



Roundtable on Sustainable Palm Oil

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Terms of Reference:

Independent Review of the RSPO's Complaints System

Background:

At the tenth General Assembly (GA 10), resolution 6f¹ was adopted by the members of RSPO, it states: "To guarantee Fairness, Transparency & Impartiality in the Complaints Mechanism, the EB shall ensure that there is a strict separation of executive powers in handling complaints and grievances, in order for the Complaints System to be in line with the United Nations Guiding Principles on Business and Human Rights (UNGPR)² - especially ensuring operationalization of criterion h.(operational system); criterion a. (legitimacy); criterion c. (predictable); criterion d. (equitable); and, criterion e. (transparency)." Full description of the criteria under UNGP Principle 31 is attached as *annex 1*.

In conjunction with RT and GA, there are several reports produced and highlights members' observations on the RSPO's Complaint System. Reports presented at the GA are listed as below:

- 1) Conflict and Consent³, by Forest Peoples Programme, Sawit Watch and TUK Indonesia.
 - ✓ This report highlighted mandate, system and capacity issues of the Complaints System.
- 2) The RSPO Roulette: How profits win over people and planet⁴, by Pesticide Action Network Asia
 - ✓ Besides capacity and resources issues, writer also calls for more support for grassroots communities and workers to raise grievances.

RSPO's Complaints System is dynamic, the Board of Governors and Complaints Panel have made several important decisions in July 2013 and November 2013 in order to further improve the system. Revised ToR of the Complaint System was published in November to reflect those amendments. Therefore, this review aims to identify alignment of the current RSPO's Complaint System to the UNGP principles and propose recommendations for future refinement.

Objective:

- 1) Review current RSPO's Complaints System against resolution 6f of the RSPO General Assembly 2013 .
- 2) Recommend and prioritize further improvement steps and indication of cost.
- 3) Recommend improvement for efficiency of the RSPO Complaints System.

¹ <http://www.rt11.rspo.org/c/ga10-notices-announcements/>

² http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

³ <http://www.google.com.my/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&ved=0CEgQFjAD&url=http%3A%2F%2Fwww.forestpeoples.org%2Fsites%2Ffpp%2Ffiles%2Fpublication%2F2013%2F11%2Fconflict-or-consentenglishlowres.pdf&ei=JRO5UoftJMmHrQetoYGOBQ&usq=AFQjCNHWRBCLJ6x1e8VF227hLOyOZ6XsNg&bv m=bv.58187178,d.bmk>

⁴ <http://www.panap.net/sites/default/files/RSPO-critique.pdf>

Timeline:

Proposed Tasks	Jan				Feb				Mar			
	Wk 1	Wk 2	Wk 3	Wk 4	Wk 1	Wk 2	Wk 3	Wk 4	Wk 1	Wk 2	Wk 3	Wk 4
Confirmation of ToR												
Review documents i) Complaints System ToR ⁵ ii) Complaints System Protocol ⁶ iii) Recent Board decision ⁷⁸ iv) External reports v) Other relevant documents as per request												
Clarification and Discussion with RSPO (& Complaints Panel if necessary)												
Preparation of Report i) Gap identification and review findings ii) Recommendations & prioritization												
Presentation of findings												
Finalization of report												

Report Framework:

The report should contain at least the following information.

1. Executive summary
 - a. Summary of all chapters below (2-3 pages).
2. Introduction and background
 - a. What is the current baseline of the RSPO Complaints System?
 - b. What are the key expectations stated in resolution 6f and other external reports?
3. Gap identification
 - a. Objective assessment of current complaints system against UNGPs criteria.
 - b. Benchmark against other roundtable/ certification schemes/ organization that involved in complaints management/ dispute resolutions e.g. National Commission on Human Rights (Indonesia)? Any good practices or lesson learnt?
 - c. Identify gaps that are identified by external stakeholders which are no longer relevant.
4. Recommendation and prioritization of further improvement.
 - a. Improvement plan and available options to meet UNGPs criteria.
 - b. Cost implication of each component within the proposed improvement plan.
 - c. Transition plan if necessary.
5. Recommend improvement for efficiency of the RSPO Complaints System.
 - a. Based on 2(b), rate current performance level of the RSPO complaints management; and recommend steps to achieve high efficiency.
6. Conclusion

⁵ http://www.rspo.org/en/system_components_and_terms_of_reference

⁶ http://www.rspo.org/en/process_flow

⁷ http://www.rspo.org/file/EBMinutesofMeeting_03-13_V4.pdf

⁸ Minutes for November meeting is yet to be approved and not available online.



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To apply

Interested candidates should contact Ravin Krishnan (ravin.krishnan@rspo.org) with an expression of interest by 31 Jan 2013.

To be considered for this work, the consultant will need to submit:

- A CV or short summary of the experience and knowledge of the team/ individual on this topic;
- An outline of the proposed methodology and milestone for the research;
- Names of references from related work experience,
- A proposed detailed budget, time allocation, and time line.

Annex 1

Effectiveness criteria for non-judicial grievance mechanisms⁹

31. In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:

- (a) **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) **Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- (f) **Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights;
- (g) **A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

Operational-level mechanisms should also be:

- (h) **Based on engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

⁹ Source: "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework"