

	MALAYSIAN SUSTAINABLE PALM OIL (MSPO) SCHEME	Doc. No.:	MPOB/MSPO/IL/08
		Eff. Date:	19 Nov 2013
	Requirements for Palm Based Products to Fulfil EU RED	Issue No.:	1
		Rev. No.:	0

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1. Introduction

The Malaysian Standard (MS) MS2530 Malaysian Sustainable Palm Oil (MSPO) Parts 1 to 4 are the general requirements for the production of MSPO compliant palm oil and its products in Malaysia. The standards cover the general principles for Malaysian sustainable palm oil, independent smallholders, oil palm plantations and organised smallholders and palm oil mills.

In addition to the requirements in MSPO for the production of palm oil in Malaysia, there may be additional requirements imposed by importing countries, which stipulate specific requirements beyond MSPO when palm oil is used for certain applications e.g. biofuel. The Requirements for Palm Based Products to Fulfil with EU-RED are formulated to ensure the compliance with specific requirements contained in legislation imposed by the importing countries.

The MSPO-EU RED requirements have been formulated as a voluntary scheme for compliance with the Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, commonly referred to as the EU Renewable Energy Directive (EU RED).

The MSPO-EU RED requirements specifically enable producers to comply with EU RED requirements, provided that additional requirements, such as greenhouse gas emissions reduction and land use change have also been met. These allow supply chain operators obtaining palm oil from these producers to comply with EU RED requirements.

It is anticipated that MSPO-EU RED will either develop a greenhouse gas calculation tool, or will make use of an existing EU RED approved greenhouse gas calculation tool for use with the MSPO-EU RED requirements. Any MSPO-EU RED greenhouse gas calculation tool developed will be submitted to the EC for validation and approval before it can be used for MSPO-EU RED requirements.

These requirements are to be used in conjunction with the Principles and Criteria of MS2530 MSPO Parts 1 to 4 and the MSPO certification system requirements.

2. Scope

The requirements in this document are valid for all producers participating in the MSPO certification system and applying for MSPO-EU RED certification.

The document specifies the requirements for operators for production, processing, conversion, trading and forwarding palm products which have to be met in addition to the MSPO standard and the further requirements of the MSPO-QM, in order to ensure compliance with the EU sustainability criteria for biofuels as defined in EU RED.

The scope of MSPO-EU RED certification includes: palm products from feedstock production to last conversion at biofuels plant.

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3. Normative References

The following normative references are indispensable for the application of this document. They apply in addition to normative references as listed in MSPO-QM Appendix II – MSPO Certification System.

For dated references, only the edition cited applies. For undated references, the latest edition of the normative reference (including amendments) applies.

- Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources (2009/28/EC)
- Communication from the Commission on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme (2010/C 160/01)
- Communication from the commission on the practical implementation of the EU biofuels and bioliquids sustainability scheme and on counting rules for biofuels (2010/C 160/02)
- Commission Decision of 10 June 2010 on guidelines for the calculation of land carbon stocks for the purpose of Annex V to Directive 2009/28/EC (2010/335/EU)
- Commission Decision of 12 January 2011 on certain types of information about biofuels and bioliquids to be submitted by economic operators to Member States (2011/13/EU)

4. Glossary

For the purposes of this document, the terms and definitions given in the EU Directive 2009/28/EC (EU RED) apply in addition to the glossary of MSPO-QM. In case of conflict of terms and definitions, the terms and definitions of EU RED apply.

5. General Requirements

- 5.1 The MSPO-EU RED requirements have been formulated to be used in conjunction with the MSPO (Parts 1 to 4), wherever applicable.
- 5.2 The MSPO-EU RED certificate is an add-on to and includes scope and content of the MSPO certificate. This means that MSPO-EU RED compliant palm products count as MSPO compliant, whereas MSPO compliant palm products (i.e. without application of the MSPO-EU RED requirements) do not count as MSPO-EU RED compliant palm product.
- 5.3 All MSPO-EU RED requirements are mandatory for supply chain operators wishing to comply with EU RED requirements. Claims can only be made about compliance with MSPO-EU RED requirements if all operators in the supply chain have been

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successfully assessed and verified to be in compliance with the MSPO-EU RED requirements.

