

Public Consultation On RSPO Remediation & Compensation Procedures

28th Sept 2015
Accra

PREPARED BY:
Compensation Task Force



Compensation Task Force



Objectives:

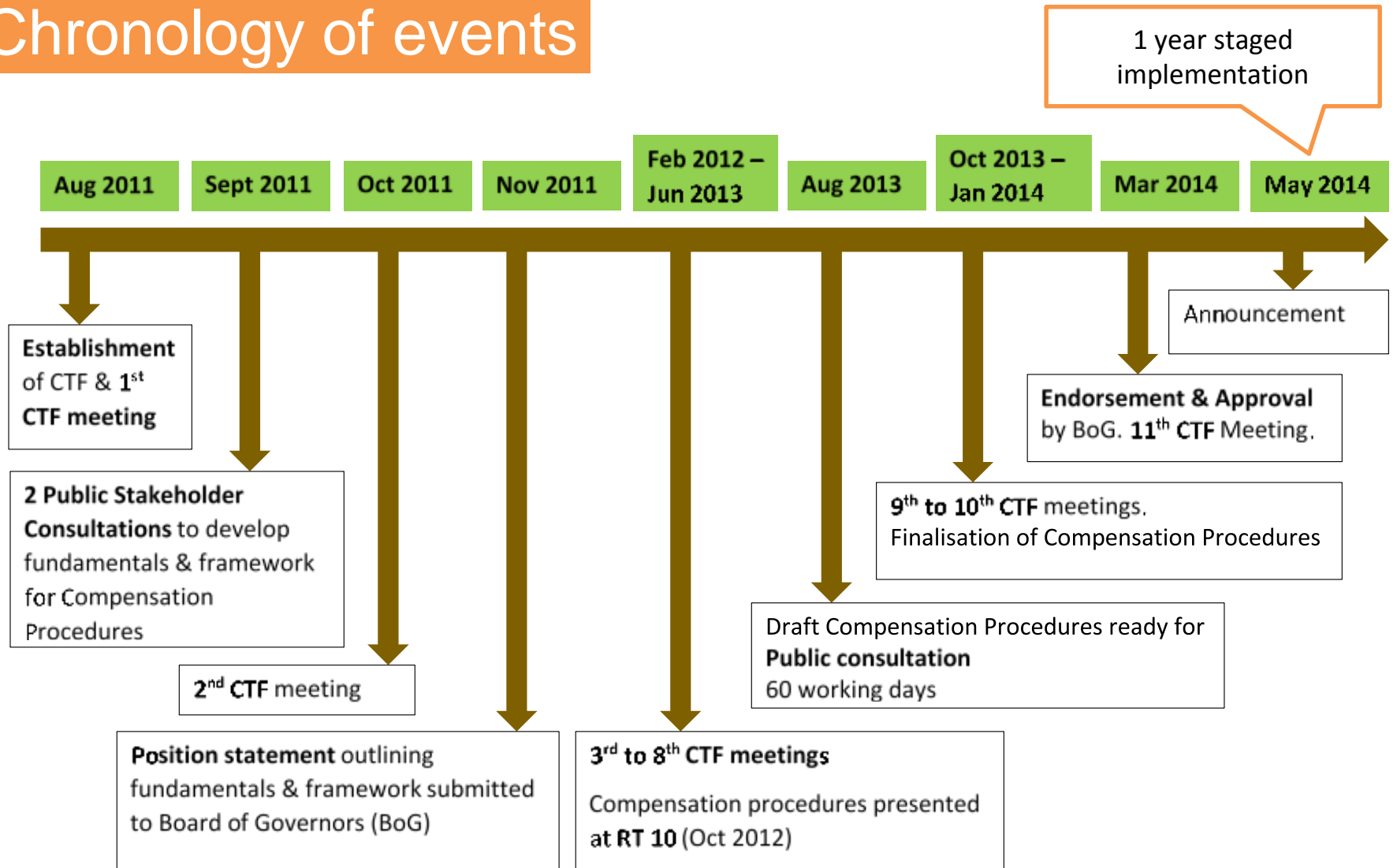
- ❖ To develop guidance for remediation and compensation of;
 - i. land clearance without HCV assessment,
 - ii. loss of HCV areas

- ❖ To manage initial implementation of the guidance.

