

**Assurance Standing Committee – Complaints Panel  
4th Joint Meeting (Hybrid)  
Minutes of Meeting**

Venue: VE Hotel, Bangsar KL and Zoom Meeting (<https://zoom.us/j/97873253158>)

Date and time: 10 August 2023 at 5.00 pm – 7.00 pm KL time

**ASC Members Attendance:**

<b>Growers</b>		
<b>Name</b>	<b>Organisation</b>	<b>Group Representation</b>
Anita Neville (Co-Chair) (AN)	Golden Agri Resources (GAR)	Indonesian Growers (IGC)
William Siow	IOI Group	Malaysian Growers (MPOA)
Mariama Diallo	SIAT Nigeria	Growers RoW
<b>NGOs</b>		
<b>Name</b>	<b>Organisation</b>	<b>Group Representation</b>
Kamal Prakash Seth (Co-Chair) (KS)	WWF International	E-NGO
Marcus Colchester	Forest Peoples Programme	S-NGO
Jonathan Escolar <i>replacing Paula den Hartog</i>	Rainforest Alliance	E-NGO
<b>Supply Chain Sector / Downstream / Others</b>		
<b>Name</b>	<b>Organisation</b>	<b>Group Representation</b>
Olivier Tichit	Musim Mas Holdings	P&T
Lee Kuan-Chun	P&G	CGM
Vivi Anita <i>alternate member</i>	Musim Mas Holdings	P&T

**CP Members Attendance:**

<b>Full Name</b>	<b>Organisation / Company</b>	<b>Position</b>
Dato' Henry Barlow (Co-Chair) (DHB)	Sime Darby	RSPO Honorary Member
Lim Sian Choo (Co-Chair)	Bumitama	CP Member
Carl Dagenhart	Goodhope	CP Member

Lanash Thanda	BC Initiative	CP Member
Kartika Dewi	PT BIA	CP Member
Laszlo Mathé	Sustainable Biomass Program	CP Member
Marieke Leegwater	Solidaridad	CP Member
Michelle Desilets	Orangutan Land Trust	CP Member

**RSPO Secretariat Attendance:**

Name	Position
Aryo Gustomo (AG)	Director, Assurance
Inke Van Der Sluijs (IDS)	Director, Market Transformation
Ruben Brunsveld (RB)	Deputy Director, EMEA, Market Transformation
Zaidee Tahir (ZT)	Acting Head, Integrity
Freda Manan	Sr. Executive, Integrity
Pravin Rajandran (PR)	Head, Grievance
Rudy Pinem	Manager, Grievance
Ramitra Ramarao	Manager, Grievance
Reza Haryo	Manager, Grievance
Hazman Naim	Assistant Manager, Grievance
Lee See Lung	Assistant Manager, Grievance
Fazriya Begum	Administrator, Grievance
Mutiara Firsty Nagisa	Administrative Assistant, Grievance
Shazaley Abdullah	Head, Certification
Amirul Ariff	Manager, P&C Certification
Sarsongko Wachyutomo	Manager, Smallholder Certification
Yulia Rossana	Executive Assistance, Assurance

