

No Deforestation Joint Steering Group (NDJSG)

Call 6 (15 April 2021)

Meeting notes

Name	Organisation
Audrey Lee (AL)	Olam
Charlotte Opal (CO)	Earthworm
Gemma Tillack (GT)	RAN
Hendi Hidayat (HH)	GAR
Jenny Walther-Thoss (JWT)	WWF
Lee Kuan-Chun (LKC)	P&G
Marcus Colchester (MC)	FPP
Melissa Thomas (MT)	CI
Patrick Anderson (co-chair) (MC)	FPP
Sander Van Der Ende	SIPEF
Surina Ismail (co-chair) (SI)	IOI
Darren Brown (DB)	HCSA Secretariat
Amir Afham (AAF)	RSPO Secretariat
Absent with apologies:	
Anne Rosenbarger	WRI
David Burns	NWF
Emily Kunen	Nestle
Grant Rosoman	Greenpeace
Ibrahim Gulagnar	SPKS
Laure D'Astorg	Alliance Forets
Laure Gregoire	Alliance Forets
Mike Senior	Proforest
Petra Meekers	Unilever
Sabaruddin	SPKS

No	Item	Action/Decision points
	<p><u>Welcome note</u></p> <p>The NDJSG co-chairs welcomed the NDJSG members and thanked them for joining the meeting.</p> <p>SI chaired the meeting and perused through the agenda for comments by the NDJSG and/or additional items to be discussed by the group. No comments/additions received.</p>	
1	<p><u>Review of previous call notes</u></p> <p>The draft call notes were flashed on screen and scrolled through by the NDJSG. No additions or comments received. The NDJSG call #5 notes was accepted and finalised by the group.</p>	<p>[Decision Point] NDJSG accepted and finalised the call #5 notes.</p>
2	<p><u>Discussion on “legacy cases” as proposed by RSPO</u></p> <p>Negotiated agreements</p> <p>A point was raised on scope item ii “<i>Negotiated agreement for development with local communities and indigenous people</i>”. It was inquired whether this should also include formal agreements with governments. It was responded that the key intent was there is an existing agreement between companies with local communities and indigenous people and should be maintained as such.</p> <p>The RSPO secretariat raised a point that use of term “negotiated agreement” was used to align the wordings with the P&C 2018, however would cause confusion if not further defined what is accepted as a negotiated agreement. A member reminded the group that the original term used was “signed agreement” which is measurable. Another member responded that the RSPO would have clearer definitions on what it defined as negotiated agreement within its existing documents. The group agreed that the criteria should be extracted from these documents for the NDJSG to further discuss. HCSA secretariat added that having clearer definition would also need to be accompanied with what would be the required evidence to show that the agreements are formal and accepted by the communities. RSPO secretariat responded that the point raised is important and this was outlined in the RSPO “<i>Mandatory requirement for CBs in assessing FPIC in NPP</i>” document” and would be a part of the extracted documents as well.</p>	<p>[Action point] The RSPO secretariat to extract the criterion defining “negotiated agreement” and share with the NDJSG for further discussion</p>

Voluntary self-commitments to no deforestation

RSPO secretariat mentioned that this was discussed briefly by the SSC, and the preliminary recommendation of the SSC was that the RSPO align the eligibility requirements to the P&C 2018 cut off dates for HCS (i.e., 15 Nov 2018) as the procedure is meant for RSPO. It was added that the RSPO would respect the decision of a said member if it chooses to do so, however it would not hold a member against its own commitment as long as is not later than the RSPO cut-off date.

A member of the NDJSG inquired whether this above was the formal position of the RSPO. RSPO secretariat responded that this issue has not been discussed in detail by the SSC is not a decision as there was no formal request by the NDJSG for the SSC to decide on this specific issue. Concern was raised that there would be possibilities of companies leaving the HCSA if their self-commitments caused them to be ineligible to the legacy procedure. The NDJSG could not agree on whether the text should be maintained or not. It was added, if no agreement could be made, the NDJSG should take note of the organisations for/against removal of the said text and follow the due decision-making process. An NDJSG responded that maintaining the text would result in RSPO needing to oversee and enforce not only commitments of HCSA members, other schemes as well (e.g., NYDF etc.) which is difficult for a standard. It was further proposed that if the concern was specific to commitments by HCSA members, this could be included in the text. The NDSJG agreed to obtain an official decision from the SSC regarding this matter and continue discussion afterwards.

