

MINUTES OF MEETING OF RSPO

15th RSPO CTF MEETING

Date: 5-6th May 2015

Start Time: 9.00 am

Venue: Aloft Hotel, Kuala Lumpur, Malaysia

Attendance:

<p><u>Members and Alternates</u></p> <p>Anne Rosenbarger (AR, WRI)</p> <p>Audrey Lee Mei Fong (ALMF, OLAM)</p> <p>Darmawan Liswanto (DL, FFI)</p> <p>Dwi Muhtaman (DwM, Remark Asia)</p> <p>Elizabeth Clarke (EC, ZSL)</p> <p>Leoni Lawrence (LL, ZSL)</p> <p>Gan Lian Tiong (GLT, MM)</p> <p>Ginny Ng Siew Ling (GN, WILMAR)</p> <p>Harjinder Kler (HK, HUTAN)</p> <p>John Payne (JP, BORA)</p> <p>Tang Men Kon (TMK, SIME)</p> <p>Lee Swee Yin (LSY, SIME)</p> <p>Marcus Colchester (MC, FPP)</p> <p>NorAzam Abd Hameed (NaH, FGV)</p> <p>Olivier Tichit (OT, SIPEF)</p> <p>Richard Kan (RK, GAR)</p> <p>Michal Zrust (MZ, Daemeter)</p> <p>Paulina Villalpando (PV, HCVRN)</p> <p>Lanash Tanda (LT, SEPA)</p> <p>Stephanie (WWF MY)</p>	<p><u>RSPO Advisors</u></p> <p><u>Secretariat Staff</u></p> <p>Oi Soo Chin (OSC, RSPO)</p> <p>Dillon Sarim (DS, RSPO)</p> <p>Francisco Naranjo (FN, RSPO)</p> <p>Salahudin Yaacob (SY, RSPO)</p> <p><u>Absent with Apologies</u></p> <p>Henry Barlow (HB, Independent)</p> <p>Glen Reynolds (GR, SEARRP)</p> <p>Peter Heng (PH, GAR)</p> <p>Sophie Persey (SP, REA)</p>
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<p>1.0 1.0.1</p> <p>1.1 1.1.1</p> <p>1.2 1.2.1</p> <p>1.2.2</p> <p>1.3</p>	<p>1.0 Opening meeting by co-chairs</p> <p>OT opened the 15th RSPO CTF meeting by welcoming members and participants. He invited members to introduce themselves as there were new members joining the meeting for the first time. He informed members that AH could not attend the meeting and apologized on his behalf.</p> <p>Approval of previous meeting notes</p> <p>OSC presented the 14th RSPO CTF minutes and sought comments from members. The minutes was endorsed by CTF members and OSC informed members that it will be uploaded onto the RSPO website.</p> <p>Code of Conduct</p> <p>GN commented that the additional text for the Code of Conduct (CoC) was too broad and should be improved. AR suggested members relook the broad terms in the additional text. GN and MC were tasked to work on the language of the additional text agreed by the TF.</p> <p>FPP was asked whether they will be able to serve on the compensation panel. MC thanked the TF for their consideration but said it would be best that they did not serve on the compensation panel. MC thanked the CTF for taking the time to revisit the CoC, and signed the revised CoC.</p> <p>Action points</p> <ol style="list-style-type: none"> 1. GN and MC to work on the language which would be agreeable to all members of the CTF. 2. To circulate the revised CoC for all members to sign. 	<p>GN & MC</p> <p>OSC</p>
<p>2.0 2.0.1</p>	<p>2.0 Update on CTF budgets</p> <p>OSC presented the spending for CTF and INA HCV TF for financial year July 2014 to June 2015.</p>	
<p>3.0 3.0.1</p>	<p>3.0 Update on disclosure statistics</p> <p>OSC updated members on the progress of disclosures and sought recommendation on next step for non-submitters after the staged implementation ends.</p>	

Item	Description	Point Person
<p>3.1 3.1.1</p> <p>3.2</p>	<p>Decisions made</p> <p>CTF members recommended immediate suspension of non-submitters and the proposal would need to be presented to the Board of Governors (BoG). The decision was made with consideration that the staged implementation has been well publicized and the Secretariat has been actively reaching out to non-submitters. Recommendation of suspension does not include independent smallholders.</p> <p>Action point:</p> <p>1. Secretariat to prepare decision paper to be presented to the BoG.</p>	<p>OSC</p>
<p>4.0 4.0.1</p>	<p>4.0 Timeline for staged implementation period</p> <p>OSC presented the progress of staged implementation period and the TF then reviewed the planned activities.</p>	
<p>5.0 5.0.1</p> <p>5.0.2</p> <p>5.0.3</p>	<p>5.0 TOR for compensation proposal evaluator</p> <p>The revised TOR was presented by JP (Annex 2) and members provided feedback to improve the document. Concerns were raised on the definition of RSPO's conflict of interest. RK commented that no commercial relationship for 3 years between the evaluator and company is too long. GLT agreed and added that conflict of interest requirement will be difficult based on realities on the ground. OT suggested that the TF flag the issue to the Standards & Certification Steering Committee (SCSC). Based on the RSPO's conflict of interest's definition, the Secretariat may need to look for multiple organisations to evaluate compensation proposal plan.</p> <p>OSC informed TF members that the cost to hire compensation proposal evaluator will be borne by the RSPO for the first year to incentivize companies to participate in the 2nd phase which is submission of Remediation and Compensation Proposal plan to the Compensation Panel. The following year, it will be cost sharing with the company (50% of the cost) and from the third year, companies will need to pay their own. The TF proposed the first year starts when the endorsed compensation procedure is announced (after RT13). This will include compensation proposals submitted before the endorsement of the procedures. Proposals submitted thereafter should be in accordance to the format prepared by the CTF.</p> <p>For concept note, the Secretariat and the compensation panel will need to pre-screen the proposal. The evaluator will be appointed to evaluate the compensation proposal plan.</p>	