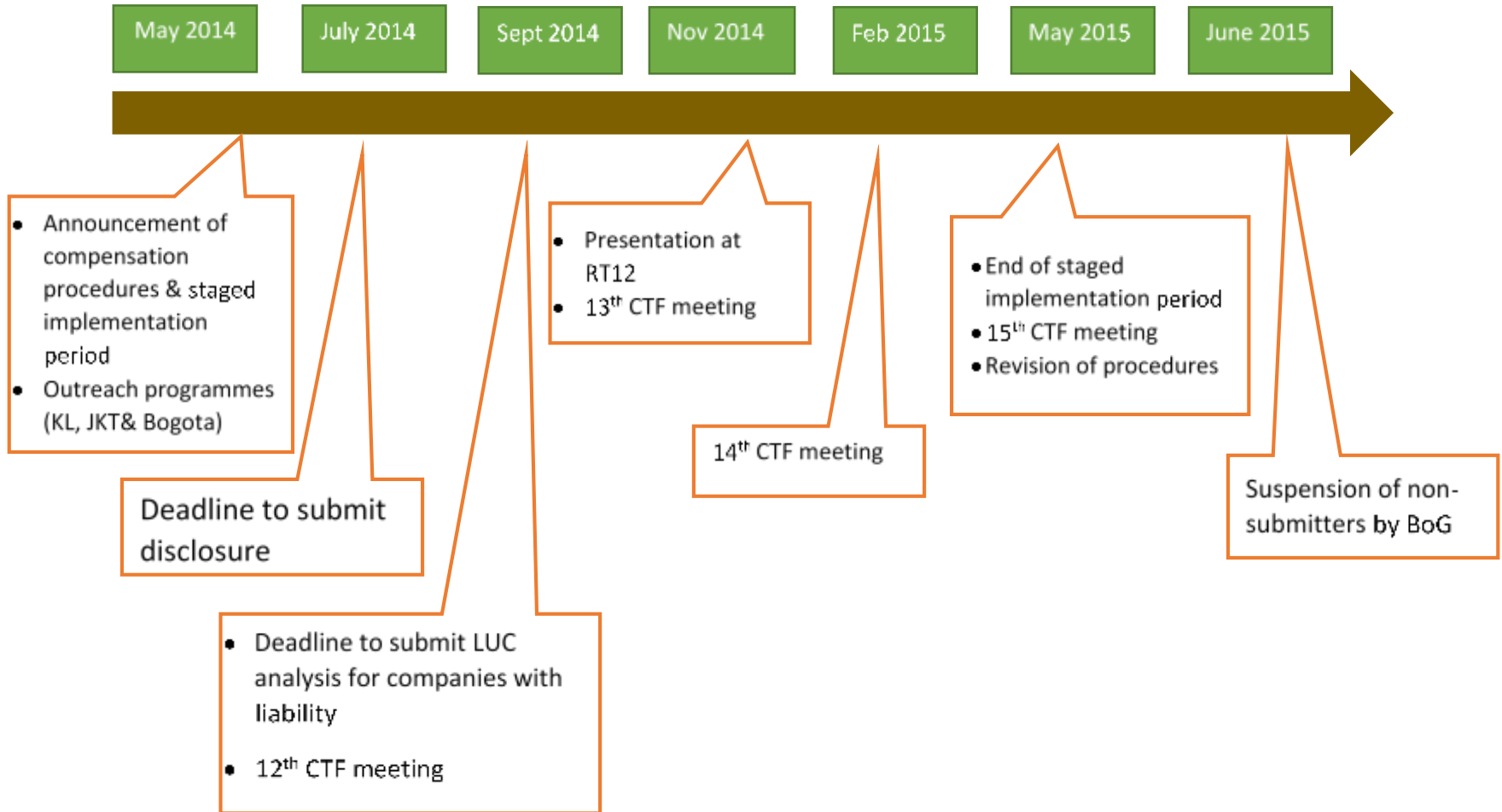
Multi-stakeholder representation:

- Growers (SIPEF, Musim Mas, Sime Darby, FGV, REA Kaltim, OLAM Int., & GAR)
- ENGOs (WRI, WWF, BORA, ZSL, HUTAN & FFI)
- SNGOs (FPP & SEPA)
- Financial Inst. (IFC)
- Invited experts (SEARRP, Remark Asia, Daemeter, & etc)

Chronology of events



Staged implementation



Why are these procedures necessary?

- To enable growers to resolve past non-conformances with Criteria 7.3 and obtain RSPO certification

RSPO (2007) Criterion 7.3:

New plantings since November 2005, have not replaced primary forest or any area required to maintain or enhance one or more High Conservation Values (HCV)

- *Indicator: An HCV assessment, including stakeholder consultation, is conducted prior to any conversion*



When do these procedures apply?

Compensation is required for any land clearance after 2005 without prior HCV assessment

This applies to land used to cultivate oil palm which:

- RSPO member (Grower OR Trader/Processor) has a majority shareholding in or management control of
- Belongs to scheme/associated smallholders linked to a RSPO member
- Is owned/managed by out-growers of FFB exclusively contracted by a palm oil mill which an RSPO member has the majority shareholding/management control of



When do these procedures apply?

- These procedures apply even if the non-compliant land clearing was conducted **BEFORE** the land was acquired or leased by the RSPO member who currently owns it
 - ✓ *Land Use Change Analysis done as part of HCV assessment by new land owner prior to further land clearing*
- These procedures **DO NOT** apply to Independent smallholders



Key requirements of the procedures

- **Disclosure of non-compliant land clearings**
- **Development of standard operating procedures (SOPs) designed to avoid any new non-compliant land clearing**
- **Land use change analysis**
 - *Nov 2005 – date of HCV assessment*
- **Calculation of conservation compensation liability**
- **Design of a conservation compensation project**
- **Identification of areas for environmental remediation to comply with the RSPO P&Cs**



Key requirements of the procedures

- Identification of social impacts of the loss of HCV 4,5, 6
- Negotiation and agreement of a social remediation and/or social compensation plan
- Submission of remediation and compensation concept note
- Submission of remediation and compensation plan
- Evaluation of each compensation case by a Compensation Panel
- Monitoring and implementation



Disclosure of non-compliant land clearings

- 1. Existing RSPO members:** should already have disclosed all non-compliant land clearance on land managed and/or under their control (owned, managed, leased, or acquired)
- 2. Applicants for RSPO membership:** before 2 week public consultation on their application....
 - disclose to the RSPO Secretariat any non-compliant land clearance on land under their control and enter compensation process
 - **OR** state in writing that no non-compliant land clearing exists



WARNING!!!!

If the RSPO member themselves discloses it is treated as a compensation case:

- Management units with no remediation or final social or conservation liability can proceed with RSPO certification once the Land Use Change Analysis has been approved by the RSPO Compensation Panel.
- Management units with remediation and/or final social or conservation liability can only proceed with RSPO certification once an HCV compensation project concept plan has been developed and accepted by the RSPO Compensation Panel.

If the non-compliant land clearance is reported to the RSPO by anyone other than the RSPO member then the case will be treated as a complaint rather than a compensation case:

- None of the management units belonging to that grower can proceed with new certification until the Complaints Panel resolves the case.
- The Compensation Panel may require the grower to follow these remediation and compensation procedures as part of their requirements for resolving the complaint.



Development of SOPs to avoid any further non-compliant land clearing

- Standard Operating Procedures (SOPs) demonstrating that measures are in place to prevent further non-compliant land clearing shall be submitted with the disclosure
- SOPs must be approved by the company's top management

Question:

How appropriate, effective and feasible will it be to request companies to submit top management-approved SOPs as evidence that they have taken steps to avoid new non-compliant clearing? If not appropriate, what could be alternative sources of evidence?



Land Use Change (LUC) Analysis

- For all management units with land clearing since 2005 without prior HCV assessment, a LUC analysis is required.
- Land use/cover in November 2005 is used as a proxy for the potential HCVs 1-3 that may have been lost.
- Loss of social HCVs to be calculated separately, but LUC still required for areas with only social liability.
- Areas for environmental remediation (e.g. riparian areas, steep slopes) must also be identified.



Land Use Change (LUC) Analysis

- LUC Analysis is used to determine the scale of 'environmental' compensation required based on the following considerations:
 - What was the land use/cover in Nov 2005 (by vegetation coefficient category)
 - When did the clearance occur?
 - Who owned/managed the area at the time of clearance?
 - Was the clearance commercial or non commercial?



