See www.oecd.org/dataoecd/2/32/2726700.pdf

³ See WTO General Council, 14-15 December 2006, G/C/W/559/Rev.1

⁴ www.globalwitness.org/pages/en/definition_of_conflict_resources.html.

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	<p>Deductions from wages as a disciplinary measure are not permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All disciplinary measures should be recorded.</p> <p>Housing and other benefits shall not be automatically deducted from the minimum wage/or relevant industry wage as a payment in kind.</p> <p>In instances of piecework, the pay rate must permit the worker to earn at least the minimum wage or relevant industry standard (whichever is higher) during normal working hours and under normal working conditions.</p>		
Employees are provided with fair legal contracts	Applicant must provide all types of employee (including temporary workers) with a fair legal contract in which relevant criteria below are registered	International Agreements: <ul style="list-style-type: none"> ▪ ILO Convention 110 	
Workers are informed about their rights	<p>Applicant must show evidence that all workers are informed about their rights, including bargaining rights.</p> <p>Applicant must show evidence of a mutually agreed and documented system for dealing with complaints and grievances which is implemented and accepted by all parties.</p>	International Agreements: <ul style="list-style-type: none"> ▪ ILO Convention 87 ▪ ILO Convention 98 Sustainability Standards: <ul style="list-style-type: none"> ▪ FSC ▪ RSPO ▪ Basel Criteria 	Companies and plantations must inform workers of their rights and provide them with the necessary means to exercise these rights.
Proper subcontracting	Applicant must demonstrate that any subcontractors are properly licensed and provide services meeting the same criteria as those listed here	International Agreements: <ul style="list-style-type: none"> ▪ ILO Convention 181 ▪ ILO Convention 110 	A large proportion of plantation agriculture is subcontracted through gangmasters, resulting in exploitation and bonded labour in the worst cases.
Working hours are not excessive	Working hours comply with national laws, and benchmark industry standards, whichever affords greater protection. In any event, workers shall not on a regular basis be required to work in excess of 8 hours per day. Overtime shall be voluntary, shall not be demanded on a regular basis, and shall always be compensated at a premium rate. Workers will enjoy in every period of seven days a period of rest comprising at least 24 consecutive hours.	International Agreements: <ul style="list-style-type: none"> ▪ ILO Convention 1 ▪ ILO Convention 110 ▪ ICESCR Article 7 (d) ▪ UDHR Article 24 	
Freedom of association and right to collective bargaining	Applicant must guarantee the rights of workers to organise and negotiate their working conditions. Workers exercising this right should not be discriminated against or suffer repercussions. Where this is restricted by law, employers should	International Agreements: <ul style="list-style-type: none"> ▪ ILO Convention 87 ▪ ILO Convention 98 ▪ ILO Convention 110 ▪ ILO Convention 141 	Freedom of association is a fundamental human right recognised in the Universal Declaration of Human Rights and also recognised in various ILO conventions including fundamental conventions.

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	facilitate alternative independent means of free association and collective bargaining.	<ul style="list-style-type: none"> ▪ ICCPR Article 22 ▪ ICESCR Article 8 ▪ UDHR Article 23(4) ▪ UNNRTC Section D 9 <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ FSC ▪ Basel Criteria 	
No discrimination	There is no discrimination (distinction, exclusion or preference) practised that denies or impairs equality of opportunity, conditions, or treatment based on individual characteristics and group membership or association. For example, on the basis of: race, caste, nationality, religion, disability, gender, sexual orientation, union membership, political affiliation, age, marital status, working status (i.e. temporary, migrant, seasonal), HIV/AIDS.	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ILO Convention 100 ▪ ILO Convention 111 ▪ ICESCR Article 2 and Article 7 (a) ▪ ICCPR Article 2 ▪ UDHR Article 23 (2) ▪ UNDRIP various Articles <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria 	Based upon an ILO fundamental convention and internationally recognised human rights
No forced labour	The applicant does not engage in or support forced labour, including bonded labour. The company does not retain any part of workers' salaries, benefits, property or documents in order that they remain in production. The company must also refrain from any form of physical or psychological measure in order to keep workers employed. Workers are free to leave their employer after reasonable notice. Spouses and children of contracted workers cannot be required to work in production.	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ILO Convention 29 ▪ ILO Convention 105 ▪ ILO Convention 110 ▪ ICESCR Article 6 ▪ ICCPR Article 8 ▪ UDHR Article 4 ▪ UNNRTC Section D 5 <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ Basel Criteria 	Based upon an ILO fundamental convention and internationally recognised human rights
No child labour	Applicant must guarantee that no children below the age of 15 are employed, and that no hazardous or dangerous work is carried out by workers under the age of 18.	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ILO Convention 138 ▪ ILO Convention 182 ▪ ICESCR Article 10 (3) ▪ UNCRC Article 32 ▪ UNNRTC Section D 6 <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria 	Based upon two ILO fundamental conventions and internationally recognised human rights
Access to ground and surface water is not diminished through either depletion or pollution.	Evidence of compliance with national and local regulations or industry standards relevant to contamination and depletion of water sources with respect to:	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ICESCR Article 12 ▪ Stockholm Convention ▪ UNNRTC Section E 12 	Water stress will be one of the most significant challenges faced by agriculture in coming years, and many biofuel crops are particularly thirsty, requiring extensive irrigation.

