

SSC Endorsement: 9 May 2022

**Terms of Reference
RSPO Human Rights Working Group (HRWG)**

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RSPO HRWG Vision

The HRWG supports RSPO's Vision to "transform markets to make sustainable palm oil the norm" by providing guidance to members and relevant stakeholders such as Certifying Bodies ("CBs") to ensure that human rights of workers (plantations and mills) and smallholders, communities and people impacted by the operation of its member's business are not infringed.

1.0 Background

1.1 The Human Rights Working Group ("HRWG") was officially established in 2014 to provide strategic and technical advice to support the successful and effective implementation of the relevant RSPO Principles and Criteria (P&C), in particular criteria which relate to human rights.

1.2 The RSPO P&C, which is revised every five (5) years, has been drawn up to be consistent with the key international laws, conventions, treaties and guidelines applicable to the production of palm oil¹ as far as possible. Measures have been introduced to ensure that the RSPO standard addresses human rights considerations related to: -

- the rights of indigenous peoples;
- land rights, property rights;
- customary rights;
- children's rights;
- food security;
- women's rights and gender equity;
- community rights;
- right to sustainable livelihood(s) for smallholders;
- labour rights and working conditions;
- protections for human rights defenders, complainants, whistle-blowers and community spokespersons.

1.3 The RSPO and its members acknowledge their responsibility to respect human rights, complementing the state duty to protect human rights and provide access to remedy for human rights abuse victims.² The HRWG has been tasked to oversee the implementation of all human rights criteria within the RSPO by providing guidance to the RSPO and its members and relevant stakeholders. In this regard, the HRWG will oversee the development of guidelines, tools, and mechanisms to

¹ for further reference on the specific key international laws, conventions, treaties and guiding principles, refer to Annex 3 of RSPO Principles & Criteria 2018

² https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

facilitate proper understanding and support the successful and effective implementation of the RSPO Principles and Criteria.

- 1.4 The HRWG, is supported in its function by the RSPO Secretariat, and reports its work to the RSPO Standard Standing Committee (SSC).
- 1.5 As the impacts of industry on people are broad, the HRWG will focus on the most salient human rights issues determined through risk and gap assessments. This may overlap with the work of other Standing Committees, Working Groups and Task Force(s). The HRWG will endeavour to work together with the relevant Standing Committees, Working Groups and/or Task Force(s) where there is an overlap of interests to agree on roles and responsibilities and ensure that a consistent approach is taken by the RSPO to address any issues relating to Human Rights.
- 1.6 To ensure effective coordination, Human Rights & Social Standards (HRSS) Unit will be the principal conduit of communication among the other relevant Working Groups and Task Forces. Key individuals from these bodies (typically the Chair) may be invited to attend HRWG meetings where appropriate.

2.0 Mandate

- 2.1 The HRWG will act as the advisory body for human rights, labour rights, social standards and community management issues within the RSPO. In order to be effective, the members of the HRWG must understand and if relevant, incorporate the lessons of various other Working Groups and Task Forces that have been leading similar and parallel efforts in implementing human rights standards over the last several years. One of the important tasks of the HRWG is to ensure that the RSPO P&C, the RSPO Independent Smallholder Standards and all associated standards and supporting documents are pragmatic and effective.
- 2.2 In order to ensure effectiveness, and where appropriate, the HRWG will work in smaller Subgroups based on specific issues to ensure that it is able to focus its resources and expertise in a strategic manner. The status of Subgroups are not permanent in nature and may be dissolved upon consensus of the HRWG.
- 2.3 The mandate of the HRWG will expire in December 2023 upon the completion of the HRWG Strategy 2021-2023. Where appropriate and justifiable, the HRWG, in discussion with the Secretariat may review the need to extend the mandate and seek approval from the SSC for the same.

3.0 Scope

- 3.1 The HRWG will focus its attention on all human rights and social standards in all RSPO Standards documents.