Item	Description	Point Person
5.1	<p>Action point</p> <ol style="list-style-type: none"> 1. Secretariat to flag the conflict of interest issue to the SCSC. 2. Secretariat to check with Secretary General on the proposed date of the first year. 3. Secretariat to update TOR and circulate to members. 	<p>OSC</p> <p>OSC</p> <p>OSC</p>
<p>6.0</p> <p>6.0.1</p> <p>6.0.2</p> <p>6.0.3</p> <p>6.1</p>	<p>6.0 Guidance for long lasting, additionality, knowledge based & equitable criteria</p> <p>The TF finalised the guidance for designing compensatory biodiversity project (Annex 3). MC reminded members that it is very dangerous to allocate compensation money to conservation projects which are already failing. He explained that conservation projects failed mostly due to inadequate governance and misconception of the whole project. Voluntary compensation money and lack of control over projects further complicates the situation. He then highlighted again that it is a bad idea and that was the reason why he opposed the idea.</p> <p>DL agreed that inadequate governance could be one of the reasons a conservation project fails. He then added that lack of funds also contributed to failure of conservation projects. OT suggested that the additional requirement on allocating compensation money to existing protected areas should be captured in the guidance for compensation panel as a reference when reviewing concept notes submitted by company.</p> <p>TF continued with revising the guidance on <i>long-lasting</i> criteria. Concerns on how long a compensated area should exist were raised and members debated whether it should be as long as the plantation exists or only one cycle of the oil palm plantation. The TF then proceed with revising and endorsing the remaining criteria.</p> <p>Action points</p> <ol style="list-style-type: none"> 1. MC to share footnote on traditional knowledge in the knowledge based guidance. 2. MZ, PV, EC and LL to revise the long lasting criteria. 	<p></p> <p></p> <p></p> <p></p> <p>MC</p> <p>MZ</p>
<p>7.0</p> <p>7.0.1</p>	<p>7.0 Proposed mechanism to deliver HCV compensation</p> <p>SP presented the proposed mechanism to deliver HCV compensation (Annex 4). The mechanism aims to help grower members with liability to pull their liability together and compensate in a specific project.</p>	<p></p>

Item	Description	Point Person
	simplified version for compensation proposal format. GN to join the sub-group to finalise the proposal format.	
<p data-bbox="252 383 320 412">12.0</p> <p data-bbox="252 423 320 452">12.0.1</p> <p data-bbox="252 835 320 864">12.0.2</p> <p data-bbox="252 1081 320 1111">12.1</p>	<p data-bbox="395 383 1166 412">12.0 Multiple RSPO memberships and integrated companies issue</p> <p data-bbox="395 423 1198 786">AR explained that the existing multiple memberships of subsidiary companies in the RSPO affects the liability of these companies. It is also not clear that processors and traders (integrated companies) that owned or managed oil palm plantations are required to comply with requirements for growers. This is observed in palm oil processors and traders from Latin America where a majority are not aware of compensation requirements and are also not required to submit maps via ACOP. The TF suggested that the Secretariat flag the issues with recommendations to the BoD.</p> <p data-bbox="395 835 1190 1032">Another concern raised was on the definition of conflict of interest. The TF felt that the 3 years requirement will complicate and be difficult to implement when hiring a compensation plan evaluator. The TF suggested to flag the issue to the Standard and Certification Steering Committee.</p> <p data-bbox="395 1081 544 1111">Action point:</p> <ol data-bbox="443 1122 1098 1234" style="list-style-type: none"> 1. Secretariat to raise the issues flagged to the BoG. 2. Secretariat to identifying integrated companies and reassess membership in the RSPO. 	<p data-bbox="1230 1122 1278 1151">OSC</p> <p data-bbox="1230 1167 1278 1196">OSC</p>
<p data-bbox="252 1328 320 1357">13.0</p> <p data-bbox="252 1368 320 1397">13.0.1</p> <p data-bbox="252 1615 320 1644">13.1</p>	<p data-bbox="395 1328 767 1357">13.0 Cost of restoration project</p> <p data-bbox="395 1368 1182 1570">TMK and OT volunteered to share their budget/cost for planting projects in conservation area at the next meeting. AR added that it was important that the TF gets more information on budgets related to compensation projects. OT suggested to invite REA to share their budget.</p> <p data-bbox="395 1615 544 1644">Action point:</p> <ol data-bbox="443 1655 1126 1727" style="list-style-type: none"> 1. Secretariat to send email to request sharing of cost of restoration projects. 	<p data-bbox="1230 1655 1278 1684">OSC</p>
<p data-bbox="252 1783 320 1812">14.0</p> <p data-bbox="252 1823 320 1852">14.0.1</p>	<p data-bbox="395 1783 895 1812">14.0 Revision of compensation procedures</p> <p data-bbox="395 1823 1182 1973">Members of the TF were divided into three groups and assigned to go through specific sections of the compensation procedure. After flagging areas which needed improvement and revision, the Chair of each group reported back to all members.</p>	

Item	Description	Point Person
14.0.2	The TF decided to continue with the current sub-group when revising the procedures at the next meeting. MZ proposed and volunteered to take the lead on innovative compensation options to achieve the best conservation outcome.	
14.0.3	The TF felt that compensation of social HCVs has not been given adequate attention during the staged implementation period of compensation procedures. Companies were only reporting whether or not they had social compensation. MC explained that the liability matrix itself is wrong, and the best evidence to show that a company has engaged community is through negotiated agreement and participatory mapping and NOT via SEIA. ALMF explained that there was insufficient social NGOs capacity at that time and SEIA was inserted as one of the example. She then commented that the TF could now improve the social elements in the procedures with social NGOs now present in the TF.	
14.0.4	OT highlighted the challenging issue of acquisition of concession by RSPO member's which has not complied to the RSPO compensation requirements. OT asked whether other RSPO grower will be able to acquire plantation companies that fall into the expulsion category under the liability matrix.	
14.1	Action point: 1. MZ to develop innovative compensation options.	MZ
15.0 15.0.1	15.0 Review of Staged Implementation Timeline The TF reviewed the staged implementation timeline. FN proposed to organize public consultations for Latin America in September. It will be held in Colombia. AR commented that WRI from the US office may be able to help facilitate the public consultation in Latin America. The TF proposed tentative dates for public consultations in Ghana, Jakarta and Kuala Lumpur.	
16.0	16.0 Closing of Meeting OT closed the meeting and thanked everyone for their participation. The next CTF meeting will be held on 4 th and 5 th of August 2015 in Kuala Lumpur.	

ANNEX 1

RSPO

Roundtable on Sustainable Palm Oil

The RSPO is an international non-profit organization formed in 2004 with the objective to promote the growth and use of sustainable oil palm products through credible global standards and engagement of stakeholders.

Attendance sheet 15th RSPO CTF Meeting 5th & 6th May 2015 Aloft Hotel, Kuala Lumpur

#	Name	Organisation	Signature (5/5)	Signature (6/5)
1.	Harjinder Kler	HUTANI		
2.	Norazam Abdul Anwar	FOV		
3.	Lanash Thanda	SEPA		
4.	Melissa Yeh	WWF MY		
5.	FRANCESCO NARANJO	RSPO		
6.	Stephanie Alau	WWF MY		
7.	Anne Rosenbarger	WRI		
8.	Paulina Villalpando	HLV NETWORK		
9.	Ginny Ng	Wilmar Intl		
10.	Gan Lim Tiang	Musiin Mas		
11.	Tang Men Kon	Sime Darby		
12.	O. TICHIT	SIEF		
13.	M. ZRUST	DAEMETER		
14.	Richard Kan	GRAP		
15.	John Payne	BOPA		
16.	E. Clarke	ZSL		
17.	Leonie Lawrence	ZSL		
18.	Salahudin Saedi	RSPO		
19.	Darmawan Liwanto	FFI		
20.	Mamas Colchester	FPP		

Annex 2: Terms of Reference

RSPO Compensation Plan Evaluator

Background

The RSPO Remediation & Compensation Procedures was developed by the RSPO Compensation Task Force (CTF) at the request of the Board of Governors of the RSPO through a multi-stakeholder consultative process. It was ambitiously and strictly formulated by the CTF members with the aim to assist growers to attain full certification in all their operating units. On March 6th 2014, the Board of Governors of the RSPO endorsed the RSPO Remediation & Compensation Procedures related to Land Clearance without Prior HCV Assessment and accepted the recommendation of CTF to start a staged implementation.