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	<ul style="list-style-type: none"> • Waste storage and handling • Pesticides and agro-chemicals • Fertilisers • Irrigation and water usage • Mill effluent <p>Documented water management plan and annual documentation of applied Good Agricultural Practices with respect to responsible use of agro-chemicals, efficient water use and waste discharge.</p>	<p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria 	<p>The impacts of such practices on surrounding communities can be severe.</p>
<p>Air quality is maintained</p>	<p>Evidence of compliance with national and local regulations and Good Agricultural Practice with respect to:</p> <ul style="list-style-type: none"> • Air Emissions • Waste management • Burning practices <p>Evidence that no burning occurs as part of land clearing, harvesting or waste disposal.</p>	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ICESCR Article 12 ▪ Stockholm Convention <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria 	<p>Indiscriminate spraying of agrochemicals or burning practices can have serious implications for the health of nearby communities and workers.</p>
<p>Soil conservation</p>	<p>Evidence of compliance with national and local regulations and Good Agricultural Practice with respect to:</p> <ul style="list-style-type: none"> • Waste storage • Pesticides and agro-chemicals • Fertiliser • Soil erosion 	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ICESCR Article 12 ▪ Stockholm Convention ▪ UNNRTC Section E 12 <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria 	
<p>Health & Safety</p>	<p>All applicants are required to meet basic needs including potable water, clean toilet facilities, a clean place to eat and store food, adequate protective equipment, and access to adequate (physically and financially) medical care. Accommodation, where provided, shall be clean, safe, and meet the basic needs of the workers.</p> <p>All applicants must ensure workers and smallholders receive regular health & safety training appropriate to the work they perform.</p> <p>The applicant shall assign responsibility for health & safety to a senior management representative.</p> <p>All applicants must identify hazards and inform workers and smallholders accordingly, and also adopt appropriate preventative measures to minimise hazards. All applicants must maintain records of accidents.</p>	<p>International Agreements:</p> <ul style="list-style-type: none"> ▪ ILO Convention 155 ▪ ILO Convention 161 ▪ ILO Convention 184 ▪ ILO Convention 110 ▪ ICESCR Article 7 (b) ▪ UNNRTC Section D 7 <p>Sustainability Standards:</p> <ul style="list-style-type: none"> ▪ RSPO ▪ FSC ▪ Basel Criteria 	<p>Health and safety standards on plantations or in processing plants may be seriously lacking, particularly regarding use of dangerous chemicals, or access to basic needs such as water.</p>

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Responsible use of chemicals	No evidence of adverse effects of chemical use upon workers, smallholders or nearby communities.	International Agreements: <ul style="list-style-type: none"> ▪ Stockholm Convention ▪ FAO Code of Conduct on the Distribution and Use of Pesticides ▪ ICESCR Article 12 ▪ WHO pesticide classification Sustainability Standards: <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria ▪ FLO Prohibited Materials List 	The use of highly toxic WHO Class I pesticides in biofuel crops should be banned. Prohibition of the application of a range of highly toxic substances enumerated by the Fairtrade Labelling Organization (FLO)
	No evidence of pollution of soil, air or water through chemical use. Compliance with the FAO International Code of Conduct on the Distribution and Use of Pesticides (revised version). Compliance with the Stockholm Convention on the list of forbidden chemicals. Compliance with the WHO Class I list of toxic pesticides.		
Plantations, mills and distilleries should deal fairly with smallholders and other local businesses	Evidence that all parties understand 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.	Sustainability Standards: <ul style="list-style-type: none"> ▪ RSPO ▪ Basel Criteria 	The potential of equitable smallholder agriculture to contribute to rural poverty alleviation is widely recognised. However, whilst many biofuel crops may be suitable for smallholder cultivation, smallholders face huge power imbalances when dealing with large agribusiness or plantations. Consequently, they are easily exploited. In order that small farmers might benefit from biofuel production, and to avoid scenarios in which they get caught in cycles of debt, standards that require large companies to treat farmers fairly and transparently are needed.
	Current and past prices for produce are publicly available.		
	Pricing mechanisms for produce, inputs and services are clearly documented.		
	Agreed payments to suppliers and smallholders are made in a timely manner.		
	Debt repayment schemes are fully transparent and operate on a fair rate of interest.		
	There is no discrimination between men and women smallholders in any of the above.		