Land use change analysis

- Remote sensing data from November 2005 used to classify the land use/cover at that time into 4 vegetation categories
- Each category is has a multiplication coefficient, which serve as proxies for HCVs 1-3

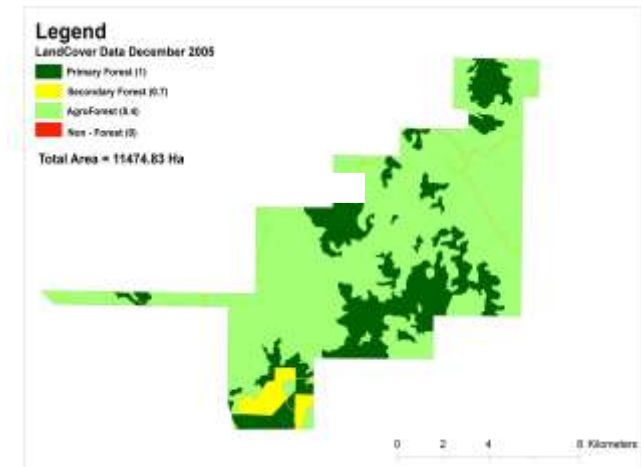
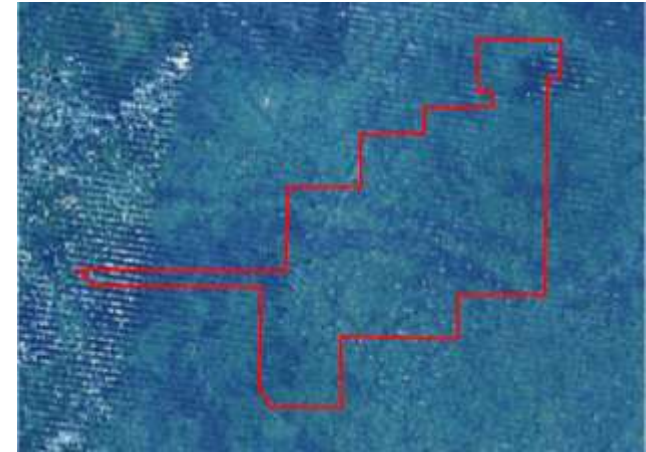
**Likelihood
vegetation
would have
supported
HCV 1-3**

Co-efficient	Vegetation category
1.0	Structurally complex forest (including primary forest), regenerating, selectively logged forests with elements of high canopy.
0.7	Structurally degraded but ecologically functional natural forest.*
0.4	Multi-species agroforestry.
0	Monoculture tree and non-tree plantations; other permanently cultivated, developed or open degraded land



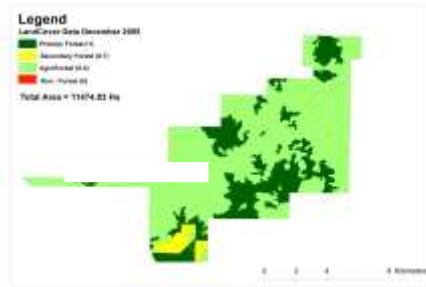
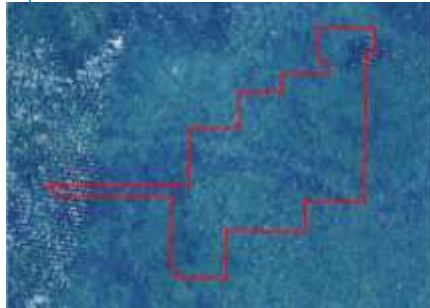
Land use change analysis

- Using the remote sensing data from November 2005 as a baseline, the area of each of the 4 vegetation types which was cleared during the following time periods should be calculated:
 - **During the trial period of the RSPO P&C**
(Nov 2005 – Nov 2007)
 - **Before the NPP was introduced**
(1 Dec 2007 – 31 Dec 2009)
 - **Before the staged implementation period**
(1 Jan 2010 – 9 May 2014)
 - **After 9 May 2014**