The staged implementation requires all RSPO members who own and/or manage land for oil palm production to comply with all sections of the procedures up to section 7, Calculating conservation liability. The staged implementation period is designed to allow further information and experience to be gathered in order to develop complete procedure. Until the staged implementation period ends all members are encouraged to also volunteer to comply with the remainder of the document.

If they do proceed there are a number of requirements set out in the document:

First is the requirement for remediation of the site in question to ensure that it is managed to the best management practices set out in the relevant P&Cs and associated guidance.

Second is the requirement to directly negotiate adequate remediation and compensation to affected communities for any loss of social elements of HCV4-6.

Thirdly is the requirement to compensate for any remaining conservation liability as calculated. There are two options available to growers in order to meet their full compensation liability and they are presented in no order of priority and can be used in combination with each other:

Option1: numbers of hectares based on the calculated liability to be set aside or managed primarily to conserve biodiversity by the company and/or by a third party, within or outside the management unit.

Option 2: non-hectare basis by the company and/or by a third party for projects or programmes contributing to achieving conservation objectives, within or outside the management unit. An indicative figure of USD 2,500-3,000/ha of liability is put forward for consideration during year 1 of the staged implementation as the projected cost of such projects or programmes.

Companies entering 2nd phase of staged implementation voluntary must submit compensation plans to the compensation panels assigned to them. A compensation proposal/plan submitted must : (a) match the calculated liability of the grower and (b) include a clear but brief assessment of both options, have clearly defined goals, time frames and responsibilities and deliver outcomes that are additional, long-lasting, equitable and knowledge based.

Objective

- 1) To review and make recommendations on compensation proposals received by RSPO from member growers.
- 2) To advise RSPO on possible ways in which the compensation plan and review process might be developed or improved.

Output

- (1) Written review with recommendations on the compensation proposals provided to the Evaluator
- (2) Written report on possible ways in which the compensation plan and review process might be developed or improved.

Scope

The scope of services of the compensation proposal/plan evaluator is as follows.

- i. Review and evaluate compensation proposals based on RSPO requirements as outlined in Annex 1.

Reporting

- i. The Compensation Proposal Evaluator will report to the RSPO Secretariat via the Biodiversity & Conservation Manager/Compensation Executive.
- ii. The Compensation Proposal Evaluator will manage communication with the RSPO Secretariat about the compensation proposals in order to maintain the independence of the Compensation Panel from the companies involved.

ANNEX 1 (below) contains a set of questions that are the basis for the evaluation of individual proposals

Expertise required

- a. Familiar with RSPO P&C requirements and RSPO Remediation and Compensation Procedures.
- b. Significant experience in conservation project development, management and evaluation.
- c. Regional experience/coverage of the main areas where RSPO members and palm oil is present – one or more of SE Asia, Latin America and West and Central Africa.
- d. Relevant expertise in biological conservation science and preferred experience in palm oil sector. For plans with social compensation, social experience are required.

Avoiding conflict of interest

Prior to each evaluation, consultants will need to provide assurances to the RSPO that they are independent and have no conflicts of interest (including no commercial relations in the past 3 years) with the RSPO member seeking to apply the remediation and compensation procedure.

Likely scale of work

Possible numbers and areas

Timeline

Reports on individual Compensation Proposals should be made available within 30 days to the RSPO Secretariat.

Annex 1:

The report for each Compensation Proposal reviewed should address the following:

1. Is there adequate evidence that the Standard Operating Procedures of the members have been changed to ensure that there is no future failure to conduct an adequate HCV assessment prior to land clearance? In particular:
 - Do the SOPs comply with the New Plantings Procedure?
 - Do the SOPs require a Land Use Change Analysis as part of the HCV assessment?
 - Is there evidence that the management and workforce are aware of the provisions of the SOPs?

2. Is there an adequate plan to remediate areas that are prohibited by RSPO P&C that the site in question will or is being managed to the Best Management Practices relating to the relevant P&Cs? In particular:
 - Natural vegetation is restored on excessively steep slopes (Criterion 4.3.2)
 - Erosion control measures are introduced on plantable steep slopes (Criterion 4.3.2)
 - ⊖ Existing plantations on peat are managed as per RSPO P&C Guidance for long lasting, additionality, knowledge based & equitable criteria (Criterion 4.3.4).
 - Riparian buffer zones are adequately identified, restored and managed (Criterion 4.4.2);

3. Are the proposed plans for negotiating remediation and compensation with affected communities for the loss of social elements of HCV4-6 resulting from the clearance of the land without a prior HCV assessment adequate? In particular:
 - Any disputed areas are mapped out at an appropriate scale and in a participatory way with the involvement of affected parties (2.2.5 and 2.3.1)
 - All relevant information is in an appropriate form and languages (2.3.3)
 - Affected communities are represented through institutions or representatives of their own choosing, including legal counsel if requested (2.3.4)
 - Consultation and communication procedures documented (6.2.1)
 - A management official responsible is nominated (6.2.2)
 - A list of stakeholders and records of all communications (6.2.3)
 - A procedure for identifying any legal, customary and user rights that have been affected by the clearance is in place (6.4.1)
 - A procedure for calculating and distributing fair compensation is in place (6.4.2)
 - Outcomes of negotiated agreements shall be recorded (6.4.3)

4. Does the Compensation Plan submitted to the RSPO Secretariat include a clear assessment of the pros and cons of the two options for further compensation and the rationale for the choices being proposed?
 - Option 1: Hectares to be set aside or managed primarily to conserve biodiversity by the company and/or by a third party, within or outside the management unit.
 - Option 2: Monetary investment by the company and/or by a third party for projects or programmes contributing to achieving conservation objectives, within or outside the management unit.

5. Is the Compensation Proposal likely to deliver adequate conservation benefits given the scale of the estimated potential HCV loss as described in the Land Use Change Analysis? In particular:
- What are the goals and objectives of the proposal?
 - What are the compensation activities proposed:
 - In-situ or ex-situ?
 - Habitat management including set-aside and/or restoration?
 - Other conservation investments?
 - Are these activities likely to deliver conservation benefits that are:
 - Additional?
 - Long-lasting?
 - Equitable?
 - Knowledge-based?
 - Are these activities likely to deliver the maximum conservation benefit and outcomes in relation to the invested resources?
 - Do the planned activities take account of:
 - Regional conservation priorities?
 - The legal and regulatory framework?
 - Landscape conditions?
 - Are the plans adequately resourced in terms of staff and money?
 - Does the compensation proposal include the following description;
 - Baseline and milestones for proposed compensation and remediation activities
 - Budget available for ongoing work
 - Measures for monitoring, evaluation and adaptive management of proposed activities
 - Reporting protocol

Annex 3

Additionality

To qualify as additional, conservation projects must demonstrate to be either:

- New, as in not already implemented or planned; or
- (If already existing), be amended or extended so that conservation outcomes are enhanced beyond what is currently achieved, or planned to be achieved.