- 3.2 Among others, the following topics are relevant to the HRWG:
- Land rights of communities, both indigenous and non-indigenous, affected by oil palm development and operations, including the gender dimension of land tenure (land ownership, land access, land use) and potential impacts on the right to sustainable livelihoods and the right to food;
 - Right to be heard for communities and oil palm smallholders, both men and women, affected by palm oil operations, including participatory systems for mapping and consent to new plantings;
 - Labour rights of workers (plantations and mills) and smallholders, particularly in the areas of ethical recruitment practices, elimination of forced labour, recognising the voices of workers and ensuring the health, safety and decent working pay and conditions are provided;
 - Supply chain responsibilities to respect human rights,
 - Rights of vulnerable groups such as women and children are protected.
- 3.3 The HRWG will take into account the work being undertaken by other RSPO Committees, Working Groups and Task Forces to ensure consistent development, implementation and verifications of standards & principles. The main activities of the Working Group will include:
- Scoping of relevant human rights and social standards (building on the list above) at the global RSPO level and at relevant national levels;
 - Identification of common/recurring/urgent human rights and social standards non-compliance issues;
 - Gap analyses of current compliance of implementation and (intended positive) impact of relevant elements of the RSPO standard specific to human rights and social standards;
 - Identity lessons learned and best practices on auditing undertaken by Certifying Bodies, on operations of the Complaints Panel, Dispute Settlement Facility and identifying and proposing improvements to current systems;
 - Overseeing and evaluating the trial and implementation of new requirements or areas for continuous improvement;
 - Developing and/or reviewing guidance documents for the implementation of human rights principles and social standards for RSPO members and stakeholders;
 - Formulating recommendations for the Standards Standing Committee for more long-term enhanced RSPO structures that are conducive for the respect of human rights in the sector.
- 3.4 To meet the objectives of the HRWG, the HRWG Co-chairs, in discussion with the Secretariat, will establish an annual work plan which includes objectives, activities, timelines, budgets and deliverables at the beginning of each calendar year. The annual work plan shall take into account the available resources, including

availability of staff and capacity of the RSPO Secretariat and to ensure alignment to the RSPO Operational Work Plans as applicable.

4.0 Composition

4.1 The HRWG consists of RSPO members. Its composition represents the sectoral and geographical composition and balance of RSPO, and the specialised technical nature of this group and shall be comprised in the following manner: -

Table 1 - Composition of the HRWG

Sector	Constituency	Total
Grower	Oil Palm Growers (Malaysia)	2
	Oil Palm Growers (Indonesia)	2
	Oil Palm Growers (Rest of World)	1
	Oil Palm Growers (Smallholder Representative)	1
Supply Chain	Processor & Trader	5
	Consumer Goods Manufacturer	3
	Retailer	1
	Financial Institution	1
NGO	Social NGOs	3
	Environmental NGOs	1

4.2 Where there is no representation from a specific membership category, and after all efforts have been made by the Secretariat and the existing members of the

- HRWG to fill the seat, the seat shall remain vacant until an eligible candidate is found.
- 4.3 It is desired that HRWG members have technical expertise and/or experience relating to human rights and practical application of social sustainability business practices.
 - 4.4 Nominations will be made to the Secretariat. Candidates must be nominated by an RSPO member and agreed by the HRWG members through a consensus.
 - 4.5 Members that are suspended by the Complaints Panel or in any other form do not comply with the RSPO Code of Conduct and the RSPO P&C, will be excluded from membership of the HRWG.
 - 4.6 Membership of the HRWG is institutional rather than individual; change in employment status should be communicated to the RSPO Secretariat and Co-Chairs.
 - 4.7 Participation is voluntary and non-remunerative.
 - 4.8 The HRWG will be co-chaired by two (2) members, one selected to represent the interest of the growers, financial institutions, consumer product manufacturers, retailers, processors and traders and another chair to represent the interests of the social and environmental NGOs, which shall be nominated by the HRWG members every two years.
 - 4.9 Members are expected to participate actively in the proceedings or to ensure they are represented by a designated alternate if they are unable to do so. Only the substantive and/or designated alternate member can participate in the meetings. By permission of the Co-chairs, designated alternates may attend meetings at which the substantive member is present but only in the capacity of an observer, with no automatic right to speak. In exceptional circumstances, permission may be sought from Co-chairs for a second alternate to attend HRWG meetings. The substantive member shall inform the RSPO Secretariat of the alternate representative as soon as possible ahead of the upcoming meeting. Substantive members will be responsible for coordinating and updating their designated alternates directly, and vice versa.
 - 4.10 Upon agreement by the members of the HRWG, the HRWG may choose to invite experts in specific areas to participate in discussions requiring specific expertise. Invited experts are to only attend parts/on days of the meeting for which their counsel is needed. They need not attend all meetings or remain the entire duration of the meeting and will be required to leave the meeting at times of voting or decision making.

5.0 Meetings

- 5.1 The HRWG endeavours to organise meetings four (4) times a year, either face to face or via teleconference, whichever is deemed necessary.
- 5.2 The RSPO Secretariat, upon consulting the Co-Chairs, will make all the necessary arrangements to call for meetings and ensure it meets the quorum for the meeting defined as 2/3 of the nominated members attending a meeting, which includes at least one representative from each membership category.
- 5.3 In the event that a quorum has not been achieved within 15 minutes of the commencement of the meeting, the Co-Chairs shall decide after consultation with the members present whether to proceed with the meeting and how any matter requiring decision will be dealt with.
- 5.4 The Co-Chairs of the HRWG and the RSPO Secretariat will have frequent communication updates for the arrangement and planning of such meetings.