Finally, it is important to note that certification schemes and standards, such as that proposed by the Commission for biofuels can represent a significant barrier to entry for smallholder farmers, either because the standards are developed with plantations in mind, or because the farmers lack the resources or other means necessary to engage with audit processes and ensure compliance. Therefore inadvertently, certification schemes may prevent smallholder farmers from engaging with new markets and lifting themselves out of poverty.

It is therefore absolutely critical that any set of standards, whether for environmental or social criteria, provide provisions for smallholders, such as specially designed criteria, financial support, or group certification schemes.

Food Security

The Right to Food is a fundamental human right recognised in international law, most notably in Article 11 of the Covenant on Economic, Social and Cultural Rights. Furthermore, the first Millennium Development Goal aims to reduce by half the people living in hunger by 2015⁵ to which the EU has repeatedly committed itself. The 2006 progress report however found that the number of people going hungry in the developing world was increasing. Current high food prices are seen by experts as representing a structural change in commodity prices⁶. Rising demand for biofuels has been identified by many observers, including the IMF⁷ and the FAO⁸, as a significant contributory factor. Most recently, the Director General of the International Food Policy Research Institute estimated that biofuel demand was responsible for about 30% of recent food price inflation⁹. Meanwhile the cereal import bill for Low Income Food Deficit Countries is predicted by the FAO to increase by 35% for the second consecutive year, with an even higher increase for Africa¹⁰. Higher food prices are felt most by the world's poor, who typically spend fifty to eighty percent of their income on food¹¹. And recently, hamstrung by rising food prices, the World Food Programme announced it may begin rationing food aid, at precisely the time when it is needed most¹². Furthermore, half of the 854 million chronically hungry people, which are largely depending for their food diet on food production on inadequate and insufficient plots of land, not having access to the necessary resources to improve production¹³, risk to further lose control over their means of subsistence.

Studies estimate that for every single percentage point rise in the price of food, 16 million more poor people become hungry, meaning that by some estimates global biofuel demand may result in an extra 600 million people being hungry in 2025 than was previously estimated¹⁴. For the EU's part, the Joint Research Centre of the Commission has estimated that the 10% target will have an impact on World cereal prices of *at least* +4%. Mariann Fischer-Boel, Commissioner for Agriculture estimates the price impact at up to 6%. This translates as something like 60-100 million more people going hungry as a result of the EU's biofuel policy.

Proponents of the target may argue that it will increase improve food security in rural areas by raising incomes, but this is a gross oversimplification. In reality the majority of rural households are net consumers of food, and so stand to lose from higher food prices.

Therefore, the impact of the policy on food security must be continually monitored, according to the FAO Right to Food Guidelines¹⁵, with respect to:

- Access to resources and assets of vulnerable populations
- International food prices, and in particular the import bills of Low Income Food Deficit Countries and Least Developed Countries
- Access to, and availability of, food in poor producer countries

In the event that the policy is found to be having adverse consequences for hunger, demand should be curtailed, the overall target reduced to a sustainable level, and aid directed to the worst affected areas in the meantime.

⁵ Relative to a 1990 baseline

⁶ OECD-FAO Agricultural Outlook 2007-2016.

⁷ *Biofuel Demand Pushes Up Food Prices*, IMF Survey Magazine: IMF Research, October 17, 2007.

⁸ *UN Warns on Soaring Food Prices*, BBC, 17 December 2007.

⁹ *Feed the World? We are Fighting a Losing Battle, UN Admits*, The Guardian, February 26, 2008.

¹⁰ *Crop Prospects and Food Situation No. 1*, FAO, February 2008.

¹¹ *Growth and Poverty Reduction: the Role of Agriculture*, Department for International Development of the UK, December 2005.

¹² *High Food Prices May Force Aid Rationing*, The Financial Times, 24 February 2008.

¹³ Hunger Task Force Report of the UN Millennium Project, see www.unmillenniumproject.org/reports/tf_hunger.htm

¹⁴ *Biofuels Expansion: Challenges, Risks and Opportunities for Poor People*, IFAD, 2008.

¹⁵ Of special relevance are the content of Guideline 4 (Market Systems), Guideline 8 (Access to resources and assets), Guideline 15 (International food aid) and Guideline 17 (Monitoring, indicators and benchmarks)