Another implication is that measures or activities that compensation candidates are required to do anyway, e.g. to comply with RSPO standards, RSPO membership procedures, legislation or nationally applicable treaties or conventions, cannot be considered additional. As an example, maintenance of HCVs cannot be considered additional as it is required by the RSPO standard, while enhancement of HCVs goes over and beyond minimum requirements and may therefore be considered additional. The same applies to e.g. restoration of riparian vegetation: measures to restore vegetation as required to comply with legislation and/or RSPO P&Cs cannot be considered additional, while (those) restoration measures that go beyond such basic requirements should qualify as additional. Measures related to protected areas which are the responsibility of governments to maintain in public interest will also normally not be considered additional.

As ‘avoided deforestation’ is likely to be a commonly proposed compensation measure, it will be important for Compensation Panels to assess to what extent such measures qualify as additional. The idea is clear: to protect forests (on site or off site) that would otherwise be severely degraded and/or permanently converted to other land use. However, for such protection to be considered additional, a strong case must be made that the default scenario is indeed degradation or deforestation. As an example, the Australian Government Carbon Farming Initiative¹ only gives avoided deforestation credits to forests with a formal permit to be converted to cropland or grassland issued prior to 1 July 2010.

Note: The BBOP glossary defines additional conservation outcomes as “conservation gains over and above what is already taking place or planned²”, and as “conservation outcomes (that are) demonstrably new and additional and would not have resulted without the offset³”.

¹ <http://www.environment.gov.au/system/files/resources/24af3360-05ee-45ee-addb-e018d0df34d5/files/factsheet-avoided-deforestation-9jan2014.pdf>

² BBOP Biodiversity Offset Design Handbook Updated

³ BBOP Glossary

Ensuring equitable outcomes from compensation areas

Where companies have cleared HCVs after 2005, under defined circumstances RSPO allows member companies to avoid sanctions as long as they provide a remedy or make compensation for the HCVs destroyed. One option is to secure additional compensatory HCV areas to make up for those lost. A requirement is that these compensation areas (sometimes referred to as ‘offsets’) are established in an equitable manner (see box below).¹

Equitable – through engaging and involving affected stakeholders in project planning, decision-making and implementation, fair and balanced sharing of responsibilities and rewards, and through respect for legal and customary arrangements

In line with the RSPO P&C, and to ensure equitable outcomes in the compensation areas, the following provisions and associated Indicators and Guidance apply (adjusted to suit compensation areas set up to compensate for HCVs lost in the original operation(s)):

- 1.1** Growers and millers provide adequate information to relevant stakeholders on environmental, social and legal issues relevant to RSPO Criteria, in appropriate languages and forms to allow for effective participation in decision making.
- 1.2** Management documents are publicly available, except where this is prevented by commercial confidentiality or where disclosure of information would result in negative environmental or social outcomes.
- 2.1** There is compliance with all applicable local, national and ratified international laws and regulations.
- 2.2** The right to use the land **for compensation areas** is demonstrated, and is not legitimately contested by local people who can demonstrate that they have legal, customary or user rights.
- 2.3** Use of the land **for compensation areas** ~~oil palm~~ does not diminish the legal, customary or user rights of other users without their free, prior and informed consent.
- 6.2** There are open and transparent methods for communication and consultation between growers and/or millers **and those managing compensation areas**, local communities and other affected or interested parties.
- 6.3** There is a **mutually agreed** and documented system for dealing with complaints and grievances, which is implemented and accepted by all affected parties.
- 6.4** Any negotiations concerning compensation for loss of legal, customary or user rights are dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions.
- 6.13** Growers and millers respect human rights.

¹ RSPO, 2014, *RSPO Remediation and Compensation Procedures Related to Land Clearance without Prior HCV Assessment*, RSPO, Kuala Lumpur.

7.1 A comprehensive and participatory social and environmental impact assessment of the compensatory areas is undertaken, and the results incorporated into planning, management and operations.

7.5 No compensation areas are established on local peoples' land where it can be demonstrated that there are legal, customary or user rights, without their free, prior and informed consent. This is dealt with through a documented system that enables these and other stakeholders to express their views through their own representative institutions.

7.6 Where it can be demonstrated that local peoples have legal, customary or user rights, they are compensated for any agreed land acquisitions and relinquishment of rights for compensatory areas, subject to their free, prior and informed consent and negotiated agreements.

A detailed Guide on how to comply with these requirements has recently been developed by RSPO.² Additional guidance can be obtained from Business and Biodiversity Offset Programme.³

Legality, management and monitoring considerations:

Companies establishing compensation areas outside their own land banks must pay particular attention to the legal and management security of these areas to ensure long term sustainability and equity. Communities with rights and livelihoods in the compensation areas need to be assured of the benefits of conserving these areas and the areas' managers (whether communities, companies, NGOs or government authorities) need to be legally assured of their authority and control of the area.

Innovative management and tenurial options should thus be considered including establishing lands as:

- protected areas, where rights are respected, communities have a strong role in (co-) management and adequate provisions are made for livelihoods;
- community-owned and/ or -controlled forests, which the community in question would not otherwise have secured clear rights to.

In cases where companies themselves will not be the managers or co-managers of the compensation areas, provisions need to be made for monitoring by the parties with authority over these areas.

² RSPO and FPP, 2015, *Free, Prior and Informed Consent, A Guide for Members*. RSPO, Kuala Lumpur.

³ Business and Biodiversity Offsets Programme (BBOP). 2009. *Biodiversity Offsets and Stakeholder Participation: A BBOP Resource Paper*. BBOP, Washington, D.C; Business and Biodiversity Offsets Programme (BBOP). 2012. *Guidance Notes to the Standard on Biodiversity Offsets*. BBOP, Washington, D.C.

Knowledge-Based

Knowledge-based – based on sound scientific and/or traditional knowledge¹ with results widely disseminated and communicated to stakeholders and partners in a transparent and timely manner. Compensation packages can encompass compensation requirements for hectare per hectare forest restoration as per national legal requirements. These will be evaluated on a case by case basis for fulfilment of RSPO Compensation Mechanism’s objectives and will be monitored and evaluated within the Compensation Mechanism in addition to other evaluation activities by third parties.

The compensation package should be developed using the most up to date scientific evidence and fully referenced factual information available. The evidence presented should be used to robustly justify that the proposed course of action will have maximum conservation benefit, longevity, additionality and equitability, and is the best option available.