Item	Description	Action Points
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<p><b>1.0</b></p> <p><b>1.1</b></p>	<p><b>Introduction</b> ZT opened the meeting and invited the CP Co-chair (DHB) and ASC Co-chair (KS) to give their welcoming remarks. DHB invited all attendees to introduce themselves. ZT shared the meeting’s agenda.</p> <p><b>RSPO Antitrust Law, Consensus-Based Decision Making, Declaration of Conflict of Interest (Col)</b> ZT reminded the ASC &amp; CP members of the above as outlined in their respective ToRs.</p>	
<p><b>2.0</b></p> <p><b>2.1</b></p>	<p><b>For Discussion</b></p> <p><b>Matters Arising from ASC-CP Meeting 16 June 2022</b> AG gave an update on matters from the last joint meeting.</p> <ul style="list-style-type: none"> <li>• The Secretariat is on track to strengthen and review the current verification system.</li> <li>• Improvement in labour auditing guidance for CBs - Introduction of the RSPO Labour Auditing Guidance, a voluntary document, currently in 18-month trial period ending in May 2024. ToR for the independent review of the guidance implementation is being developed now.</li> <li>• ToR for the Study on De-linking Financial Relationship between CBs and Auditees is also being finalised (has been presented and discussed with the ASC). It will be part of the input for the next certification systems document which is planned to be developed at the beginning of 2024.</li> <li>• A long-term strategy is in the pipeline, with emphasis on sustainability leadership, standards, certification, and assurance. Further elaboration/discussion within Secretariat and the BoG will start this year onwards.</li> </ul> <p><u>Discussion points</u></p> <p>A member asked if the concept note that will be presented to the BoG in September can be shared with the group, and if the independent review of the RSPO Labour Auditing Guidance will also cover the implementation of the relevant principles and criteria directly. AG said the Secretariat had requested CBs and ASI to implement the guidance together with the P&amp;C audits at least once during the trial period. The independent review will look into how the guidance works during a P&amp;C audit and identify the challenges and gaps and the possibility of implementation with P&amp;C 2023. He added the review outcomes are expected 3 months after the end of the trial period and to be presented to both the SSC and ASC before deciding whether the guidance will be made mandatory.</p> <p>Another member asked if the tender process for the de-linking study can start in Sep 2023 so the result can be discussed prior to the Roundtable (RT) in 2025 and if the shift towards performance-based audit will be part of the new strategy. AG answered that the ToR will be presented for the ASC’s endorsement in August 2023 so the timeline can still be adjusted (*Update: <a href="#">Call for proposal</a> has been published on 12 Sep 2023). AG shared the new strategy will scale up Certification compliance, by leveraging other schemes and partnerships.</p> <p>The member also asked what it means for a complaint to be closed i.e. whether the CP considers the operation to be compliant with the RSPO standard, and if the CP and the Secretariat now have the budget and capacity i.e. technical expertise to</p>	

	<p>carry out investigations, rather than relying on paper trails. PR explained that there are two types of closures; (i) complaint closed with decision for dismissal and no appeal by the complainant within 60 working days or (ii) bilateral engagement or dispute settlement facility (DSF) where parties reach amicable resolution that is signed and legally enforceable. PR added if breaches are found and the CP directs corrective actions to remedy the issue, the case shall fall under ‘closed for post-complaints monitoring’ (in the absence of an appeal) by the RSPO Grievance Unit. During this period, the CP can make directives to engage independent experts to oversee the implementation.</p> <p>PR explained that the Secretariat does have a specific budget approved by the BoG for complaints investigation, on top of the budget that the Grievance Unit already has. On expertise, when there is a directive for an independent investigation, the Secretariat would publish a call for expressions of interest based on specific terms of reference (ToR) e.g. an expert from Europe was called to handle an investigation in Indonesia. While the response has been good, the Respondent and Complainant of a particular case need to be considered to avoid conflict of interest. PR acknowledged that RSPO needs to consider building its own pool of experts to hasten this process.</p> <p>A member requested for the de-linking study to consider who will be responsible for auditors’ performance and approaching grower companies, since they usually have a system and contracts with auditors which means de-linking cannot be done under a short notice and started in a smaller scale to avoid disrupting the certification process. AG assured that the study will consider input from grower companies to come up with possible solutions for de-linking.</p>	
<p><b>2.2</b></p>	<p><b>Updates on the Progress of the Complaints &amp; Appeals Procedures (CAP) and Grievance System Review</b></p> <p>PR informed that an email blast was sent to the whole membership on 2 Aug 2023 regarding progress updates on the CAP Review and asked those who have not read it to do so. Literature review was done between Dec 2022 and Jan 2023. Between Jan to Feb 2023, stakeholder consultations and a survey were done where approximately more than 60 stakeholders including the Secretariat, CP members, RSPO members, civil society organisations, trade unions and CBs were consulted. An online survey was published on 25 Jan 2023 and closed on 15 Feb 2023. 128 responses were obtained from it with a 50% completion rate.</p> <p>The 2nd Steering Group hybrid meeting (of which two representatives each from the ASC and CP are involved in) was held on 17 March 2023 in Kuala Lumpur. The Consultants (who are experts in labour rights issues and grievance mechanisms) submitted version 2 of the report on 31 March 2023. Further comments from the Steering Group were furnished to the Consultants. Version 3 of the report is expected and the Secretariat is renewing the service agreement considering the additional tasks required. PR shared the proposed way forward as recommended by the Steering Group:</p> <ul style="list-style-type: none"> <li>● The revised report (Version 3) to be divided into two (2) separate reports i.e. on findings and on recommendations;</li> <li>● Report on findings to be revised based on the Steering Group’s comments and submitted back to the Group for endorsement;</li> <li>● Once endorsed, report on findings is to be released to the CP, ASC, and SSC for comments;</li> </ul>	