Independent 3rd party verification of dispute resolution process

A footnote within the eligibility requirements specified a need for 3rd party verification of no disputes or ongoing resolution process. In previous discussions, there were questions raised on whom would be responsible for the additional cost of this verification.

A grower member further elaborated that the footnote refers to point 5 of 'company activities' and it is understood that this would be covered by growers. Another grower member agreed that the footnote is appropriate, as this is covered by the CBs as the 3rd party, who will verify the resolution of disputes/conflicts and the availability of mutually agreed dispute resolution process with communities as part of the CB verification process. The NDJSG agreed to maintain this footnote.

[Decision point] The NDJSG to formally request a decision from the SSC regarding the inclusion of voluntary self-commitments to no deforestation (outside of RSPO cut off dates) as part of the legacy case eligibility requirements.

[Action point] The RSPO secretariat to prepare a decision paper on this point for the SSC to discuss in their future meetings.

[Decision point] NDJSG agree to maintain the footnote.

Revised text

Point 2 of 'Land use rights' section was revised to:

"The demonstrable rights of Indigenous peoples, local communities and users over the land are upheld" The changes were accepted with no objections.

RaCP and HFC legacy case eligibility

The RSPO secretariat raised concern regarding the inclusion of Remediation and Compensation Procedure (RaCP) as a part of consideration for eligibility to use the Legacy case procedure due to the following points:

- 1.
2. RaCP is a separate process focused on historical land clearing of HCV/HCS by companies with its own set of penalties, while the Legacy procedure looks at future land clearing. The P&C 2018 clearly states that where clearance of HCV/HCS after the respective cut off dates is detected, the RaCP will apply. Setting a requirement that only companies with no liabilities are eligible to use the procedure would be considered a double penalty.
3. Legacy cases are specific to the HFCC context. There is a low possibility of any grower with operations within HFCCs not having cleared HCS forests (following HCSA definition) prior to becoming an RSPO member, or the date RaCP was enforced. This would limit the eligibility of both future and existing RSPO members.

A member pointed out that point 3 and 4 of the company activity section already mention the eligibility for a company would be no evidence of clearing of HCV/HCS on a corporate level after their respective cut off dates and asked whether members are proposing to add on a waiver of the requirements of point 3 & 4 if a company had gone through the RaCP process. The secretariat responded that without this waiver, the number of existing and future users of this procedure would be extremely small given the scope of the legacy case procedure. The member pointed out that the users would be:

1. Existing RSPO members meeting the requirements,
2. New enterprises with existing agreements with communities prior to 15 Nov 2018 which have yet to start development.

A member added that this was not a part of the HCSA legacy case procedure, and perhaps was added as alignment to RSPO cut-off dates. The idea was to work together with companies that may have done wrong in the past which are now looking to do the right thing, and as such the group should not add a requirement that would prevent this.