- 5.4 In case of conflict of requirements between the Requirements for Palm Based Products to Fulfil with EU RED Principles and Criteria of MS2530 MSPO Parts 1 to 4 and the further requirements of MSPO-QM, the requirements of MPOB/MSPO/IL/08 (this document) shall apply as minimum.
- 5.5 In case of changes, additions and/or alterations to the EU sustainability criteria for biofuels and bioliquids or related requirements issued by the European Commission, the operator shall comprehensively implement these changed, added and/or altered requirements.
- 5.6 If the operator mixes MSPO-EU RED compliant palm products with MSPO compliant palm products for which MSPO-EU RED requirements were not applied, the resulting consignment shall only apply as MSPO-EU RED compliant under the conditions and limitations of the MSPO mass balance system for mixes of MSPO compliant and non-compliant palm products.
- 5.7 The operator might mix MSPO-EU RED compliant palm products with palm products certified by other EU-recognized voluntary standards systems, and consider the resulting mix as MSPO-EU RED compliant.

6. Requirements for the Production of Palm Based Products

6.1 Legal Compliance of Operators

Operators shall comply with all applicable local, state, national and ratified international laws and regulations.

6.2 MSPO-EU RED Requirements on Land Use

6.2.1 Producers whose land was under oil palm cultivation in January 2008, and who wish to comply with sustainability criteria in the EU RED shall meet the following requirements:

- i. There is evidence that the land was under oil palm cultivation in January 2008.
- ii. There is evidence that the land is not designated for nature protection purposes by law or by the relevant competent authority. There is evidence that the land is not designated for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature, subject to the recognition of these organisations as outlined in Article 18(4) of the EU RED.

6.2.1.1 Indicators

- i. Records indicating the land use prior to January 2008 shall be kept.

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ii. The status of the land in January 2008 shall be communicated to the next economic operator.

6.2.2 Producers whose land was not under oil palm cultivation in January 2008 shall fulfil the following requirements:

The land shall not have one of the following statuses in or after January 2008:

- (a) primary forest and other wooded land, namely forest and other wooded land of native species, where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed;
- (b) areas designated:
 - (i) by law or by the relevant competent authority for nature protection purposes; or
 - (ii) for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature, subject to their recognition in accordance with the second subparagraph of Article 18(4);
 - (iii) unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;
- (c) highly biodiverse grassland that is:
 - (i) natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes; or
 - (ii) non-natural, namely grassland that would cease to be grassland in the absence of human intervention and which is species-rich and not degraded, unless evidence is provided that the harvesting of the raw material is necessary to preserve its grassland status.

Reference shall be made to criteria and geographic ranges established by the European Commission if any, to determine which grassland shall be covered by point (c) of the first subparagraph.

6.2.3 Biofuels and bioliquids taken into account for the purposes of MSPO - EU RED shall not be made from raw material obtained from land with high carbon stock, namely land that had one of the following statuses in January 2008 and no longer has that status:

- (a) wetlands, namely land that is covered with or saturated by water permanently or for a significant part of the year;

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- (b) continuously forested areas, namely land spanning more than one hectare with trees higher than five metres and a canopy cover of more than 30 %, or trees able to reach those thresholds in situ;
- (c) land spanning more than one hectare with trees higher than five metres and a canopy cover of between 10 % and 30 %, or trees able to reach those thresholds in situ, unless evidence is provided that the carbon stock of the area before and after conversion is such that, when the methodology laid down in part C of Annex V of the EU RED is applied, the conditions laid down in Article 17, paragraph 2 of the EU RED would be fulfilled.

