
An Independent Review of the RSPO Remediation and Compensation Procedure (RaCP) 2015

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ACRONYMS

BHCV	Biodiversity and HCV
FPIC	Free, prior, and informed consent
HCS	High Carbon Stock
HCSA	High Carbon Stock Approach
HCV	High Conservation Value
LUCA	Land Use Change Analysis
NGO	Non-governmental organisation
RaCP	Remediation and Compensation Procedure
RSPO	Roundtable on Sustainable Palm Oil

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EXECUTIVE SUMMARY

In November 2015, the Board of Governors of the RSPO endorsed a Remediation and Compensation Procedure (RaCP) related to land clearance since 2005 without prior High Conservation Value (HCV) assessment. By means of the Procedure growers should calculate social and environmental liability and then develop and implement a plan for appropriate remediation and compensation. Due to concerns expressed at the time of the establishment and early implementation of the RaCP, it was agreed that a review would be carried out after two years in order to determine its effectiveness. This document reports on the review, which began in January 2020. It consisted of three stages: An examination of RaCP guidance and documentation, a multi-stakeholder consultation process, and an analysis of information held by the RSPO Secretariat on individual RaCP cases. The overall aim of the review, which is desk-based, was to evaluate progress, identify lessons learned, assess the implications for the RSPO and develop recommendations on how the process can be improved.

Findings

The overall status of RaCP implementation

The level of disclosure of non-compliant clearance has far exceeded expectations and this can be interpreted as evidence of a high level of commitment to the RaCP by growers. The total area of non-compliant land clearance is reported to be between 700,000 and 1 million hectares and the total final conservation liability between 100,000 and 125,000 hectares. In May 2020 there were 673 cases in the RaCP database, of which 69% were from Asia and Oceania, 28% from Latin America and 3% from Africa. However only 45% of cases had an approved Land Use Change Analysis, only 18% had successfully completed the full remediation and compensation procedure, and only 8% had an approved compensation plan. Just a single case had submitted a monitoring report on implementation. Thus, the high level of disclosure is not matched in terms of fulfilment of the subsequent requirements and in more than 98% of cases there is no evidence of implementation of remediation and compensation measures on the ground. There is also a substantial and increasing backlog of cases in process, many of which have been outstanding for several years. However, the proportion of cases outstanding has decreased significantly for the first time in 2020.

Reasons for delays and shortcomings in implementation

Factors perceived to be contributing to the delays in the progress of cases through the Procedure included limited capacity within the RSPO Secretariat, limited availability and technical capacity of compensation panel members and external reviewers, weaknesses in the external review process, limited capacity and low awareness amongst growers, insufficiently clear guidance and a lack of adequate socialisation and support. The Secretariat and the Biodiversity and HCV Working Group are aware of many of these issues and have taken some steps towards addressing them, although much remains to be done.

There are also many aspects of the Procedure itself that need to be addressed. None of the steps in the Procedure are redundant, but there is also considerable potential for simplification and improvement of all steps and several gaps and weaknesses in continuity need to be addressed, especially in relation to social liability. The disclosure note template needs substantial revision as a matter of urgency in order to be fit for purpose. Lastly, an option to bypass the Concept Note may be appropriate for companies who have already successfully completed the RaCP for other sites.

Conservation liability

The level of conservation liability, at \$2,500 per hectare, is widely perceived to be acting as an effective disincentive for clear-and-pay practices. However, there are concerns both that it is too low to enable effective conservation and that it is too high and adversely affects RSPO membership. The lower liability rates for non-members and the sanction of immediate expulsion for recent non-compliant land clearance by RSPO members were also reported to be acting as disincentives for RSPO membership. Calculations of conservation liability are hampered by the limits in quality and interpretation of satellite images and this is likely to continue to be a problem given that satellite images dating back to 2005 will continue to be required.

Environmental remediation

Guidance on environmental remediation is well-developed within the RSPO but there were concerns about its implementation and some inconsistencies were reported in interpretations of the requirements for ecological restoration, including among auditors. There was also confusion about the relationship between environmental remediation, environmental restoration and conservation compensation.

Conservation compensation

Of a sample of compensation plans developed by 2019, 67% involved forest restoration, 14% involved species-based conservation measures, 14% involved avoided deforestation and degradation and 14% included elements related to community conservation and livelihoods activities. All but four involved off-site conservation compensation and none were categorized as addressing underlying causes. The level of understanding of the four conservation criteria was variable and whilst their application was broadly in line with the guidance for longevity and additionality it was on partially so for 'knowledge-based' and very poor for equity. One significant gap in the criteria relates to leakage (the displacement of environmental impacts to elsewhere), which needs to be considered in order to ensure genuine net additionality. The guidance for the 'knowledge-based' criterion needs to be revised to clarify more precisely what is required and the criterion for equity needs to be rewritten in line with the 2018 RSPO P&C and to address issues arising from this report.

