

## COMPLAINTS PANEL MEETING MINUTES

17 March 2015 | 3.30pm – 5.30pm | Meeting No. 3/2015

Meeting location: *RSPO Secretariat Office, 37 Floor, Menara UOA, Bangsar, Kuala Lumpur, Malaysia*

### GENERAL MEETING AGENDA

#### List of Complaint Panel members

Melizel Asuncion (Verite), Henry Barlow (Affiliate Member), Michelle Desilets (Orangutan Land Trust), Matthias Diemer (WWF Switzerland), Bambang Dwilaksono (First Resources), Marieke Leegwater (Solidaridad), Sabarinah Marzuky (Sime Darby), John Payne (Borneo Rhino Alliance), Nina Roth (UBS AG), Olivier Tichit (Sipef), Torben Venning (Humana Child Aid Society)

#### 3.30pm-4pm

1. Opening Remarks by Chairperson
2. To confirm and adopt the minutes of the 17 February 2015 Complaints Panel Meeting
3. New Complaints
4. Monthly Update: List of Complaints
5. Any other matter

#### Group 1: 4pm-4.30pm

1. PT Ladang Sawit Mas (LSM)
2. PT Nabatindo Karya Utama (NKU) / PT Andalan Sukses Makmur (ASMR)
3. PT Hati Prima Agro - Bumitama Gunajaya Agri Ltd (BGA)
4. Genting Plantation Bhd (GPB)
5. PT Limpah Sejahtera (First Resources Ltd)
6. PT Borneo Surya Mining Jaya (First Resources Ltd)

#### Group 2: 4.30pm-5pm

7. PT Sisirau/Ibris Palm Group
8. PT Sinar Sawit Andalan/ Sumber Hasil Prima - (Goodhope)
9. PT Permata Hijau Pasaman (PHP) 1 (Wilmar International)
10. Equatorial Palm Oil

#### Group 3: 5.00-5.30pm

11. PT London Sumatra (Lonsum)
12. Golden Veroleum Liberia (GVL)
13. PT Kartika Prima Cipta/ Golden Agri Resource (GAR)

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## Agenda item

### 1. Opening Remarks by Chairperson

The Chair opened the meeting by welcoming everybody and then invited everyone to scrutinize the minutes of the previous meeting.

### 2. Minutes of the meeting of 17 February 2015

The minutes of the meeting were adopted and confirmed by the members unanimously.

### 3. New Complaints

#### 1. Orang Dusun Lahad Datu/FELDA \* - received on 16 February 2015

Dusun Bagahak community complained that FELDA has acquired their land including the cemetery area and plan to plant palm oil in that area. FELDA's stand is that an agreement was made, that 916 acres of land will be given to the community but now the community has taken over, 1260 acres of land despite the agreement. Also, FELDA installed dividers around the cemetery and will preserve that area. We have received some evidence from both sides. The evidence need to be scrutinised and investigated further by the Complaints Coordinator.

Status: Box A

#### 2. PT Gunung Melayu (Asian Agri) – received on 2 March 2015

Kelompok Tani/Farmer Group Ujung Masehi alleged that PT Gunung Melayu has taken over their land (68 hectares) without compensation in Asahan, North Sumatra. The Secretariat is waiting for clarification from the member, PT Gunung Melayu.

Status: Box A

#### 3. PT Nubika Jaya (Permata Hijau Group/PHG) –received on 16 February 2015

Masyarakat Peduli Lingkungan Hidup Labusel (MPLH) alleged that PT Nubika Jaya has polluted the waters of River Baba in Labuhan Batu Selatan, North Sumatra. The Secretariat is waiting for clarification from the member PHG.

Update will be given on the next meeting. A dateline needs to be set regarding when the clarification will be received to make sure it is followed. It currently is not an official complaint until an official document is received.

Update: Had been settled bilaterally. Complainant will lodge formal complaint if PT Nubika Jaya breach the agreement.