The “knowledge base” can include peer-reviewed scientific literature, and information in the public domain from NGOs, private companies, government or other sources, and may include GIS information, maps and environmental and social field surveys. Anecdotal information, expert opinion and other qualitative forms of evidence may be submitted only to further support other quantitative pieces of evidence, and the source should be clearly cited. An example of where this form of evidence may be permissible would be to elucidate whether a particular conservation technique shown to work elsewhere would expect to have the same benefits in the chosen location. Pieces of evidence which are not available for scrutiny by the compensation panel may not be used in support of the proposal.

The knowledge base should inform and support the choice of geographical location of the compensation action, the methods and practices adopted, and the expected impact of the compensation action. It is important to consider the impact of the compensation action in the context of the wider landscape and regional scale to ensure that the maximum conservation benefit is achieved, and that there are no unintended negative impacts, for example, if community hunting activities could be displaced to more vulnerable locations, or downstream water resources affected. The knowledge base should be consulted to identify where placement or type of compensation activity might provide greatest added value in the landscape or regional context, for example, by increasing habitat connectivity, benefiting more species, protecting rare habitat or creating greater co-benefits for local communities.

Novel and experimental conservation projects where there is little existing scientific evidence available to indicate their effectiveness, should include a clear knowledge-based rationale for why they are the chosen option, and the compensation package should include provision for a robust research and monitoring programme from which the findings will be made publically available to inform future conservation efforts.

¹ The Convention on Biological Diversity seeks to protect communities’ traditional knowledge, access and benefit-sharing and sustainable customary use (Articles 8j, 10c and related articles) and support them in developing remedial measures in degraded areas (Article 10d). To deepen understanding of how communities and traditional knowledge can secure ecosystems the InterGovernmental Platform on Biodiversity and Ecosystem Services has a work stream on traditional knowledge. Some useful links on how to apply traditional knowledge to secure ecosystems include the following:

<https://www.cbd.int/traditional/>

<https://www.cbd.int/tk>

<https://www.cbd.int/abs/>

<http://www.ipbes.net/>

<https://tkbulletin.wordpress.com/category/2-international-organisations/ipbes/>

<http://www.forestpeoples.org/topics/environmental-governance/customary-sustainable-use>

Priority guidance for conservation programmes

Background

RSPO Remediation & Compensation Procedures document

(http://www.rspo.org/file/2_RSPORemediationandCompensationProcedures_May2014.pdf)

provides two options for implementing compensation for loss of High Conservation Values (HCVs) 1, 2 and 3 : (Option 1) a defined number of hectares of land to be set aside or managed primarily to conserve biodiversity and/or (Option 2) a project that is not based on maintaining a defined number of hectares, but instead converts the number of hectares of forest lost to plantation into a money equivalent that is to be used as a basis for financing a conservation programme. The “procedures document” also outlines four attributes necessary for an acceptable conservation project : additional, long-lasting, equitable and knowledge-based. However, the procedures document does not suggest how to identify what would be the exact nature and location of a good conservation programme. This “priority guidance” table (below) suggests a hierarchy of four types of core actions that could be taken by palm oil producers for compensation purposes as, or within, a conservation programme to maximise ecological gain in a cost-effective way.

Priority guidance table

Overall objective – To re-establish natural vegetation lost during development of the plantation to restore crucial environmental function and to restore landscape connectivity for wildlife

Priority	Core actions	Reasons, and explanatory notes	Examples
Highest (first choice, if possible)	Off-site avoided deforestation and/or avoided degradation	Usually cheaper, quicker & more effective to save natural habitat even if highly degraded than to try to recreate it. This action can deliver protection of currently unprotected forests. The chosen site(s) would be on a similar scale to that of forest lost to plantation, of a broadly similar type and within the same geographic region.	Specific remaining forest areas (degraded or not) that have been allocated by government for non-forest use, where targeted interest and proposals from palm oil producers and/or NGOs provides the possibility to retain forest for ecosystem, biodiversity or rare species conservation. (Indonesia) Licenced Village forest and community forests with management plan and management unit. Village forest (hutan desa) and community forestry are community based forest management schemes regulated by Government

Priority	Core actions	Reasons, and explanatory notes	Examples
			Regulation under Government Regulation No 6 2007. The land allocation is designated by Ministry of Environment and Forestry and the license issued by Government based on District Government recommendation.
	Off-site restoration of degraded forest on land with clear ownership and legal status	As avoided deforestation will not always be possible, the next best option is off-site restoration of existing but degraded protected forest, within the same geographic region and with the compensation coefficient applied to determine the extent of restoration required to adequately address the compensation liability. Restoring degraded natural habitats can add greatly to their value, and to incentives to retain them long-term.	Ecosystem restoration concessions, degraded parts of national parks, protection forest reserves or wildlife conservation areas, where agreement between the relevant government institution (or land owner), palm oil producer and other competent institution (e.g. NGO) can serve to restore and sustain areas that are either at risk and/or too degraded to perform their intended conservation function. (Indonesia) Licenced Village forest and community forests with management plan and management unit. Village forest (hutan desa) and community forestry are community based forest management schemes regulated by Government Regulation under Government Regulation No 6 2007. The land allocation is designated by Ministry of Environment and Forestry and the license issued by Government based on District Government recommendation.
	Off-site species-based conservation measures	If neither of the above options are possible or realistic, compensation liability could be addressed by the provision of funding for species-based conservation programmes. This approach is usually less-preferred because of	New or on-going programmes operated by recognised NGOs, community groups or other credible institutions. Rare or endangered species that were formerly present in the region now under oil palm, which now require specific sustained actions to boost

Priority	Core actions	Reasons, and explanatory notes	Examples
		difficulties likely in establishing whether the sums of money expended and conservation impact delivered are commensurate with the compensation liability.	births or sustain breeding populations.
Lowest (last choice, if above three options impossible or unrealistic)	On-site forest/habitat re-establishment ²	Destroying planted palms and spending money and long periods on re-creating forest rarely makes economic sense. May be considered where none of the above 3 options is possible, or where re-establishing natural vegetation lost during the development of the plantation would perform a crucial environmental function.	Re-establishment of landscape connectivity. Establishment of “stepping stone” habitat patches as food sources and refuging sites for orang-utans and other species moving through plantations between protected forests.

² This applies to compensation, and excludes remediation = “Measures taken to help restore ecological functions in areas where planting of oil palm has been done, but where this is prohibited by the RSPO P&Cs”

Ensuring compensation plans deliver long-term outcomes:

Compliance with the Principles & Criteria of the RSPO, particularly those relating to new developments, aims to ensure the conservation of biodiversity, environmental and socio-cultural values associated with land and to safeguard these and the areas necessary to maintain them in the context of the expansion of sustainable oil palm cultivation. Core to this is the requirement to conduct an HCV assessment prior to clearing land and ensuring that any HCVs present or potentially affected by the development are maintained and enhanced. The requirement is also that such values shall be maintained and enhanced with the assumption that this is at least for the **life-time of the planned operation**.