Social liability, remediation and compensation

Social liability, remediation and compensation emerged overwhelmingly as the component of the RaCP that is least advanced. Potential social liability was disclosed in an estimated 18% of cases but gaps and weaknesses in the procedure make it very difficult to track how these were subsequently investigated and addressed. On the other hand, in several cases there were substantial social impacts, including on rights and livelihoods, that had been compensated but not acknowledged as social liability. Thus, it is very likely that social liability is being underreported. No case was identified of disclosed social liability that was then remediated and compensated other than for HCV4 (relating to clearance of riparian buffers), which was commonly addressed through environmental rather than social remediation.

Problems relating to treatment of social liability included reliance on standard HCV or HCV-HCSA assessments to assess historical land use and rights; a practice of taking steps to address social impacts prior to submitting documentation to the RaCP in place of disclosing them; a lack of consistency and continuity between the different steps in the RaCP; the use of 'social clear and pay' practices (whereby social liability is not recognised or addressed unless and until a grievance or complaint is raised), and uncertainty about how social liability should be defined and treated in relation to non-compliant clearance by smallholders.

Monitoring and reporting

The template for monitoring reports was finalised in September 2019 and, presumably because of this, only one monitoring report has been received to date, so there is little to review in terms of progress. However, the urgency of implementing monitoring and reporting requirements was underlined by a first-hand account of a dollar-per-hectare conservation compensation project that had been approved in 2016 but had not yet started, four years later, because the company had not made the promised funds available.

Conclusions: Significance for the RSPO mission and credibility

The broad principles behind the creation of the RaCP have stood the test of time: there is clear agreement, in principle, on what needs to be done and the RaCP is widely perceived to be acting as an effective disincentive for clear-and-pay practices. However, the lack of evidence of remediation and compensation on the ground, the lack of effective measures in relation to social liability and the lack of transparency (including the failure to publish summaries of case studies, as was planned) pose a reputational risk to the RSPO. At the same time, the high resourcing requirements and long delays in the process appear to be disincentivising new members from joining the RSPO and may have caused some members to leave. Therefore, these failings need to be addressed as a matter of urgency, keeping in mind the need to balance rigour in the standards and quality assurance processes against the requirement for measures to be practicable and not prohibitively burdensome.

Recommendations for revision of the RaCP: A roadmap

The recommendations provided in Section 5 of the report are divided into three main stages which together form a roadmap for the revision of the RaCP. The stages and outline contents are as follows:

Stage 1

- 1.1 **Implementation of stopgap measures:** These recommendations relate to measures that would address some immediate weaknesses in current procedures while a more substantial overhaul is undertaken. Most are minor administrative tasks. There are also slightly more substantial recommendations relating to monitoring and social liability (the two aspects of the RaCP that are weakest) and these have been marked as priorities.
- 1.2 **Revision and rationalisation of the overall procedure.** I am recommending that this begins with an economic feasibility study on moving all technical aspects of the RaCP in-house to the Secretariat. This would remove the need for external reviewers and substantially simplify the process, reducing the demands on growers and on compensation panel members. I have outlined some of the major changes that could be made.
- 1.3 **Development of clear, practical guidance on social liability, remediation and compensation.** Clear guidance on social aspects of the RaCP is needed as a matter of urgency and I am recommending that it be developed in parallel with the previous steps.
- 1.4 **Development of a portfolio of approved projects meeting the revised RaCP criteria.** A portfolio of this kind may increase efficiency and decrease the overall workload, although robust evaluation and monitoring mechanisms would still need to be in place. Therefore, it is something that I think the Working Group should consider carefully.

Stage 2 Detailed revision of procedures and guidance

2.1 Revision of detailed criteria, requirements and procedures. Recommendations are made for revisions related to the different steps and topics covered by the RaCP, to be decided upon once the overall outline for the revised procedure is agreed upon. Recommendations are also made for measures to improve overall timeliness and in relation to potential negative impacts of the RaCP on the RSPO membership and mission. I have indicated which of these require a policy decision by the Working Group, which involve administrative tasks that can be carried out by the Secretariat alone, and which involve both.