Status: Box A

#### 4. PT Perkebunan Nusantara III ( PTPN 3) – received on 26 January 2015

Masyarakat Peduli Lingkungan Hidup Labusel (MPLH), who represent Mr. Busu Rambe against PTPN 3, North Sumatra. The complaint is about the planting activity of PTPN 3 which has affected the small holding owned by Pak Busu Rambe (± 280 palm oil trees, 4 years old) a member of the local community. PTPN 3 activities is alleged to have caused soil erosion as a result of the company planting on steep slopes. The eroded soil that entered Mr. Busu Rambe's plantation land area has resulted in him not being able to harvest his crop.

Update: Has been resolved bilaterally. Secretariat to wait for a formal letter from the Complainant. Status: Box A

#### 5. PT Barumun Agro Sentosa – received on 19 January 2015

The complaint is between Mr. Hepli Harahap and Haji Soleh Hasibuan against PT Barumun Agro Sentosa (PT BAS). The complaint is about land claim issues, located in Jambu Tonang village, Simangambat, Padang Lawas Utara district, Sumatera Utara, Indonesia. Secretariat are still awaiting further information.

Update: Secretariat had a conference call meeting with complainant and PT BAS. The Secretariat shall review all the documents that has been submitted by both sides. In the next meeting, further development will be shared.

Status: Box A

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## 6. PT Unggul Lestari – received on 23 January 2015

Kelompok Tani/ Community Group Bhakti Karya in Bukit Indah village, sub district Telaga Antang, District (Kabupaten) Kotawaringin Timur, Central Kalimantan Province, against PT Unggul Lestari. The complaint is about a land claim, 685 hectares. Kelompok and Bhakti Karya allege that PT Unggul Lestari has taken their land and planted on it without their permission.

Update: Secretariat to review all the documents that had been submitted by both sides. In the next meeting, the documents will be shared. Status: Box A

## 4. Monthly List of Complaints (Status as of 17 March 2015)

Categories :	Cases Closed		Cases open
Case closed (Box H):	24	Complaint received (Box A):	3
Case closed for monitoring (Box G):	10	Complaint categorized (Box B):	2
Unresolved case (Box Q):	1	Panel Convened (Box C):	0
		Complaint legitimate (Box D):	4
		Reviewing response (Box E):	2
		Action Plan (Box F):	4
		Appeal (Box P)	1
<b>Sub - total</b>	<b>35</b>		<b>16</b>
<b>Total: 51</b>			

At this meeting, a total of 13 ongoing and 6 new complaint cases were deliberated.

## 5. Any other matters for the Complaints Panel:

### 5.1 Dates for the next CP Meetings

i. The upcoming CP meeting dates for the 2<sup>nd</sup> and 3<sup>rd</sup> Quarter of 2015 are as follows:

Apr	May	June	July	August	Sept
15/04/2015	26/05/2015	18/06/2015	29/07/2015	19/08/2015	23/09/2015

### 5.2 Complaints Systems Revamp

- i. The minutes of the January and February 2015 meeting has been published on RSPO website.
- ii. Draft complaints system documents have been shared with CP members on 5<sup>th</sup> of March 2015. However, the document needs to be shared with Torben Venning.
- iii. The Advisory Group member Pesticide Action Network Asia Pacific has been suspended due to non-submission of ACOP.
- iv. The Advisory Group meeting is on 19<sup>th</sup> of March 2015.
- v. Two consultants will be hired to review the complaints flowchart & other related documents as well as the independent appeal mechanism.
- vi. In April 2015, an intern will be joining the RSPO office in Jakarta.
- vii. The complaints panel members will be sent a link on the suspended or terminated members of RSPO.
- viii. The next meeting on GVL will be held on the 30<sup>th</sup> or 31<sup>st</sup> of March 2015 to get quorum from all CP members.

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## 5.3 Membership of Complaints Panel

- i. Mr Torben Venning has already been appointed and starts as a member of the Complaints Panel from this meeting.
- ii. Carolina Lopez has indicated an interest in becoming a Complaints Panel member but has to clarify with FEDEPALMA.
- iii. Currently, there is an ongoing recruitment exercise for the complaints panel. Invitations have been sent to 11 people in the supply chain group of members.