	<ul style="list-style-type: none"> <li>• Comments received from the aforementioned entities together with the comments already received from the Steering Group will be used by the Consultants to revise the report on recommendations and produce the procedures and proposed system; and</li> <li>• The revised report on recommendations together with the procedures and proposed system are to be submitted to the Steering Group for endorsement and released for a 2-months public consultation.</li> </ul> <p><b>Discussion points</b> Members thanked PR for the clear updates. A member asked if PR could give a highlight of what to be expected in the reports, to which PR replied it is best to wait for the Steering Group’s endorsement.</p>	
<p><b>2.3</b></p>	<p><b>EU Deforestation Regulation (EUDR): An Update On Its Current Status and Potential Impact On RSPO’s Systems And Processes</b></p> <p>IDS gave an overview of the EUDR:</p> <ul style="list-style-type: none"> <li>• Sets mandatory due-diligence rules for organisations which place specific commodities or products on the EU market or export them from the EU.</li> <li>• Seven commodities covered: soy, beef, palm oil, wood, cocoa, coffee, rubber.</li> <li>• Should guarantee to EU citizens that the listed products they buy, use and consume do not contribute to global deforestation and forest degradation.</li> <li>• Note: EUDR is not an ingredient level regulation. It is not the case that every producer/seller that uses any PO derived product needs to comply with EUDR. Instead within each commodity, the EUDR defines exactly which products are in the scope, referring to a list of EU customs codes specified in Annex 1 to EUDR (page 39 of <a href="#">this</a> document).</li> </ul> <p>IDS informed that the EUDR came into force in June 2023 and entries by large companies will be by the end of 2024. There are 3 elements; market prohibition to ensure legal &amp; deforestation-free products (cut-off date after 31 Dec 2020), due-diligence obligations (adequately conclusive and verifiable information e.g. country ID, geo location to plot, and bench-marking process for source countries (high-risk, standard or low-risk). The goal is to minimise the EU’s contribution to deforestation and forest degradation worldwide.</p> <p>RB gave an overview of the gap analysis between RSPO and EUDR:</p> <ul style="list-style-type: none"> <li>• Carried out in Jan – March 2023 using EUDR text of 6 Dec 2022 vs P&amp;C 2018 and the latest available version of RSPO standard documents.</li> <li>• EUDR requirements were systematically compared with RSPO P&amp;C and chain of custody requirements.</li> <li>• Resulted in an overview of RSPO requirements that best relate to EUDR requirements, and of similarities and gaps between them.</li> <li>• Recommendations were made on how RSPO could facilitate its members in ensuring compliance with EUDR.</li> <li>• Results and recommendations were summarised in a report, all documentation is available on the RSPO <a href="#">website</a>.</li> </ul> <p>RB explained the main gaps identified:</p> <p>i) On “deforestation free”:</p> <ul style="list-style-type: none"> <li>• Cut-off date 31st December 2020 (EUDR) versus November 2005 and November 2018 (RSPO);</li> <li>• Definition of forest through a quantitative general threshold value (EUDR) versus a qualitative site-specific methodology (RSPO);</li> </ul>	