[Decision Point] Revised text for point 2 accepted by the NDJSG

	<p>A concern was raised on behalf of NWF (which could not to join the call due to time difference) which referred to the fact that the RaCP works on a scale depending on the cut off dates and that legacy case definition should at least be consistent with the maximum penalty of the termination of membership for clearance after 2014 for existing members.) An NGO member of the NDJSG communicated a clear concern on the extension of the 2014 timeline for new members, - i.e., allowance of companies in HFCC's with new planting after 9 May 2014 that have cleared HCV areas or not conducted HCV assessments to be accepted as a RSPO legacy case.</p> <p>A member opined that it would be hard to discuss without clarity on RaCP process for both existing and new members. It was proposed that perhaps it would be best to obtain advise from the BHCVWG or the Compensation Taskforce on what the requirements within RaCP is for both new and existing members. The group agreed to the proposal as a way moving forward. A member requested that the proposed text by the RSPO to be circulated to the NDJSG at least 5 working days before the meeting. The secretariat responded that it will be shared at least 2 weeks before the next meeting as per the agreed procedure set up by the NDJSG.</p>	<p>[Decision point] The NDJSG to request advice from the BHCVWG and CTF regarding the requirements within RaCP for both new and existing members.</p> <p>[Action point] RSPO secretariat to follow up with PIC of BHCVWG and CTF to bring forward this request by the NDJSG. The proposed text to be circulated at least two weeks prior to the next meeting.</p>
3	<p>NDJSG Study: Steps moving forward</p> <p>The latest draft of the ToR was presented to the NDJSG. PA explained that the feedback provided by the NDJSG in the last meeting had been incorporated in this draft:</p> <ol style="list-style-type: none"> 1. Inclusion of Central Africa into the scope 2. Inclusion of interviews with organisations/experts with experience similar projects or small-scale OP plantations within central and west Africa. <p>Additional feedback received by NDJSG:</p> <ol style="list-style-type: none"> 1. A member mentioned that the timeline of three (3) weeks was too short for a comprehensive study. The group agreed to extend the study duration to 6 weeks (Note: the duration was further extended to 8 weeks after discussion of the subgroup). 2. To add a note that where possible the interviews would cover the 4 countries in Africa that were identified as HFCCs. 	

	<p>3. To include in the scope of the study was to describe the existing relationships between the communities and companies and what is the appropriate role of companies with small scale models.</p> <p>4. To include smallholders with interest for access to international markets as part of the study as well, to ensure the findings contribute to the purpose of the HFC procedure.</p> <p>PA proposed to setup a subgroup consisting of NDJSG members to manage the tender process and the consultancy itself. PA asked for volunteers for the subgroup. The following members volunteered:</p> <ol style="list-style-type: none"> 1. Patrick Anderson (FPP) 2. Charlotte Opal (Earthworm) 3. Melissa Thomas (Conservation International) 4. WWF (JWT requested a representative from WWF Africa to join on behalf) <p>The NDJSG had no objection with WWF’s proposal for the subgroup. PA added as a way moving forward that the TOR will be posted on both the RSPO and HCSA website. The RSPO secretariat that this was possible and would coordinate this with the HCSA website. Other future steps would be discussed among the subgroup with assistance of the respective secretariat.</p> <p>As the next meeting would be conducted in 3 months’ time (see item 4b) PA reminded the NDJSG members that the selection of the tendered would be decided by the NDJSG members through email circulation.</p>	<p>[Action point] RSPO secretariat to coordinate with the HCSA secretariat on the publishing of the call for tender on both RSPO & HCSA website.</p> <p>[Action point] The tender subgroup to review the received tenders and shortlist prospective consultants together with their recommendations for the NDJSG to decide through email.</p>
4	<p>AOB</p> <p>a. Next meeting It was proposed to hold the next meeting when the existing ongoing activities would have progressed further. The RSPO secretariat informed members that looking at the current progress if both the questionnaire and the newly approved ToR, the next meeting would be sometime in July 2021. The group agreed to send a doodle poll for 12-16 July 2021.</p> <p>b. Budget FY 22 The secretariat briefed the NDJSG on the current budgeting week for the RSPO secretariat. It was mentioned that the budgeting process for the new FY (July 21 – June 22) requires all budget planned to be tied to a planned activity/project. The</p>	<p>[Action point] RSPO secretariat to send a doodle poll for the next meeting on the 12-16 of July 2021.</p>

	<p>requested the NDJSG to provide any proposals that the group planned for next FY activities by the end of the April when the budget is to be finalized. All existing activities which will continue into the next FY has already been accounted for, however any new activities that were not included in the budget by the end of the budgeting period would require an unbudgeted expenses request.</p> <p>The secretariat advised the NDJSG to revert to the RSPO secretariat within the timeline if there were any activities the NDJSG would want to pursue. PA added that the subgroup would revert with an amended budget for the small-scale OP study (item 3) as the costs would increase considering the increased scope of the study.</p>	
5	<p>Closing of meeting The co-chairs thanked the NDJSG members for joining the call and adjourned the meeting.</p>	