## DELIBERATION OF COMPLAINTS

Complaint 1	
Member Organization	PT Ladang Sawit Mas (LSM) (a subsidiary of Bumitama Agri Ltd.)
Membership category	Oil Palm Grower
Country	Indonesia
Complainant	Yayasan IARI, Friends of Borneo
Date filed	8 April 2013
Nature of complaint	Complaint by Friends of Borneo that PT Ladang Sawit Mas is clearing orangutan habitat and is not complying with the RSPO guidelines.
Status	Box G – Closed for monitoring
Decision /Justification	The case is currently closed for monitoring. Secretariat to continue to monitor until closure.

Complaint 2	
Member Organization	PT Nabatindo Karya Utama (PT NKU)/PT Andalan Sukses Makmur (PT ASMR) – (subsidiaries of Bumitama Agri Ltd)
Membership category	Oil Palm Grower
Country	Indonesia
Complainant	Centre for Orangutan Protection (COP)/ HUTAN/ JATAN
Date filed	10 March 2013
Nature of complaint	The company is alleged to have breached Principle 5: Environmental responsibility and conservation of natural resources and biodiversity and Principle 7: Responsible development of new plantings, i.e. in the development of the land within the concession.
Status	Box G – Closed for monitoring
Decision /Justification	The case is currently closed for monitoring. Secretariat to continue to monitor until closure.

Complaint 3	
Member Organization	PT Hati Prima Agro (PT HPA) (a subsidiary of Bumitama Agri Ltd)
Membership category	Oil Palm Grower
Country	Indonesia

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Complainant	Sawit Watch
Date filed	1 July 2012
Nature of complaint	Principle 2 RSPO P&C – Compliance with applicable laws and regulations. Operating a palm oil plantation without the requisite permits.
Status	Box F – Action Plan
Decision /Justification	The company has been bought by new owners. Complainant asked RSPO to make sure the transaction has been finalised before closing the case. RSPO is currently waiting for the confirmation of the sale and the formal notification from Bumitama on its compliance to Indonesian laws and RSPO Principles and Criteria. CCI to formally write to Bumitama on the issues with a strict deadline specified.

Complaint 4	
Member Organization	Genting Plantation Bhd
Membership category	Oil Palm Grower
Country	Malaysia
Complainant	Borneo Rhino Alliance (BORA)
Date filed	27 February 2013
Nature of complaint	<ol style="list-style-type: none"> <li>1. Despite being a member of RSPO, GPB has not complied with the RSPO New Planting Procedures.</li> <li>2. Annual report clearly shows expansion in land area planted, but no NPP notification has been submitted to the RSPO during the period.</li> <li>3. No commitment to full certification on a time bound plan.</li> </ol>
Status	Box G – Closed for Monitoring
Decision /Justification	The Secretariat shall continue to monitor the progress report and ultimately lead to closure at the end of the 12 months monitoring period ending in September 2015. Quarterly report will be shared with the complainant. Should there be no issues during this period, the case will be closed for good.

Complaint 5	
Member Organization	PT Limpah Sejahtera (a subsidiary of First Resources Ltd (FRI))
Membership category	Oil Palm Grower
Country	Indonesia
Complainant	Yayasan International Animal Rescue Indonesia (YIARI)
Date filed	1 May 2010
Nature of complaint	<p>Violation of RSPO P&amp;C 5.2 and P&amp;C 7.3.</p> <p>The company is alleged to have breached Principle 5: Environmental responsibility and conservation of natural resources and biodiversity and Principle 7: Responsible development of new plantings.</p> <p>The company is alleged to have destroyed Orangutan habitats and not carrying out an HCV assessment before development of the plantation.</p>
Status	Box F – Action Plan