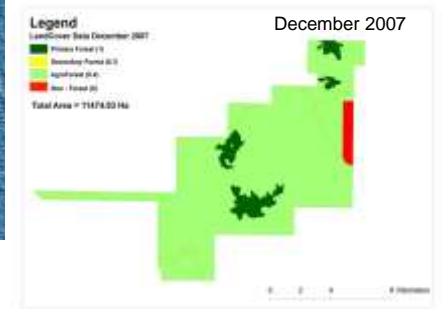


Land use change analysis

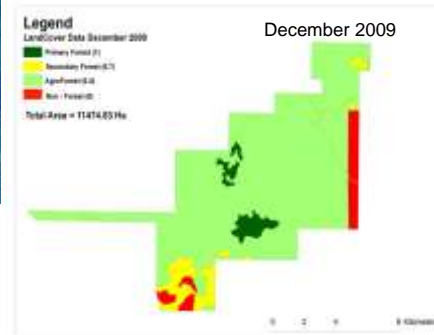
2005 (Baseline)



2007



2009



2014



RSPO Roundtable on Sustainable Palm Oil

Land use change analysis

- A report on the findings of the LUC Analysis shall be submitted to the to the Secretariat within 60 working days of entering the process
- Growers do not have to conduct a LUCA if they are willing to compensate for the total area cleared using a co-efficient of 1

Question:

Should a summary of the findings of the Land Use Change Analysis, once accepted by RSPO, be made public or kept confidential between members and the RSPO? Why?



Calculation of conservation compensation liability

- Results of the LUCA used to calculate the growers conservation compensation liability (HCV 1-3)
- The final compensation liability (FCL) is expressed in hectares
- The FCL determines the scale of the conservation project which must be undertaken for the grower to meet their conservation compensation liability and proceed with RSPO certification



Calculation of conservation compensation liability

Liability cause : land-clearing without prior HCV assessment.

May 2014 forward			
Jan.2010- May 2014	commercial x 1 x coefficient in 2005	commercial +non commercial x1x coefficient in 2005	commercial +non commercial x2 x coefficient in 2005
Dec.2007-Dec.2009	social liability	commercial x 1 x coefficient in 2005	commercial +non commercial x1x coefficient in 2005
Nov.2005-Nov.2007	social liability	social liability	No certified units at this time
when land-clearing :	not RSPO member	RSPO member	certified member



Calculation of conservation compensation liability

For land clearing after 9 May 2014:

RSPO members, with or without a certified management unit will be **EXPULLED from the RSPO**

Land controlled by non-members at the time of clearance will be required to:

- Sum of all areas cleared without prior HCV assessment X their Nov 2005 vegetation coefficient(s).
- All cleared land owned by members shall be managed in full accordance with the RSPO standard and certified as soon as possible.
- When land cleared is certified, palm products from areas with a vegetation coefficient < 0.4 in Nov 2005 may be sold as certified.
- Palm products from land cleared with vegetation coefficients > 0.4 in Nov 2005 may not be claimed as RSPO-certified even though the management unit is certified (must be either part of mass balance or kept out by physical segregation).
- RSPO members acquiring new areas of land after 9 May 2014 shall commit in writing not to instigate, encourage or support, directly or indirectly, any land clearing without prior HCV assessment.

- Expulsion* of member or application of membership rejected if all requirements above are not met.



RSPO

Roundtable on
Sustainable Palm Oil

Options for meeting conservation liability

Two options for conservation compensation:

- 1) Hectare for Hectare:** area of land managed primarily to conserve biodiversity by the company or third party within or outside areas managed by the company
- 2) \$ for Hectare:** funding (\$2,500/Ha) contributed to third party conservation projects outside areas managed by the company

Compensation must be done in addition to remediation



Options for meeting conservation liability

Example of “Hectare for Hectare” compensation:

- Total Final Compensation Liability (FCL) = 950 Ha
 - Combined FCL of 2 management units belonging to 2 RSPO members
- The companies will work together with the relevant authorities/NGOs to protect 950Ha of forest, which acts as the buffer zone to a national park
- The companies will pay to protect the area for at least 25 years
 - Secure the rights to manage the land for conservation
 - Pay for management activities eg. patrols, restoration etc



Options for meeting conservation liability

Example of “\$ for hectare” compensation:

- Final compensation liability (FCL) = 725 Ha
 - Combined FCL of 6 management units belonging to 1 RSPO member
- The company invests \$1,812,500 (725Ha x \$2,500) in a chimpanzee release programme managed by a conservation NGO



Why \$2,500 per hectare?

