

Memorandum of Understanding Palm Oil Network Switzerland

Preamble

Palm oil can be found in everyday products such as food, detergents and skin creams. Producing approximately 3.3 tons of palm oil per hectare, the plant is nearly five times as productive as rapeseed and yields eight times as much as soy.¹ The wide range of applications and high yields account for the worldwide success of the oil palm grown in the tropics. In Switzerland, palm oil makes up around 17% of all vegetable oils used, though we are currently observing a downward trend.

Due to the high demand for palm oil, the cultivation of oil palms, compared with other agricultural commodities, has proliferated over the past ten years. The related changes of land use, and the negative effects on the environment caused by this cultivation are frequently a topic of debate among governments, the scientific community and the public in general. The production of palm oil is being criticised because of the tropical deforestation it causes, the extremely high CO₂ emissions and the violation of human rights. To address the critical issues in palm oil production, the RSPO (Round Table on Sustainable Palm Oil) was founded in 2004. RSPO is a multi-stakeholder initiative that advocates sustainably grown and produced palm oil and has defined the corresponding standard.

Unfortunately, the RSPO also frequently comes under fire. By adopting new guidelines in November 2018, RSPO members introduced more stringent requirements for RSPO-certified palm oil. Despite this progress, the development of the standard, the implementation thereof and credible monitoring of the more stringent measures adopted remain a challenge.

Purpose

The signatories of the value chain (hereinafter referred to as "Members") promote the cultivation, processing, marketing and use of sustainable palm oil and palm kernel oil. In the context of this Agreement, the Members wish to initiate a continuous improvement process, achieve measurable results and provide transparent information on a regular basis to the public and stakeholders on the challenges and the results achieved.

The Members are committed to the goals and the implementation of specific, jointly established measures.

¹ http://www.wwf.de/fileadmin/fm-wwf/Publikationen-PDF/WWF-Studie_Auf_der_OEIspur.pdf

Objectives

1. Imports

By the end of 2020, 100 percent of palm oil and palm kernel oil imported to Switzerland for food purposes should comply with RSP IP or RSPO Segregated requirements (or an equivalent standard²).

The scope of application will include the tariff headings for palm oil, palm kernel oil and their fractions (see Annex 1). Processed palm oil and palm kernel oil (in semi-finished and finished products) imported into Switzerland are therefore excluded from the Agreement.

2. Traceability

The Members shall ensure the transparency and traceability of palm oil and palm kernel oil imported into Switzerland for food purposes up to the primary processing mill. In addition, the Members shall strive to guarantee the transparency and traceability back to the producer (plantation, cooperative, etc.) by 2025.

3. Development of standards

The Members agree that standards and certification systems must be continuously improved. The Members therefore undertake to jointly develop sustainability standards for palm oil. Their goal is to integrate the improvement measures established when reviewing the standards into the relevant catalogue of criteria.

Sustainability standards for palm oil, especially those of RSPO, should obtain measurable improvements or consider additional criteria in the following fields:

- No deforestation, i.e. comprehensive application of the High Carbon Stock (HCS) Approach, even in countries with a high forest cover
- Ban on highly toxic and persistent pesticides
- Ban on GMOs (genetically modified organisms)
- No processing and sourcing of fresh fruit bunches (FFB) from illegal or unknown sources
- Definition of the term "living wage" and the obligation to apply a credible method when determining it
- Regulations for admissible working hours and temporary employment
- No withholding of workers' personal documents
- Developing training programmes for producers (especially small farmers) to enable them to meet the requirements of the standard
- Ensuring the credible implementation of the criteria for the standard and ensuring that the auditing quality is improved (this includes guaranteeing the full independence of auditors).

New insights, for example from studies and benchmarks, are added continuously to the process.

² The palm oil sustainability standards applied in the market are compared in a benchmark that shows their content-related and organisational strengths and weaknesses and deficiencies. The benchmark provides an overview, on the basis of which the industry defines improvement measures for the standards. The benchmark is not binding. The stakeholders decide independently and autonomously whether they want to accept standards as equivalents in the context of the industry agreement.

4. Operationalising in the supply chain

On the basis of these additional criteria, the Members shall develop an implementation plan in 2020, specifying responsibilities, deadlines, tools and measures that provide a stimulus to the improvement process in the supply chain and make results and developments measurable. The Members shall refer to existing, complementary criteria of the standard (e.g. of Rainforest Alliance). The Members undertake to request suppliers to implement the above-mentioned additional criteria in the value chain and ensure credible, independent verification (see Annex 2, point 4).