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Decision /Justification	<p>WRI has informed that the review of the case will be completed by the end of this month.</p> <p>If the report states that liability is zero, the company will still have to restore what has been cleared based on the HCV assessment.</p> <p>An update will be required from Limpah Sejahtera regarding what restoration will be conducted.</p>
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Complaint 6	
Member Organization	PT Borneo Surya Mining Jaya (a subsidiary of First Resources Ltd (FRI))
Membership category	Oil Palm Grower
Country	Indonesia
Complainant	Environmental Investigation Agency (EIA), Aliansi Masyarakat Adat Nusantara (AMAN) and the community of Muara Tae
Date filed	16 October 2012
Nature of complaint	<p>Violation of RSPO New Planting Procedures under Principle 7 of the RSPO Principles and Criteria.</p> <p>The Muara Tae community alleged that FR did not carry out proper FPIC procedure in acquiring their customary land area. Concurrent claims by Muara Tae and Muara Ponak communities over the same land. Also that the HCV forest that was not properly identified nor set aside for conservation.</p>
Status	Box F – Action Plan
Decision /Justification	<p>EIA has not yet replied to RSPO on their continued participation in the resolution process (*note deadline is 20<sup>th</sup> of March 2015).</p> <p>The RSPO cannot compel EIA to participate in the resolution. However, if no positive response is received the company will go ahead and implement all the actions that the complaint panel has mandated earlier.</p> <p>No development will be done on the areas where there is a conflict.</p> <p>Participants in the 23<sup>rd</sup> February meeting will support the complaints code of conduct.</p> <p>FR will compile all the CP decisions and shall submit progress reports of the actions they have completed to the Secretariat on a quarterly basis.</p>

Complaint 7	
Member Organization	PT Sisirau/Ibris Palm Group
Membership category	Oil Palm Grower
Country	Indonesia
Complainant	Sumatran Orangutan Society (SOS)
Date filed	29 October 2012
Nature of complaint	<ol style="list-style-type: none"> <li>1. Clearing of HCV land containing Orangutan habitats</li> <li>2. Failing to stop work after the discovery of Orangutans</li> <li>3. Breach of New Planting Procedures</li> </ol>
Status	Box N - Non Cooperation

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Decision /Justification	<p>This company has been suspended because they failed to submit the LUC analysis.</p> <p>PT Sisirau filed an appeal but the Board of Governors have confirmed the Complaints Panel's decision and set aside the appeal.</p> <p>The company has 30 days to comply starting from 18<sup>th</sup> March to submit LUC analysis and failing to do so will lead to sanctions including termination.</p>
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Complaint 8	
Member Organization	PT Sinar Sawit Andalan/ Sumber Hasil Prima - Goodhope
Membership category	Oil Palm Grower
Country	Indonesia
Complainant	Friends of Borneo
Date filed	21 April 2013
Nature of complaint	The member is alleged to have breached Principle 1 on sharing of information and Principle 2 on compliance with national legislation. And also failing to comply with Principle 5 on preservation of HCV forest and Principle 7 on New Planting Procedure.
Status	Box G – Closed for monitoring
Decision /Justification	Secretariat to send a reminder on the quarterly report. To monitor till closure.

Complaint 9	
Member Organization	PT Permata Hijau Pasaman (PHP) 1 –Wilmar International
Membership category	Palm Oil Processors and/or Traders
Country	Indonesia
Complainant	<p>S.H Gampo Alam, <i>Pucuak Adat Nagari Kapa</i> (indigenous leader of Nagari Kapa) as well as Head of <i>Kerapatan Adat Nagari Kapa</i> (KAN – a village/nagari-level customary institution in Minangkabau which maintains and preserves the Minangkabau customs and culture).</p> <p>Supported by Forest People Programme (FPP) and HuMa (Association for Community and Ecology-Based Law Reform)</p>
Date filed	30 October 2014
Nature of complaint	<ol style="list-style-type: none"> <li>1. Complainant seeks clarity of the extent of PT. PHP 1's nucleus estate in Nagari Kapa.</li> <li>2. Complainant rejects PT. PHP 1's application to the National Land Agency for a Hak Guna Usaha (HGU) certificate over the customary (<i>ulayat</i>) land of Nagari Kapa.</li> <li>3. Violation of RSPO Principles &amp; Criteria 6.2 – community did not participate in decision making on the areas to set aside as HCV areas.</li> <li>4. Complainant seeks clarification to whom will the land be reverted at the end of the HGU period?</li> </ol>
Status	Box D – Complaint Legitimate