	<ul style="list-style-type: none"> <li>● No exemption (EUDR) versus exemption for High Forest Cover Landscapes /Countries (RSPO).</li> </ul> <p>ii) On compliance with relevant legislation of the country of:</p> <ul style="list-style-type: none"> <li>● RSPO requirements on legality are at least largely in line with EUDR requirements.</li> <li>● Caution is required as the EUDR provides little or no specification of the relevant pieces of national legislation and evidence that operators need to have available.</li> <li>● The RSPO is in a good position to facilitate information on legality as Criterion 2.12 requires that a ‘documented system for ensuring legal compliance is in place. This system has a means to track changes to the law and also includes listing and evidence of legal due diligence of all contracted third parties, recruitment agencies, service providers and labour contractors.’</li> <li>● A key difference between the EUDR and RSPO Principles &amp; Criteria is that the EUDR requires that information on legality is transferred through the supply chain, whereas RSPO does not require this.</li> </ul> <p>iii) On definition of ‘forest’:</p> <ul style="list-style-type: none"> <li>● RSPO’s definition of deforestation as per P&amp;C 2018: Loss of natural forest as a result of: i) conversion to agriculture or other non-forest land use; ii) conversion to a plantation forest; or iii) severe and sustained degradation (Source: Accountability Framework Initiative (AFI) (July 2018))</li> <li>● The EUDR uses the following definition of deforestation – ‘The conversion of forest to agricultural use, whether human-induced or not’ (FAO) in which a forest is defined as ‘Land spanning more than 0,5 hectares with trees higher than 5 meters and a canopy cover of more than 10%, or trees able to reach those thresholds in situ, excluding land that is predominantly under agricultural or urban land use’.</li> <li>● RSPO allows for development of land (i.e. possible deforestation under EUDR) if it is not primary forest or designated as HCS-HCV.</li> </ul> <p>iv) On legality:</p> <ul style="list-style-type: none"> <li>● There is very little certainty about what companies will need to produce to prove legality.</li> <li>● “Human Rights protected under international law” frameworks are referred to but undefined and subjugated to the applicable laws in the country of production.</li> </ul> <p>v) On geolocation:</p> <p>RSPO is in a good position to provide information on the EUDR geolocation requirement. Indicator 2.3.1 provides a basis under which geolocation information can be made available for all FFB (certified and non- certified).</p> <ul style="list-style-type: none"> <li>● Geolocation requirements of polygon should be added to bring it in line with the EUDR for plots above 4 hectares;</li> <li>● Definition on ‘FFB origin’ should be added and aligned with EUDR definitions of ‘plot of land’. Special attention should be given to the ‘an extension of land within a single real-estate property’;</li> <li>● The transition period for mills going for first year of certification to collect smallholder geo-locations should be deleted.</li> </ul> <p>RB shared 3 main recommendations from the Gap Analysis:</p> <ul style="list-style-type: none"> <li>● Align the RSPO Standards and IT traceability systems to facilitate RSPO members in collecting information required for EUDR compliance:             <ul style="list-style-type: none"> <li>○ Extend RSPO’s IT (traceability) system so that the EUDR relevant</li> </ul> </li> </ul>	
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	<p>evidence on geolocation, deforestation and legality can be uploaded by growers/mills and then be transferred through the supply chain;</p> <ul style="list-style-type: none"> <li>○ Develop a voluntary EUDR add-on standard/information system to the RSPO Principles &amp; Criteria, which includes the EUDR requirements not covered by the RSPO P&amp;C;</li> <li>○ Develop an ‘EUDR information system’ for the not RSPO certified part of oil palm products that follow SCCS requirements for ‘mass balance’;</li> <li>○ Develop a modular approach allowing flexibility towards future legal requirements</li> </ul> <ul style="list-style-type: none"> <li>● Position the RSPO to the European Commission and to Member States competent authorities as a reliable system to assist companies fulfill the obligations of the EUDRs due diligence process and decide on RSPO’s position in procedures on ‘substantiated concerns’.</li> <li>● Reach out to RSPO members with information relevant for their EUDR compliance.