5. Communication

The Members shall inform the media and the public about their commitment to sustainable palm oil and palm kernel oil. The attainment of the goals in the field of imports is to be measured, independently verified and communicated once a year. In addition, the Members shall issue an annual statement on the progress made and on the necessary measures of improvement (see Annex 2).

Extending the scope of action

The Members are aware of the fact that the market environment changes continually in the area of supply and demand. They wish to incorporate these changes by defining, by the end of 2020, fields of actions they intend to focus on, such as

- Other tropical oils imported into Switzerland
- Processed palm oil (in semi-finished and finished products) imported into Switzerland
- Development of new landscape/smallholder projects or support of existing projects

Organisation

The Palm Oil Network Switzerland is a Swiss-based association of organisations forming part of the palm oil value chain. A list of Members is provided in Annex 3.

The Members decide on developing the Palm Oil Network Switzerland. The Members shall convene on a regular basis for consultation on issues pertaining to this Agreement. To this end, each organisation shall designate a responsible contact person. This contact persons or their representatives shall meet regularly, but at least once a year, to evaluate the progress made in implementing the obligations as defined in this Agreement and to take joint decisions as necessary.

The Members can assign specific tasks to ad hoc working groups, for example to evaluate the equivalence of standards. They may also decide to commission a third party with these tasks. Moreover, they can obtain financial resources to finance such tasks or other activities from third parties (e.g. the Confederation or foundations)..

The Members can select a project management team (Annex 4) that is in charge of coordination and organisation. Each Member can voice their concerns at any time by submitting an application to the project management team.

The resolutions of the Members are reached by majority vote.

If a critical mass of organisations joins the Palm Oil Network Switzerland, a formalised structure of obligations or governance may replace the Palm Oil Network Switzerland.

Contributions

Network costs are borne by the Members. Each Member bears all direct costs arising in connection with this Memorandum of Understanding and the implementation thereof. Additional joint activities are subject to the Members' decision about cost sharing.

New members

The admission of new members is subject to approval by the existing Members. To be eligible for Palm Oil Network Switzerland membership, potential members must be members of RSPO. The transfer of membership is excluded.

Information, freedom of action and confidentiality

The Members who import palm oil undertake to provide information as stated in Annex 3.

The Members agree that cooperative cooperation neither influences nor restricts the competitive freedom of action of the independent companies participating in this venture. This Memorandum of Understanding shall only be valid if it is not in contradiction with Swiss competition law.

Any information gathered within the Palm Oil Network Switzerland must be kept confidential and may not be made available to third parties without the express consent of the Members.

Liability

If a Member appears on behalf of Palm Oil Network Switzerland without justification (*falsus procurator*), such Member shall be jointly and severally liable for any liability incurred. Furthermore, pursuant to Section 51 (2) of the Swiss Code of Obligations ("OR"), any damage shall be borne primarily by a Member who causes damage by tortious acts and, ultimately, by a Member who becomes liable pursuant to national legislation, through no fault of their own and without being subject to any contractual obligations.

Term

The Palm Oil Network Switzerland shall be dissolved as soon its objectives and purposes have been reached.

Amendments

Any amendments to this Memorandum of Understanding must be made in writing in order to be valid.

Place of jurisdiction

This Memorandum of Understanding is governed and interpreted in accordance with Swiss law. The place of jurisdiction is Zurich, Switzerland.

Termination

Ordinary termination: Each party may terminate their commitment in the context of this Agreement at any time, in which case they must communicate their reasons to the steering committee in writing.

The participation of individual parties in this Agreement can be terminated by exclusion if:

- a. One of the parties violates one or several obligations arising from this Memorandum of Understanding and if, following a written warning, contract violation does not cease within 30 (thirty) calendar days of such written warning;
- b. One of the parties repeatedly performs business practices or participates in projects that are not compatible with the goals of this Memorandum of Understanding; or
- c. One of parties attempts to transfer or assign the entire Memorandum of Understanding or certain rights and duties thereof to third parties without prior written consent; or
- d. Bankruptcy proceedings against the assets of a party are instituted or a party is granted respite from debt enforcement or such party grants its creditors an out-of-court settlement agreement.

Extraordinary exclusions of parties are decided by the Members by consensus (without the party concerned). Giving notice to or excluding a party shall not invalidate the entire Memorandum of Understanding.

With their valid signature, the Members agree with the provisions hereinabove.