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Decision /Justification	<p>A response has been received from Mr Alman Gampo Alam and he is not happy with the preliminary decision.</p> <p>A personal meeting between Wilmar, Mr Alman and RSPO will be conducted. Secretariat to pursue further engagement with the parties before a final decision is made.</p> <p>A decision is to be made at the next CP meeting.</p>
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Complaint 10	
Member Organization	Equatorial Palm Oil PLC
Membership category	Oil Palm Grower
Country	Liberia
Complainant	Sustainable Development Institute
Date filed	25 September 2013
Nature of complaint	<p>It is alleged the company has cleared and planted on land that is the customary land of the community in New Cess, Grand Bassa County, Liberia; and is seeking to expand the plantation without the free, prior and informed consent of the communities.</p> <p>The community is also objecting to the company carrying out a re-survey of the existing concession area.</p> <p>The company is alleged to have breached Principle 2.2 &amp; 2.3 of FPIC and Principle 7: Responsible development of new plantings.</p> <p>No NPP notification posted to RSPO.</p>
Status	Box D – Complaint Legitimate
Decision /Justification	<p>The company must assure the villagers the new development of 1570 hectares is not in the disputed area.</p> <p>The meeting between the community and the company is scheduled on the 28<sup>th</sup> of March 2015 after which EPO will have to advise RSPO on the outcome.</p> <p>The CP members have decided that the ongoing engagement between EPO and SDI should be allowed to continue towards resolution.</p>

Complaint 11	
Member Organization	PT London Sumatra (Lonsum)
Membership category	Oil Palm Grower
Country	Indonesia
Complainant	Community of Desa Pergulaan via Sawit Watch
Date filed	7 April 2009
Nature of complaint	<p>The following points were raised by the community of Desa Pergulaan :</p> <ol style="list-style-type: none"> <li>1. Legality of the extension of the concession and demands for return of land totaling 165.6 ha.</li> <li>2. The status of the law suit filed by 5 of the residents which is 'out-of-time' (compensation paid in 1971).</li> <li>3. The legality of the security drain to prevent access.</li> <li>4. Prohibiting cattle herding in the plantation.</li> </ol>



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	<p>5. The non-employment of residents of Desa Pergulaan in the plantation.</p> <p>6. Failure by Lonsum to carry out Corporate Social Responsibility programs as promised.</p> <p>7. No complaint letters have been addressed to Lonsum directly.</p> <p>8. Status of residents on the Police 'Wanted List'.</p>
Status	Box C – Complaint Panel Convened
Decision /Justification	Though Lonsum has shown some actions and taken initiatives towards resolution of the complaint. They will still need to submit action plans and timelines before the 24 <sup>th</sup> of March 2015, failing which sanctions will be applied including suspension.