In certain situations where there has been a failure to conduct such an HCV assessment the RSPO has developed a compensation mechanism. Whilst it is accepted that compensation measures are unable in most cases to re-create the same values that may have been lost it is the intention that compensatory biodiversity projects should be planned and implemented so as to maximise conservation benefits and outcomes they do deliver. It is also expected that these benefits should be 'proportionate' to those that may have been lost. **Given that the P&C require such values to be maintained or enhanced at least for the life-time of that operation it is right to expect compensation measures to also last as long.**

TO QUALIFY AS LONG LASTING, ~~Therefore~~ projects should be adequately resourced, have clearly defined goals, timeframes and responsibilities, and be designed to deliver specified outcomes that last at least as long as the duration of the plantation ~~that was established on land that was cleared without a prior HCV assessment and preferably in perpetuity.~~

In practice that shall mean at least one rotation of typically 25 years.

~~However, it is assumed that~~ MOST RSPO members are establishing plantations for more than a single rotation (see Criterion 3.1 of the P&Cs) and so the compensation plan should ideally ensure it lasts longer and preferably be permanent.

To ensure compensation measures are adequately long-lasting the following requirements shall be met:

1. The planned duration of the compensation project shall be clearly stated in the proposal. That shall be at least 25 years but shall also explain why the expectation is that benefits will not continue to be delivered for longer.
2. Evidence shall be available that those responsible for implementing the plan have the requisite capacity and resources for the duration of the plan.
 - The plan should have specific timebound goals, objectives and activities, and clearly assign roles and responsibilities for the company and all other stakeholders involved in its implementation. In particular agreements outlining expectations, understandings and commitments with external stakeholder should be documented.
3. Legal and financial plans and mechanisms shall be in place to guarantee the viability of the compensation project for its planned duration, including under foreseeable conditions of a sale, or transfer of ownership or management of either the company and/or the project itself.
 - Therefore a compensation proposal shall include:
 - **A financial plan:** This shall include a budget to cover estimated the costs of activities required over the planned life of the project (including costs associated with building

the capacity to implement the defined measures), along with an indication of the source of the funds available for this purpose.

- **A clear mechanism for delivering the required finance:** As well as knowing how much the compensation activities will cost and where the funds will come from, some mechanism will be needed to disburse and deliver the funds. The financial mechanism will need to be in place to guarantee financing for as long as the project operates.

Information on options for financial plans and mechanisms, including conservation trust funds and alternative approaches, as well as information on legal issues, are discussed in BBOP's Offset Implementation Handbook, available at www.forest-trends.org/biodiversityoffsetprogram/guidelines/oih.pdf

ANNEX 4

Discussion document regarding a mechanism for HCV compensation

A more detailed overview of how the mechanism could work

1. The RSPO approaches all of the growers with HCV compensation liability and asks if they want to implement the HCV compensation themselves or they want to use this HCV compensation mechanism
2. Based on the response, the RSPO determines the need for HCV compensation projects and the area of HCV compensation liability/funds available in each region
3. A call for first round proposals/concept notes is issued (see BACP call for proposals cover letter as an example of what would be needed).
4. Preliminary proposals/concept notes are reviewed by either an expert panel appointed by the RSPO (I think the same panel should review all proposals for consistency) or the third party engaged to manage the implementation of this mechanism (eg. Chemonics)
5. Approved preliminary proposals/concept notes are sent to oil palm growers with HCV compensation liability in that region. Growers confirm that they would accept that as their HCV compensation project and commit to funding it.
6. The organisation who submitted the approved concept note, which has guaranteed funding from a grower/growers, is asked to prepare a full proposal/application. This is reviewed by the expert panel and in-house manager appointed by the RSPO or the third party engaged to manage the implementation of this mechanism (eg. Chemonics)
7. Once the full proposal is approved, the grower is required to transfer the funds to the RSPO or third party management body (this could be done in stages, perhaps payment by deliverable?)
8. The RSPO or the third party manages the dispersal of funds to the grantee, with payments based on pre-agreed deliverables
9. The grantee is responsible for reporting on progress and monitoring and evaluating the impact of the project. Either the RSPO or the third party management body would be responsible for ensuring that reports are submitted on time and reviewing project monitoring and evaluation. The grower would not be involved in this.
10. Although I don't think an online platform would be necessary to link growers with HCV compensation liability to specific HCV compensation projects, an online platform could be created which includes summaries of all the HCV compensation projects, states which oil palm growers are funding them (unless this is confidential) and the progress reports/monitoring and evaluation from each project. This would make the mechanism more transparent and credible.

Issues for discussion

In order to implement this mechanism, the CTF needs to define the specific criteria that a project must meet in order to be considered as an acceptable HCV compensation project which could receive funds from oil palm growers with HCV compensation liability. These criteria would form the basis for the 'call for preliminary proposals' from conservation organisations.

- **Which of the following types of activities would be considered acceptable projects to receive HCV compensation funds? It has to be an area based project that can focus on any of the below areas except for capacity building projects.**
 - Protecting an area of forest/HCV habitat that is currently unprotected
 - Avoided deforestation of an area of forest/HCV habitat that is protected on paper but not in practice through improved management
 - Forest restoration
 - Species based conservation projects
 - Capacity building projects
 - Others?

- **What is the minimum length of time that the project would need to be actively managed by the grantee? Project should be long lasting. Funds must ensure that the project meet the long lasting criteria. It has to be 3rd party.**
 - Will this be fixed or flexible?
 - If the fee per hectare that growers must pay is fixed, the length of time over which the project must be actively managed will determine the scale of activity that is possible
 - If a third party is to be involved in dispersing the funds and monitoring/evaluating the impact of the project then the length of time they need to be involved for will determine their overhead costs

- **What other selection criteria should be applied to concept notes submitted by organisations interested in receiving oil palm grower HCV compensation funds to implement a conservation project? Should meet the 4 criteria.**

- **Will the criteria for selecting HCV compensation projects to receive funding through this mechanism be the same as the criteria for HCV compensation projects implemented by growers independently of this mechanism?**
 - In order to generate significant interest in this mechanism I think the criteria for the types of projects considered acceptable should be exactly the same as for growers implementing their own HCV conservation projects.
 - Although we should obviously allow growers who have started to develop HCV compensation projects to continue along this route, in the longer term do we want

to give growers the option of DIY HCV compensation or should everyone have to use this mechanism?