Organisation/company _____

Place/date

First name

Surname

Function

Surname

First name

Function

Annex

1. Scope

Tariff lines including their subheadings (processing level and containers):

Customs number	
1511.1090	Palm oil, raw (unless intended for animal feed)
1511.9018	Fractions of palm oil with a melting point above that of palm oil, whether or not refined, but not chemically modified, in tanks or metal tubs (excluding fractions of palm oil used in animal feed)
1511.9019	Fractions of palm oil with a melting point above that of palm oil, whether or not refined, but not chemically modified (excluding fractions of palm oil used in animal feed and those in tanks or metal tubs)
1511.9098	Palm oil and its fractions, whether or not refined, but not chemically modified, in tanks or metal tubs (excluding raw oil and fractions with a melting point above that of palm oil as well as oils and its fractions used in animal feed)
1511.9099	Palm oil and its fractions, whether or not refined, but not chemically modified (excluding raw oil and fractions with a melting point above that of palm oil, oil and its fractions intended for animal feed as well as fractions in tanks or metal tubs)
1513.2190	Palm kernel oil or babassu oil, raw (except oil used for animal feed)
1513.2918	Fractions of palm kernel oil or babassu oil, with a melting point above that of palm kernel oil or babassu oil, in tanks or metal tubs (excluding fractions of palm kernel oil or babassu oil intended for animal feed)
1513.2919	Fractions of palm kernel oil or babassu oil, with a melting point above that of palm kernel oil or babassu oil (excluding fractions of palm kernel oil or babassu oil intended for animal feed and in tanks or metal tubs)
1513.2998	Palm kernel oil or babassu oil and their fractions, whether or not refined, but not chemically modified, in tanks or metal tubs (excluding raw oils and fractions with a melting point above that of palm kernel oil or babassu oil as well as oils and their fractions intended for animal feed)
1513.2999	Palm kernel oil or babassu oil and their fractions, whether or not refined, but not chemically modified (excluding raw oils and fractions with a melting point above that of palm kernel oil or babassu oil, oils and their fractions intended for animal feed and in tanks or metal tubs)
1516.2093	Fats and oils of vegetable origin and their fractions, partly or wholly hydrogenated, inter-esterified, reesterified or eladinised, whether or not refined, but not further prepared, in tanks or metal tubs (excluding those intended for animal feed and hydrogenated castor oil [opalwax])
1516.2098	Fats and oils of vegetable origin and their fractions, partly or wholly hydrogenated, inter-esterified, reesterified or eladinised, whether or not refined, but not further prepared (excluding those intended for animal feed and hydrogenated castor oil [opalwax] and those in tanks and metal tubs)
1517.following	Margarine and edible mixtures and preparations of animal or vegetable fats and oils and the edible fractions of various fats and oils (excluding fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, reesterified or eladinised, whether or not refined, but not further prepared as well as blends from olive oils or their fractions), Blends of fats (triglycerides), blends of oils (triglycerides), oil mixtures (triglycerides), fat mixtures (triglycerides), vegetable fat blends, vegetable oil blends

2. Monitoring and reporting

Palm oil importers must report on the following points by 30 June of the subsequent year:

1. RSPO certification status (RSPO certificate, auditing report)
2. Indication of quantity with regard to the certified volumes of palm oil, palm kernel oil and their fractions (self-declaration RSPO-ACOP reporting, verification with import statistics)
3. Declaration of traceability always back to the first processing mill and, if possible to the producer (plantation, cooperative, etc.), including volume (traceability sheet)
4. Confirmation (status report of the certification body) by an external auditor (RSPO auditor or additional auditor) that the defined additional criteria beyond RSPO have been taken into consideration and are being implemented.

3. Members

Organisation/company	Member since	Contact
Barry Callebaut	Founder member	Sabine Fortmann
Coop	Founder member	Raphael Schilling
Florin	Founder member	Lorenz Hauck
Federation of Migros Cooperatives	Founder member	Bernhard Kammer
M-Industry	Founder member	René Oeggerli
Nestlé Switzerland	Founder member	Christian Müller
Nutriswiss	Founder member	Lutz Asbeck
Pro Fair Trade AG	Founder member	Petra Wree

4. Project management tasks

Project management is responsible for the coordination and organisation and encompasses the following tasks:

- Coordination of the projects together with the Members (organisation of meetings, preparation of applications, minutes)
- Cooperation with the media (answering questions, writing press releases, media documentation, media archive)
- Target controlling and reporting
- Communication (annual status report on reaching the goals, maybe development, maintenance, and editing of website)
- Observation of political and international developments
- Interaction with stakeholders and potential members, NGOs, authorities, environmental and consumer organisations