2.2 Development of new, integrated guidance. This is presented as a separate step, which will involve checking through the various documents and revisions to ensure consistency and efficiency.

Stage 3: Socialisation, training and technical support

Once the new guidance is completed, a training and socialisation programme will be needed to upscale awareness and capacity of all actors. The RSPO should also seek ways to provide technical support to growers and others during implementation

1. BACKGROUND AND CONTEXT

In November 2015 the Board of Governors of the RSPO endorsed a Remediation and Compensation Procedure (RaCP) related to land clearance since 2005 without prior High Conservation Value (HCV) assessment¹. By means of the Procedure, growers should calculate social and environmental liability and then develop and implement a plan for appropriate remediation and compensation. The procedure involves the following steps:

- i. Submission and approval of a disclosure note relating to land development without a prior HCV assessment;
- ii. Submission and approval of a land use change analysis (LUCA);
- iii. Submission and approval of a social liability assessment;
- iv. If the LUCA confirms the need for compensation and remediation, submission and approval of a concept note, followed by submission and approval of a detailed Remediation and Compensation Plan;
- v. Implementation of the Plan and submission and approval of periodic monitoring reports.

Due to concerns expressed at the time of the establishment of the RaCP, it was agreed that a review would be carried out after two years in order to determine its effectiveness. This document reports on the review, which began in January 2020. The overall aim was to evaluate progress, identify lessons learned, assess the implications for the RSPO and develop recommendations on how the process can be improved (see Terms of Reference in Annex 1). The objectives were the following:

- To independently check the status of RaCP implementation and identify the reasons for delays and shortcomings;
- To identify stakeholder concerns and review the effectiveness of the procedure;
- To assess existing RaCP projects and those in the pipeline;
- To make recommendations on how to improve the process, bearing in mind the RSPO Principles & Criteria (2018) and RSPO's mission and objectives.

¹ The RaCP was developed by the RSPO Compensation Task Force, which was established in August 2011. It was launched in draft in May 2014 and following implementation of pilot projects by Musim Mas and SIPEF it was revised and underwent a public consultation process. For a summary of the history and rationale of the RaCP, see Annex 1 of the Remediation and Compensation Procedure, available at <https://rspo.org/certification/remediation-and-compensation#racp-key-documents>.

2. METHODOLOGY

The review was desk-based and consisted of three stages:

- i. An examination of RaCP guidance and documentation.**
The objectives were to make an initial assessment of the state of implementation of the RaCP and to gain familiarity with the information that is available to growers and other stakeholders, in order to inform the design of the consultation process. The focus was on publicly available documentation, with some supplementary material provided by the RSPO Secretariat. A detailed analysis of the available RaCP guidance was not undertaken because the guidance was in the process of being redrafted.
- ii. A multi-stakeholder consultation process.**
Twenty-four qualitative semi-structured interviews were carried out with a cross-sectional sample of stakeholders. The aims were to identify concerns and perceived reasons for delays and shortcomings of the RaCP and to elicit information on good practice and potential ways forward. Stakeholder groups included members of the Biodiversity and HCV Working Group (including co-chairs, growers, environmental NGOs, social NGOs and processor / traders), other growers with liability, technical reviewers of the LUCA and the Remediation and Compensation Plan, and RSPO Secretariat staff. A presentation of preliminary findings was made to the BHCV Working Group in February 2020 and following the presentation additional feedback was received. The full methodology is described in Annex 2, including the full list of participants.
- iii. An analysis of information held by the RSPO Secretariat on individual RaCP cases.**
This involved quantitative analysis of summary information across all cases provided by the Secretariat and of a 10% systematic sample of disclosure notes; examination of additional information on social liability (including social liability reports where these were available) for 17 cases flagged as having either potential or reported liability; in-depth examination of all documentation for five cases that were indicated as having both an approved concept note or plan and potential social liability; and targeted examination of additional case documentation in order to fill gaps in the analysis.

Throughout the process, communications were maintained with the Biodiversity Manager within the RSPO Secretariat, Su Li Khing, in order to procure relevant information and clarifications as the need arose.

3. FINDINGS

3.1 The overall status of RaCP implementation

The level of disclosure of non-compliant clearance has far exceeded expectations and this is interpreted by some stakeholders as evidence of a high level of commitment to the RaCP by growers. The total area of non-compliant land clearance is reported to be between 700,000 and 1 million hectares and the total final conservation liability between 100,000 and 125,000 hectares².