- **What geographic restrictions do we want to put on the relationship between where the non-compliant land clearing occurred and the location for the HCV compensation project this grower could fund? Must also consider the outcomes the company wants to achieve.**
 - Would within the same country be sufficient? This might be the only option that is practical for countries with only a few growers with HCV compensation liability?
 - Do we want to make it a requirement that HCV compensation must be implemented within the same region of the country where the land was cleared eg. Kalimantan, Sumatra, Papua, Sabah, Sarawak, Peninsular Malaysia etc...
 - Or are even smaller geographic regions necessary?
- **Can we agree on a figure for the \$ per hectare of HCV compensation liability that must be contributed to an HCV compensation project for growers wishing to use this mechanism? It has to be dollar per ha but no figure proposed.**
 - This is essential if we want to consider any HCV compensation projects other than full protection of an area of forest equal to that of the HCV compensation liability
 - If we only want to consider projects that would secure full protection of an area of forest equal to the area of HCV compensation liability then it could be possible to put out a call for proposals for projects which would result in full protection of at least X hectares of forest (X would be determined by the estimated final HCV compensation liability for that region), with no limit on budget. The call for proposals would state that cost efficiency would be one of the key criteria for selecting projects. Once a project has been selected, we would be able to calculate the cost per hectare of protection. This figure could be charged to the grower. Although this would be preferable in some ways because the figure per hectare would be based on the actual cost of the HCV compensation, the cost could vary significantly between projects and regions so it would be much harder for growers to budget for what could be a very significant expenditure.
- **Would the RSPO prefer to manage this mechanism themselves or use a third party management body? 3rd party because RSPO already mentioned that they do not want to deal with compensation money.**
 - The RSPO would probably need to employ someone new to manage this mechanism if they want to do it in-house but could perhaps appoint an external panel of experts to review proposals?
 - It might be cheaper if the RSPO manages it in-house, but perhaps less credible and more risk to the RSPO's reputation if it went wrong?

- Chemonics is one example of an organisation which would be interested and have the capacity/skills necessary to manage the implementation of this process.
- It might be more credible if a third party were to manage the implementation of this mechanism but spending HCV compensation funds on their overheads might result in criticism?

ANNEX 5

Terms of Reference

Compensation Panel

Role

The BHCV WG refers cases with potential compensation and remediation liabilities to the Compensation Panel. The Compensation Panel reviews and provides recommendations on the cases, within the framework of the RaC procedures.

Responsibilities

The Compensation Panel deliberates and decides on all potential compensation cases that are referred to by the Complaints Panel, Certification body and RSPO Secretariat via BHCVWG.

1. Handles potential compensation cases forwarded to the panel.
2. Provide recommendations on compensation matters.
3. Participate in monthly compensation call to provide recommendation for each compensation case and endorsed decisions made for each case.

Membership and voting

Each compensation panel comprise of four members with two members each from oil palm grower sector and non-governmental organisations (NGOs) respectively. Compensation panel members are made up from members of the BHCVWG, however due to members availability and conflict of interest, other RSPO members can be invited to be part of the panel.

Voting members

- Oil palm growers
- NGOs

Non-voting member

- RSPO Secretariat

Conflict of interest

Members are required to declare conflict of interest before being involved in a compensation case. The Compensation Task Force define conflict interest for compensation panel members as below.

A situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person's self-interest and professional interest or public interest (Business dictionary).

Chair

Compensation call will be chaired by RSPO Secretariat.

Frequency of meetings and manner of call

RSPO Secretariat will organise monthly call for compensation panel to deliberately discuss compensation cases and provide recommendations to respective parties (e.g. Complaints Panel, CB and RSPO Secretariat).

If there is no significance development for a particular compensation case, compensation call will be postponed to the scheduled call the following month. Meetings can be held earlier if there is significant development which requires a decision before the next scheduled call.

Quorum

Quorum for compensation call is three out of four panel members. Absent members can provide their inputs prior to the call and it will be considered a voting position.

Notes taken during the compensation call must be endorsed by the panel before sharing it to the respective companies. Panel members must revert to the secretariat within two days after receiving the meeting notes. In cases when a compensation call is postponed or lack of quorum, the call will be rescheduled.

Resources

The compensation panel will be supported by the RSPO Secretariat.

Reporting

The Compensation Panel reports to the BHCVWG.

ANNEX 6

Guidance for remediation and compensation for social impacts of loss of HCV 4, 5 & 6

Current requirement

9. Remediation and Compensation for the Social Impacts of the loss of HCVs 4, 5 & 6

‘Potential loss of HCV 4-6 shall be assessed, either through existing evidence or a new process. Evidence includes, but is not limited to, formal documentation of past compensation processes or any information presented within a complaint to the RSPO. This analysis should determine whether negative social impacts related to the loss of HCVs 4-6 occurred and whether or not these impacts have already been sufficiently remediated and/or compensated. Identified impacts of loss of HCVs 4-6 shall be adequately remediated and/or compensated through a transparent, participatory and documented process.

Remediation measures include restoring, substituting, or financially compensating for the provision of and/or the access to natural resources. As communities may undergo shifts in their dependence on resources due to changes in the socio-economic environment, consultations shall identify the best current options for restoration or replacement of lost values and/or functions. In cases where monetary compensation is agreed upon, the parties may consider several instalments over time, rather than ‘one-off’ payments. Growers should refer to free, prior and informed consent (FPIC) guidance on consultation with affected stakeholders and communities (refer to RSPO FPIC guidance).’

Additional Guidance:

1. **Identifying lost HCVs 4, 5 & 6 [environmental services (eg drinking and bathing waters, river transport), basic needs (eg resource-based livelihoods) and aspects crucial to cultural identity (eg sacred sites and graveyards)].**

‘This analysis should determine whether negative social impacts related to the loss of HCVs 4-6 occurred and whether or not these impacts have already been sufficiently remediated and/or compensated.’

This component has two parts: identification of the impacts and identification of the impacted parties

- 1.1 Historical mapping and interviews with affected parties. In cases where participatory mapping was not carried out as part of the land acquisition process under 2.2, 2.3 and 7.5, then this has to be carried out as a first step in establishing the extent of community land and resources use and land claims. Participatory mapping must be carried out in conformity with the requirements of the relevant P&C&I and should take into consideration the corresponding Guidance and Guide.¹

¹ RSPO and FPP, 2015, *Free, Prior and Informed Consent, A Guide for Members*. RSPO, Kuala Lumpur.

On the basis of participatory maps, community meetings should be held to establish the extent of prior land uses that have been cleared, planted or otherwise removed from community use and estimates made of the proportion of these areas which were providing critical environmental services (HCV4), were supplying basic needs (HCV5) and were crucial to cultural identity (HCV6).²

1.2 Social mapping of affected parties. In cases where required land tenure assessments were not made in line with P&C 2.2, 2.3 and 7.5, community meetings must also be carried out to establish clearly which parties within the affected communities lost access to HCV4, 5 and 6. Because impacts will not be uniform over the entire concession area, different communities, families or persons, or even local enterprises, will be differently impacted and this needs to be known and agreed prior to the negotiation of remediation (see next section).

2. Negotiation of an agreed remediation or compensation plan

‘Identified impacts of loss of HCVs 4-6 shall be adequately remediated and/or compensated through a transparent, participatory and documented process. ... Growers should refer to free, prior and informed consent (FPIC) guidance on consultation with affected stakeholders and communities (refer to RSPO FPIC guidance).’