- **Flexibility:** Hectare for Hectare not always possible
- The CTF considered 2 options for determining the figure:

	1) Cost of restoration	2) Revenue from oil palm planted
Rationale	<ul style="list-style-type: none">• 'Replace' HCVs lost	<ul style="list-style-type: none">• Penalise members for breaking the rules
Estimate from independent study:	<ul style="list-style-type: none">• US\$10,000/Ha/25 years	<ul style="list-style-type: none">• US\$62,500/Ha/25 years
CTF decision:	<ul style="list-style-type: none">✓ Indicative figure of \$2,500/Ha✓ One-off payment to cover a 25 year project✓ \$100/Ha/year	



Options for meeting conservation liability

Question:

What method and/or data could be used to help the CTF develop a more robust value ?



Designing compensatory biodiversity projects

- Compensation projects should be adequately resourced, have clearly defined goals, timeframes and responsibilities to deliver outcomes that are :
 1. Additional
 2. Long lasting (≥ 25 years)
 3. Equitable
 4. Knowledge-based.



Designing compensatory biodiversity projects

- "Priority guidance" for the selection of compensation projects :
 1. First (highest priority) : off-site, avoided deforestation/degradation projects
 2. Second : off-site, restoration of degraded forest
 3. Third : off-site, species-based conservation
 4. Fourth (least desirable) : on-site forest/habitat re-establishment [must be distinct from remediation]



Designing compensatory biodiversity projects

- Can combine Final Compensation Liabilities :
 - ✓ Several management units belonging to 1 RSPO member
 - ✓ Management units belonging to different RSPO members
- Cooperation between RSPO members in the design of compensation projects, in particular to increase positive impacts in a single landscape, are encouraged.



Designing compensatory biodiversity projects

Question:

In order to fulfill the criteria of “long-lasting” to meet conservation liability, in the case that the concession changes ownership, which company should take responsibility for the ongoing compensation conservation project: the incoming company or the outgoing company with the original liability ?



Environmental Remediation

- In addition to compensation, growers are required to identify and remediate areas where planting oil palm is prohibited by the RSPO P&C
 - riparian zones
 - steep slopes
 - marginal or fragile soils
 - deep peat
- Aim is to restore the ecological functions that would be provided if the natural vegetation had been conserved
- Should bring into compliance with the 2013 P&Cs, relevant guidance and RSPO endorsed BMPs



Environmental Remediation

- **Minimise and control erosion on steep slopes**
 - *Restore the vegetation*
 - *Stop harvesting/maintaining oil palm*
- **Minimise the subsidence for all existing plantings on peat**
 - *Water and ground cover management*
 - *RSPO BMPs for existing oil palm cultivation on peat (June 2012)*
- **Prevent the degradation of fragile and problem soils**
- **Maintain the quality and availability of surface and ground water and any habitat functions provided by riparian zones**



Identifying social impacts of the loss of HCV 4, 5, 6

- Did negative social impacts related to loss of HCVs 4-6 occur?
- Have any negative impacts been sufficiently remediated and/or compensated
- Identify both *impacts* and *impacted parties*.
 - ✓ *Participatory mapping should be used as first step in cases in which such mapping was not conducted as part of the land acquisition process.*
 - ✓ *In cases where land tenure assessments were not made in line with P&Cs, community meetings must also be carried out to identify affected parties*



Negotiation and agreement of a social remediation and/or social compensation plan

- Iterative negotiations with self-chosen representatives of the affected parties to agree on:
 - The **form** of remediation (restoration, substitution, or financial compensation)
 - **To whom** such remediation should be provided and on what terms
- Negotiations should adhere to RSPO FPIC Guidance and Guide



Remediation and compensation project concept note

- Submitted to the RSPO Compensation Panel to allow drafting of the Remediation and Compensation Plan.
- Description of the causes for the liability, remediation and compensation activities (as relevant).



Remediation and compensation plans

- Use RSPO template (*still under review by RSPO CTF*)
- Full details on how environmental and social liabilities are addressed, in compliance with this RSPO Procedure
- Plan will be reviewed by an independent evaluator
- Once the plan has been endorsed, the grower can:
 - ✓ Become an RSPO member
 - ✓ Proceed with certification
 - ✓ Progress with resolution of the complaint



Monitoring of implementation

- *(Work still under way by RSPO CTF).*
- Annual monitoring report on project implementation
- Failure to report are escalated to a grievance and reported to the RPSO Complaints Panel



THANK YOU

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RSPO will transform markets
to make sustainable palm oil
the norm

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Sustainable Palm Oil

Progress of Disclosure

- ~ 105 members reporting zero liability (~ 2/3 of growers)
- **Sixty members** have disclosed that they did clear land before an HCV assessment was conducted
- To underscore the importance of disclosure the CTF recommended to the Board of Governors to suspend any member required to disclose who did not do so within the deadline given. As a result of this, **15 members were suspended and 13 of these have since disclosed.**

Staged Implementation Data

As of May 2014:	
Number of RSPO members in May 2014 with land used for palm oil production – <i>this figure includes some members not registered in the grower category</i>	152
As of August 2015:	
Number disclosing whether or not they have non-compliances – <i>some members have made multiple disclosures based on operations in different countries</i>	165
Number who have not yet disclosed to the RSPO	3
Number reporting no clearance without a prior HCV assessment	105
Number reporting non-compliance, ie having cleared land without a prior HCV assessment	60
Number of these submitting complete LUCAs	21
Number of submitted LUCA reviewed by the RSPO	6

What quality of habitat was cleared - Vegetation Coefficient in November 2005 (based on 21 LUCs submitted):

Vegetation type	Co-efficient 1	Co-efficient 0.7	Co-efficient 0.4	Co-efficient 0
Hectares cleared	692Ha	73,005Ha	8,844Ha	136,636Ha
% of total land cleared	0.32%	33.31%	4.03%	62.34%

**Clearance of land without prior HCV Assessment by time period
(based on 21 LUCs submitted):**

Time period when cleared	2005-2007	2007-2010	2010-2014	After 2014
Hectares cleared	112,980 Ha	66,966 Ha	39,151 Ha	81 Ha
% of total land cleared	51%	31%	18%	0%

**How much non-compliance member and non-members conducted
(based on 21 LUCs submitted):**

Status of the company at time land was cleared	Non-member	Member at time	Certified member at time
Hectares cleared	77,680 Ha	121,133 Ha	20,366 Ha
% of total land cleared	36%	55%	9%

LUCA data submitted by 21 members:

Period when cleared	Vegetation Co-efficient	Non-Member	% of total clearance	FCL ha	Member	% of total clearance	FCL ha	Certified Member	% of total clearance	FCL ha
Nov 2005 - Nov 2007	Coef 1.0	0	0%	0	191	0%	0	0	0%	n/a
	Coef 0.7	15,418	7%	0	18,084	8%	0	0	0%	n/a
	Coef 0.4	69	0%	0	153	0%	0	0	0%	n/a
	Coef 0.0	12,433	6%	0	66,633	31%	0	0	0%	n/a
Dec 2007 - Dec 2009	Coef 1.0	0	0%	0	48	0%	48	390	0%	390
	Coef 0.7	17,613	8%	0	4,432	2%	3,102.4	7,560	3%	5,292
	Coef 0.4	1,254	1%	0	5,001	2%	2,00.4	280	0%	112
	Coef 0.0	10,144	5%	0	10,403	5%	0	9,841	5%	0
Jan 2010 - May 2014	Coef 1.0	0	0%	0	57	0%	57	7	0%	14
	Coef 0.7	3,889	2%	2,722.3	5,252	2%	3676.4	719	0%	1,006.6
	Coef 0.4	662	0%	264.8	839	0%	335.6	586	0%	468.8
	Coef 0.0	416,198	7%	0	10,040	5%	0	902	0%	0
After May 2014	Coef 1.0	0	0%	0	0	0%	n/a	0	0%	n/a
	Coef 0.7	0	0%	0	0	0%	n/a	38	0%	n/a
	Coef 0.4	0	0%	0	0	0%	n/a	0	0%	n/a
	Coef 0.0	0	0%	0	0	0%	n/a	42	0%	n/a

How much land was cleared non-commercially?

- **Six LUCAs reported some non-commercial land clearance amounting to about 1,075 ha.** Under the proposed matrix in some cases this carries no conservation liability due to the assumption that encroachment by individuals may not be easy to control.

Total area cleared versus Final Conservation Liability

As of August 2015 and drawn from the 21 submitted LUCAs only:

Total area of land cleared since November 2005 without a prior HCV assessment (Raw Liability)	219,179 Ha
Estimated Final Conservation Liability (FCL)	19,490 Ha