</li> </ul> <p>On the way forward, RB shared two ways in which the RSPO can facilitate the compliance with the requirements of the EUDR for its members and show its added value to Member States National Competent Authorities (NCA’s):</p> <ul style="list-style-type: none"> <li>● As a toolbox that members use for their risk assessment and proven industry “best practice”.</li> <li>● By creating a digital platform for traceability which facilitates the gathering - and flow of information necessary to show EUDR compliance from RSPO certification and other RSPO procedures and mechanisms through the supply chain for its members             <ul style="list-style-type: none"> <li>○ Deforestation: Technical and fundamental issues that need to be addressed</li> <li>○ Legality: Largely in line but should look at transferability of information</li> <li>○ Due-diligence statement: Recommendation to develop a digital platform for traceability</li> </ul> </li> </ul> <p>RB mentioned that under Article 29 of EUDR, third parties can submit ‘substantiated concerns’, in relation to the possible non-compliance with EUDR requirements by obligated companies. NCAs shall assess these concerns, including checks and hearings of operators and traders. It is likely that after Dec 2024 there will be a rise in the number of complaints to NCAs. RB posted the following questions for discussion:</p> <ol style="list-style-type: none"> <li>1. (How) do you see this having a bearing on the work of the Complaints Panel?</li> <li>2. (How) should the RSPO position itself when called upon (by members or NCAs) in relation to a submitted “substantiated concern” (EUDR complaint procedure)?</li> <li>3. Does RSPO have a role to play in assuring the not-P&amp;C-required-but-EUDR-relevant-information that members can soon upload to the new digital platform for traceability?</li> <li>4. How can RSPO best support members with information for their risk assessment?</li> </ol> <p><b><u>Discussion points</u></b></p>	
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	<p>A member pointed out that the presentation had not covered the fact that the Mass Balance (MB) and Book &amp; Claim modules will not meet the EUDR requirements and a mechanism is needed to verify information on the traceability platform. RB mentioned that in its Q&amp;A, the EU Commission defines MB as the mixing of EUDR-compliant and non-compliant products but RSPO defines MB as the mixing of certified and non-certified and that is not against the EUDR regulation as long as the non-certified part can be proven deforestation-free and legally produced. Therefore, this does not mean that MB as per RSPO's definition is not compatible with the EUDR. For Book &amp; Claim, IDS explained that when credits are used to cover conventional consumption, one needs to prove that the conventional material is legally produced and deforestation-free so there is additional due-diligence to be done. Companies may also choose to start buying Independent Smallholder (IS) credits on top of their segregated sourcing to show their support to smallholders.</p> <p>Another member asked RB for clarification on the complaints possibly coming after Dec 2024. RB explained that this is due to the obligation for large companies coming into force after Dec 2024 and not referring to the cut-off date for deforestation which is after Dec 2020. He added that the Secretariat is actively communicating to the Commission that EUDR compliance should not be directly equated to sustainability because it is much broader than only legality and deforestation as well as urging members to maintain the Book &amp; Claim module since it is very important for smallholders inclusion.</p> <p>Another member urged the Secretariat to be mindful about the inclusion of non-audited or non P&amp;C information within the RSPO new traceability system and its interoperability because many such systems have been developed in view of the EUDR. RB agreed about the importance of this aspect which has recently been discussed in the Sustainable Palm Oil Dialogue in Frankfurt, and being made a priority by the Secretariat's team working on the project (led by Yen Hun Sung). RB informed that a ToR for a project development team has been issued, to which a member confirmed that the deadline for proposal submission has passed and nothing can be done until the selection has been made.