Complaint 12	
Member Organization	Golden Veroleum Liberia (GVL)
Membership category	Oil Palm Grower
Country	Liberia, Africa
Complainant	Local communities in towns and villages identified within the proposed Golden Veroleum project, which according to the Environmental and Social Impact Assessment (ESIA) covers about thirty three thousand hectares (33,000 ha) of land located in Greenville, Butaw and Kpanyan Districts of Sinoe County, Republic of Liberia encompassing several towns and villages, including: Plusunnie, Pynes Town, Kilo Town, Dejila, Solo Village, Bukrah, Saklaboh, Bloh, Pluoh, Farley town, Soweh, Jaryenneh, Tuoh, Teah Town, Klay Tow, Butaw Compound, Otis Village Represented by Alfred Brownell of Green Advocates (GA), Kulu United Development Association (KUDA), Save My Future Foundation (SAMFU), Forest People Programme (FPP), Social Entrepreneurs for Sustainable Development (SesDev).
Date filed	<ol style="list-style-type: none"> <li>1. Green Advocates – 3 Oct 2012</li> <li>2. Forest People Programme – 26 July 2013</li> <li>3. Sustainable Development Institute/SesDev Liberia - 2 October 2013</li> <li>4. Joint statement by FPP, SAMFU, SDI and GA – 1 November 2013</li> <li>5. Kulu United Development Association (KUDA) - 14 November 2013</li> <li>6. Sustainable Development Institute(SDI) and Social Entrepreneurs for Sustainable Development(SesDev) Liberia – 21 November 2013</li> <li>7. Social Entrepreneurs for Sustainable Development (SeSDev) - 7th February 2014</li> <li>8. On behalf of KUDA by Green Advocates - 17th February 2014</li> <li>9. Green Advocates on behalf of the GBlebo clan - 7th March 2014</li> </ol>
Nature of complaint	<p>Violation of the RSPO Principles and Criteria and New Plantings Procedure by:</p> <ol style="list-style-type: none"> <li>1) Not providing public notification for a 30 day period consistent with the New Planting Procedures,</li> <li>2) By commencing land preparation for new planting and infrastructure development prior to the expiry of the minimum 30-days consultation period.</li> <li>3) By not conducting a comprehensive and participatory independent social and environmental impact assessment(s) of the area concerned and incorporating the results into relevant action plans (see RSPO criteria 5.1, 6.1, 7.1 &amp; 7.4) including</li> </ol>

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	<p>the identification of: (a) all primary forest, (b) any area required to maintain or enhance one or more High Conservation Values (HCVs), and (d) local peoples' land.</p> <p>4) Grabbing lands without respecting local customary rights and without the free, prior and informed consent (FPIC) of the customary land owners as represented through representative organizations of their choice (RSPO C2.2, C2.3, C7.5 and C7.6)</p> <p>5) Forcibly evicting the people from their lands (RSPO C7.5 and C7.6)</p>
Status	<p>Box G (Monitoring progress of action plan for Complaint 1 by Green Advocates)</p> <p>Box C – Panel convened for Complaint 2 through 9</p>
Decision /Justification	<p>The panel will meet again in late March 2015 to discuss the complaint and the preliminary decision to be issued, in view of the complexity of the case.</p>

Complaint 13	
Member Organization	PT Kartika Prima Cipta/ Golden Agri Resource (GAR)
Membership category	Oil Palm Grower
Country	Indonesia
Complainant	Forest People Programme (FPP) and Transformasi untuk Keadilan (TUK) Indonesia
Date filed	14 October 2014
Nature of complaint	<p>Points raised :</p> <ol style="list-style-type: none"> <li>1. PT. KPC is in persistent violation of the RSPO P&amp;C pertaining to HCV assessment, the recognition of customary land rights and free, prior, and informed consent (FPIC). Lack of FPIC of the local Dayak and Malay people during the acquisition of the land.</li> <li>2. Land was acquired without a land tenure study and participatory mapping.</li> <li>3. Late HCV assessment which was done by Institute Pertanian Bogor, final consultation was on May 2014.</li> <li>4. Dissatisfaction among smallholders and resentment because of reduced land set aside for plasma compared to HCV areas.</li> <li>5. Land has been set aside as HCS area that made no provision for customary land uses and tenure and local peoples' livelihood.</li> <li>6. GAR as the parent company of all 18 subsidiaries listed is acting in violation of the New Planting Procedures (NPP) by submitting information which it knows is false. No HGU exists in 16 of the 18 concessions where NPP was submitted.</li> <li>7. The assessors who have endorsed GAR's HCV assessment, ESIA's and social engagement actions, are in violation of their responsibility to provide impartial assessment of company compliance with RSPO P&amp;C.</li> </ol>
Status	Box D – Complaint Legitimate
Decision /Justification	<p>GAR asked for extension to reply to the RSPO preliminary decision because they want to consolidate the action plan with FPP.</p> <p>Extension has been provided until the 25<sup>th</sup> of March 2015 for the action plan and timelines to be submitted to RSPO.</p>