The provisions of this paragraph shall not apply if, at the time the raw material was obtained, the land had the same status as it had in January 2008.

6.2.4 Biofuels and bioliquids taken into account for the purposes of MSPO - EU RED shall not be made from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.

6.3 Greenhouse Gas Emission Saving

6.3.1 One of the following options must be used to for the MSPO-EU RED greenhouse gas emission saving criterion:

- i. Use of a default value specified in Annex V of EU RED, which complies with the 35% greenhouse gas emission saving criterion specified in EU RED (and the 50% greenhouse gas reduction criterion from 1 January 2017). From 1 January 2018 that greenhouse gas emission saving shall be at least 60% for biofuels and bioliquids produced in installations in which production started on or after 1 January 2017.

Note: The default values in Annex V of EU RED may be subject to change in future. Any changes will be applicable to the MSPO-EU RED requirements with immediate effect.

- ii. Use of actual greenhouse gas values to calculate total greenhouse gas savings according to the EU RED methodology.

6.3.1.1 Indicators

- i. Each operator along the value chain under the scope of MSPO-EU RED shall provide specific GHG emission data per palm product consignment, using an EC approved greenhouse gas calculation methodology and related calculation tool.
- ii. For reliance on default values for mills with biogas capture, there shall be evidence that methane (biogas) capture from palm oil mill effluent is used. Supply chain operators shall clearly communicate to the next economic operator.

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- iii. Operators shall declare whether the bonus referred to in Annex V, part C, points 7 and 8 of Directive 2009/28/EC and Annex IV, part C, points 7 and 8 of Directive 98/70/EC has been used in the greenhouse gas calculation referred to in Annex V, part C, point 1 of Directive 2009/28/EC and Annex IV, part C, point 1 of Directive 98/70/EC for the consignment;
- iv. Supply chain operators shall clearly communicate to the next economic operator which calculation methodology is used. Disaggregated (actual and default) greenhouse gas data shall be communicated to the next economic operator.
- v. Records of greenhouse gas data and calculations shall be kept for five years.

6.3.2 The operator who brings the certified palm product consignment to the biofuels market, shall calculate the total of the emissions occurred from production to own purchase and distribution, and shall report the GHG value and saving per consignment.

7. Consequences of Non-compliance

7.1 Non-compliance with at least one of the requirements under 6.2 shall be considered as major non-compliance. If an operator is found to be non-compliant with at least one of these requirements, its certificate shall be withdrawn.

8. Requirements for Groups

8.1 Operators can participate in a group, if they are near to other group members. In particular, all group members shall be located in the same region.

8.2 All group members shall share similar production systems.

8.3 All group members (operators) shall comply comprehensively with the MSPO-EU RED requirements.

8.4 If at least one group member is found to be non-compliant with at least one of the requirements under item 6.2, the group certificate shall be suspended.

8.5 If a group member is found to be non-compliant with the MSPO-EU RED requirements and is unable to close the non-conformity, the Group Manager has the authority to remove the operator from the group.

8.6 If an operator acts as group manager for different groups under the MSPO system, the group manager shall keep separate internal controlling systems for each group. In particular, the group manager shall keep the management of MSPO group certificates unmistakably separate from MSPO-EU RED group certificates.

8.8 Specific requirements for sampling of group members

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The certification body shall consider following risk factors when taking audit samples of group members:

- Proximity to areas which are not applicable for MSPO-EU RED certification due to land use and land characteristics
- Proximity to producers which were found non-compliant with MSPO-EU RED requirements on land use

9. MSPO-EU RED Logo and Communication

Operators which are successfully certified by MSPO-EU RED shall use the logo below, instead of the logo described in MSPO-QM appendix V. All other requirements of appendix V apply accordingly for MSPO-EU RED.

Guidance: Operators should be aware that MSPO-EU RED compliant biomass will not be accepted by EU biofuels market, if it is not unmistakably communicated as such.