</p> <p>A member pointed out that the gap analysis seemed to miss the smallholder inclusion aspect because there is a potential risk that EUDR may push smallholders further away from the value chain. RB confirmed that this is one of the main concerns raised in the last 2 years and the RSPO's Smallholder Unit will soon commission an impact study on the RISS against the EUDR regulation. Another member shared that the EU Commission had repeatedly stated that certification schemes will not be recognised as evidence for EUDR compliance. Therefore, the member's company is also working on a system to allow certificate holders to use as much information from the certification for the due-diligence process. In addition, on whether or not RSPO should verify or be liable for this information, the member shared that based on the legal advice received, RSPO should not do so but to just provide a platform to transmit the information. The member added that there is a funding project with ISEAL which the RSPO might consider joining. RB responded that some NCAs had indicated that they have limited resources to do the verification and will possibly consider RSPO as a risk mitigation to allow for more effective resource allocation.</p> <p>A member stated that the 'substantiated concerns' will be a grey area and gave an example of a land issue with the local community before Dec 2020 which may or</p>	
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	<p>may not be dismissed. RB commented that the cut-off date is specifically for deforestation but other human rights issues could possibly predate that. Another member pointed out that uploading any data for independent smallholders will require their approval and may be challenging. RB agreed that it will be difficult to connect independent smallholders to any system that is being developed and it is important to work with members in the supply chain to ensure they can be taken along in this journey. A member reiterated the requirements of P&amp;C 2018 indicator 2.3.1 (geo-location of FFB origins), to understand what information needs to be validated and made available in RSPO's database, and that will depend on the P&amp;C 2023. RB highlighted that RSPO will focus on providing a technical platform for members to prove their compliance with EUDR. The P&amp;C will be adapted to fit these requirements and that will be decided by the P&amp;C review task force.</p> <p>Another member asked for clarification on the rumour that the P&amp;C review task force is considering dropping the High Carbon Stock Approach (HCSA) Toolkit from the no deforestation requirement. A member who sits in the task force replied that consensus has not been reached, so it will go back to the Steering Group. The member shared that the procedural note in P&amp;C 2018 on High Forest Cover Countries stated RSPO and HCSA will work on a procedure to adapt the HCSA toolkit but that was not delivered within the last 5 years. It is the unknown that prevented many growers from endorsing the proposed version 3 of the P&amp;C review. KS highlighted that the Steering Group consists of Co-Chairs from the four standing committees and the RSPO's CEO, and the ongoing discussion on the MoU with HCSA will have a bearing on the decision-making process.</p> <p>A member commented that the removal of HCSA is not the main issue. The purpose of the HCSA toolkit is qualitative and aiming for better environmental outcomes while the EUDR is quantitative. The focus should be on how the P&amp;C will prevent deforestation. Another member asked if the EU will disclose companies that do not comply with the EUDR regulation and how to anticipate the impact if the companies are RSPO-certified. RB believed that the 'substantiated concerns' and the outcomes will be transparently published by the Commission but will check and confirm with the members after the meeting.</p>	<p>The Secretariat is to confirm whether the 'substantiated concerns' will be transparently published by the EU Commission.</p>
<p><b>3.0</b></p>	<p><b>Any Other Business</b>  ZT asked for date suggestions for the next ASC-CP meeting, usually held twice a year. KS proposed the end of Jan or Feb 2024, considering most members' return from year-end holidays, with AN's note about Chinese New Year holidays. A member reminded everyone about the request for quarterly meetings due to increased collaboration needs, suggesting an hour session in late Oct 2023 to discuss RSPO's new Assurance system strategy presented by AG. PR noted that a short session may not be productive. ZT proposed a Doodle poll to decide quarterly or bi-annual meetings and this was agreed by all.</p>	<p>The Secretariat is to send a poll to decide quarterly or bi-annual ASC-CP meetings.</p>
	<p><b>End of meeting</b>  ZT thanked everyone for their active participation and the meeting adjourned at 7.00 pm.</p>	