In cases where losses of HCVs were not discussed prior to land clearance and planting (even if FPIC processes were carried out for other land acquisition for clearance and planting), operators need to carry out a normal negotiation procedure in relation to remediation for HCVs. Where companies have yet to adopt their own land acquisition SOPs, based on the RSPO P&C for land acquisition and FPIC, then they should adhere as closely as possible to the RSPO FPIC Guidance and Guide.³ These details are not repeated here.

Once the extent of losses of HCVs have been established and mutually agreed (see 1.1) and there is clarity about whose cultural identity, livelihoods and environmental services have been impacted (see 1.2), there should be iterative negotiations with self-chosen representatives of the affected parties (communities, families and individuals or local enterprises) to agree:

- what kind of remediation will be provided for which losses (restoration, substitution or compensation).

For example, if a hamlet within a concession has lost fresh-water supplies for bathing, drinking and fluvial transport (HCV4) it may agree to be remediated by forest restoration in an affected watershed, the supply of piped water to the affected communities or by cash compensation, or a combination of these measures.

² The definition of HCV6 was changed in 2013 to include impacts on areas of national or global cultural significance, this will need to be taken into account where post 2013 HCV6 impacts are assessed, for which additional Guidance will be needed.

³ Quite detailed Guidance on FPIC is integrated into the RSPO Generic P&C&I. The revised Guide (see footnote 1), which provides additional advice, is due to be published by RSPO in 2015.

- to whom such remediation should be provided and on what terms;

For example, if a single family impacted by forest clearance has lost a stand of fruit trees (HCV5), it may agree to remediation through replanting alternative food sources, or monetary compensation, or a combination of these.

For example, where a community has lost access to its ancestral hunting grounds (HCV5), it may agree to remediation through habitat restoration, provision of an alternative livestock rearing or monetary compensation.

For example, if an individual's rubber plantation (HCV 5) was cleared and planted with oil palm without her consent, she may agree to the restoration of another area with rubber and compensation for lost income in the interim.

For example, if a community's graveyard (HCV6) has been bulldozed to make way for plantations, the community may agree to the erection of a monument celebrating all those buried there and a compensation sum for damages.

Usually losses of HCV 4 and 6 will need to be agreed with whole villages, hamlets or other groups. This may also be the case with losses of HCV 5 affected whole groups. In such cases, it is especially important that community or group meetings are held to ensure broad consensus both about what remedies are being agreed and how these will be allocated. This is to ensure equitable outcomes (and avoid cheating). However, in many cases, separate agreements will be needed with each impacted sub-group whose particular livelihoods were impacted (see box above). Wherever possible, remediation agreements should be shared transparently with all members of affected groups to maintain consensus and accountability.

3. Allocation of remediation or payment

'In cases where monetary compensation is agreed upon, the parties may consider several instalments over time, rather than 'one-off' payments.'

Experiences world-wide show that compensation monies, even where openly agreed, are too often spent unwisely and / or are allocated inequitably. This can rapidly result in dissatisfaction, especially from those who feel cheated of a legitimate share of benefits. To mitigate this problem, agreements should be as inclusive and as transparent as possible and measures should be negotiated and agreed to establish accountable bodies that will handle any compensation monies (where these are not being paid just to families or individuals).

Where substantial sums are to be allocated to compensate a community or a group of impacted persons, negotiators may suggest the establishment of a community development fund, incorporated to be subject to agreed oversight and decision-making procedures. Such a body can allocate funds to agreed community development projects of a general benefit. The modalities of how such funds will operate should be part of the negotiated agreements.

4. Monitoring of implementation

As part of the negotiated agreement, a plan for participatory monitoring of implementation should be agreed, as also set out in the FPIC Guide. In the case of monetary compensation, this may include independent audits of the payment and allocation of community funds.

Annex 1.

The following text was submitted to the RSPO BHCVWG by social NGOs in 2013. The text above seeks to incorporate the key elements from the draft below into Guidance give above, but it is copied here for reference and in case of omissions, while the draft is being discussed by the BHCVWG/CTF.

7. Identification of affected communities and individuals and compensation for loss of HCV 4-6

In order to achieve this, the following procedure is followed:

7a. Identification of affected communities and individuals and determination of 'HCV 4-5-6 liability' (step 3)

[The company seeking to compensate past clearing shall identify communities and individuals affected by the possible loss of HCVs 4, 5 and/or 6 during or after the clearing event, or demonstrate that no communities or individuals were affected.] **OR** [The company provides information on area, location and time of clearing, all inhabitants living on or using the land from XX years prior to the time of clearing. This serves to identify stakeholders to be consulted for the compensation process.] Any evidence that FPIC was obtained from, or compensation granted to, affected communities and individuals is likewise collected.

Information derived from (S)EIAs and related compensation/mitigation plans, as well as previous consultations and/or FPIC processes and historical and recent satellite imagery are used to determine which communities and individuals were affected and which environmental regulation (HCV4), livelihood (HCV5) and socio-cultural (HCV6) values may have been lost.

7b. Determination of the HCV4-5-6 remediation liability (step 3)

In case there is no (documented) evidence of FPIC at the time of clearing, or other compelling evidence that affected communities and individuals were adequately compensated for loss of HCVs associated with the clearing, the company shall make an assessment of the 'HCV 4-5-6 remediation liability' using participatory methods. The information gathered in step 2a is shared with the identified affected communities and individuals with the aim to adequately remediate damage done to environmental services, livelihood and cultural values resulting directly or indirectly from the clearing event. The affected communities and individuals (which may be represented by democratically and transparently elected representatives) have to agree among themselves and with the company (consultant, facilitator) about the size of the area, the type of land use / values lost and the affected individuals or group(s) to be compensated.

7c. Development of the 'HCV 4-5-6 remediation plan' (step 3a)

The 'HCV 4-5-6 remediation plan' is negotiated and agreed by the company and the affected communities and individuals, supported by their respected advisors.

7d. Integrated compensation and remediation plan and obtain FPIC of communities and individuals affected by the implementation of the plan (step 4).

The integrated compensation and remediation plan is presented to the communities and individuals affected by its implementation, and to any complainants if the compensation procedure was triggered by a stakeholder report (step 1b). (Note: this is especially relevant if the HCV1-3 compensation is realised through implementation in an area outside the concession of the

company). After FPIC⁴ has been obtained, a compensation and remediation monitoring protocol is prepared. The integrated compensation and remediation plan, FPIC documentation and monitoring protocol are provided to the BHCV-CP within 60 working days after the entry into the Compensation Procedure . The BHCV-CP may extend this period with a maximum of two times 30 working days (conditions?). If by then no plan, FPIC documentation and monitoring protocol have been submitted, the BHCV-CP will pass the case to the RSPO-CP.

⁴ In accordance with the RSPO 2008 guidance on FPIC

SNGO proposal Flowchart Compensation Procedure RSPO