5.5 Meeting Documentation

No.	Document Description	Timeline
1	Draft minutes of meetings and clarifications of decisions to be shared internally	Not more than one month after meeting
2	Approved Minutes of the meeting to be shared publicly on the HRWG page	Not more than two weeks after the minutes have been approved
3	Working Group Meeting Pack	One week before the meeting

- 5.6 Members of the HRWG shall also respect the “Chatham House Rule³” in their reporting of HRWG discussions. This means that while remarks made during meetings may be repeated, they should not be attributed to individual HRWG members, except where an attributed comment has been included in the approved minutes of that meeting.

³ <https://www.chathamhouse.org/about-us/chatham-house-rule>

6.0 Management

- 6.1 Each member must declare any conflict of interest on any matters on the agenda and/or matters arising at the beginning or during the course of the meeting. Should a conflict of interest exist, the member concerned must recuse themselves from the decision-making process or sensitive discussions.
- 6.2 Members or invited experts who have been privy into the discussions shall not use their position on the HRWG and/or information obtained to obtain monetary gain or bid for any projects commissioned by the HRWG directly or indirectly through organisations with whom they are associated. For example, members or invited experts who observe discussions about developing project Terms of References will not be allowed to tender, and/or participate in the tender evaluation/selection processes. Members of organisations planning to tender for pieces of work should therefore be forewarned of discussions on proposed Terms of References or projects and allowed to recuse themselves from the meeting.
- 6.3 All members of the HRWG, technical experts and observers are required to sign the HRWG Code of Conduct before participating in HRWG meetings.
- 6.4 Decisions will be reached by consensus by nominated members and be made when there is a quorum. Consensus is defined as the absence of sustained objection.
- 6.5 Where there is sustained objection, every effort will be made to find an alternative consensus but where exceptionally this is not possible and yet members insist that a decision be made, then members may vote, and decisions be made by simple majority and shall include at least one supporting vote from each membership category. Voting rights are limited to HRWG substantive members or their alternates. Under no circumstances can substantive and alternate members participate in the same vote.

7.0 Retirement Criteria

- 7.1 The HRWG can exercise its right to retire the membership of a Working Group member. However, the decision must be made by consensus of the Working Group (excluding the affected party).
- 7.2 The reasons (not exhaustive) for the Working Group to consider retirement of a Working Group member are:
 - Refusal or failure to sign the HRWG Code of Conduct;
 - If members are not adhering to the provisions of the RSPO Code of Conduct, Antitrust Guidelines for RSPO Members and the terms of this ToR;

- Absence from Working Group meetings (i.e., substantive and designated alternate) for three consecutive meetings (physical and virtual through telcon) without reason;
- Persistent refusal to furnish information requested by the Working Group. Information requested, if deemed beneficial to the objectives of the Working Group, shall not be unreasonably withheld except for those which are commercially sensitive and/or prohibited by law for dissemination.

7.3 Retirement of membership will be informed in writing by the Secretariat on behalf of the HRWG.

7.4 The Co-Chairs of the HRWG will invite constituents of the affected sectoral and/or geographical stakeholder group to nominate a new representative to the Working Group.

8.0 Role of the Secretariat

8.1 The RSPO Secretariat will provide the financial, human and logistical support that the HRWG requires to meet, conduct business and achieve its objectives. The HRSS Unit will be the primary source of assistance and support to the HRWG.

8.2 The RSPO Secretariat will coordinate and facilitate the meetings of the HRWG as well as take the lead in implementing the desired activities and deliverables of the HRWG.

8.3 When the SSC may need technical assistance from the HRWG, this will be channeled through the HRSS Unit, as the primary contact point of the Working Group within the Secretariat.

9.0 Expected Outputs

9.1 The Secretariat will undertake the following tasks and activities, with the technical expertise of the HRWG. These include (not an exhaustive list):

- Develop concise policy documents on human rights, such as policy on gender equality and women's economic empowerment;
- Facilitate the development of information resources and toolkits related to the implementation of the RSPO P&C and or other Key Documents relating to human rights topics such as (not exhaustive) women's rights and gender equity, children's rights, rights of indigenous people, Free Prior Informed Consent, Labour Rights, Decent Living Wages;
- Develop a monitoring and evaluation (M&E) system that measures the impact of certification on key human rights impacts in the palm oil sector;

- Commission and review studies which evaluate the efficacy of the certification and assurance system relating to key human rights areas which are affected by the palm industry;
- Developing and/or overseeing the development of guidance and/or toolkits for Certification Bodies to improve social auditing in the RSPO system;
- Development of terms of references for projects.

10.0 Review

- 10.1 The governance of the HRWG is the responsibility of the Standards Standing Committee (SSC). Any changes to these Terms of Reference shall be approved by the SSC.