According to the RSPO impact reports these figures rose sharply from 2017 to 2018 (especially in Africa and Latin America) and more slowly into 2019. Most of the clearance was of highly modified or degraded forest but an estimated 5% (33,584 hectares) was of structurally complex forest and a further 36% (259,000 hectares) was of degraded forest and multi-species agroforestry³. In May 2020 there were 673 cases in the RaCP database, of which 69% were from Asia and Oceania, 28% from Latin America and 3% from Africa.

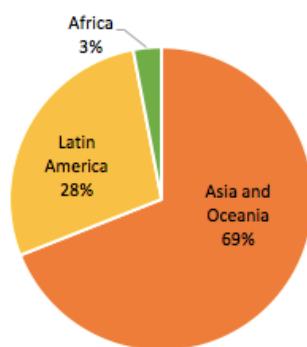


Figure 1 Percentage of all RaCP cases by region (n=673). Source: Analysis of summary data from RaCP database (May, 2020).

However, of 673 cases in the RaCP database in May 2020, only 284 (42%) had an approved Land Use Change Analysis, which is the first substantive step in the remediation and compensation procedure, only 123 (18%) had successfully completed the full procedure, and only 55 (8%) had an approved Remediation and Compensation plan⁴. Just a single case had submitted a monitoring report. Thus, the high level of disclosure is not matched in terms of fulfilment of the subsequent requirements and for more than 98% of cases, there is no evidence of implementation of remediation and compensation measures on the ground.

² These figures are from the RSPO website and the RSPO annual impact reports. There is a discrepancy between published figures from these two sources and the Secretariat has indicated that this is connected to the development of the database only in September 2019.

³ Source: <https://www.rspo.org/certification/remediation-and-compensation>

⁴ Completed cases can be closed without proceeding to a concept note and compensation plan if they have demonstrated that there is no outstanding liability.

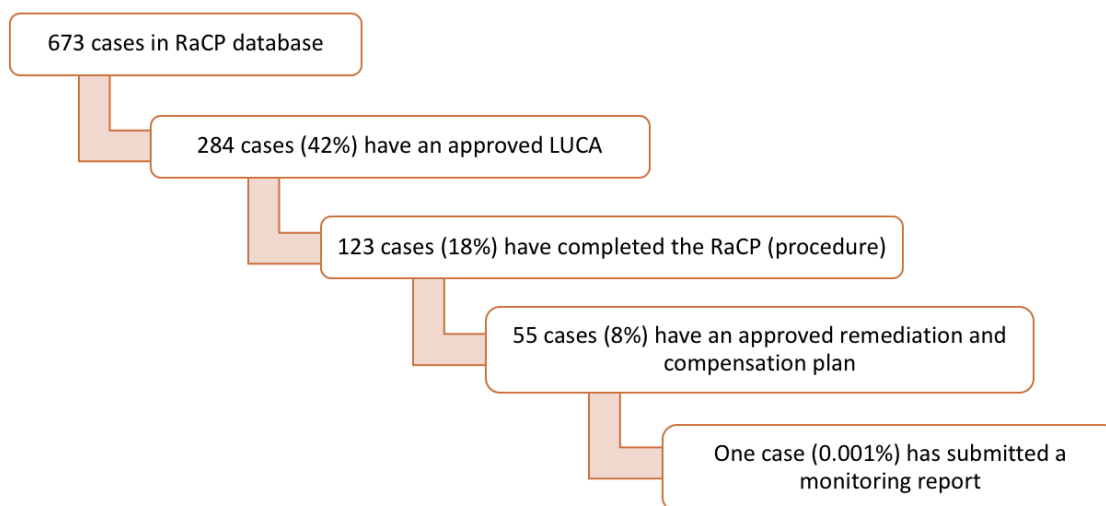


Figure 2 The proportion of RaCP cases completed, with an approved LUCA, and with an approved compensation plan. Source: summary data from the RaCP database (May 2020).

There is a substantial and growing backlog of cases in process because the number of new cases submitted each year has exceeded the number of cases completed. Many cases have been in the system for several years; the figures in the table below indicate that at least 200 cases are still outstanding that have been in process since 2016.

The lengthiness of the process and the backlog of outstanding cases emerged as a major source of frustration to all parties during the consultation exercise. It is encouraging that the proportion of cases completed has increased substantially for the first time in 2020, from 12.4% to 18%, but the large increase in the number of cases has meant that the backlog continues to grow⁵.

Table 1 Number of RaCP cases submitted and completed from 2014 to May 2020. The number of completed cases is tracked against the respective year of case registration.

No. of cases	2014	2015	2016	2017	2018	2019	2020 (Jan-May)
No. of cases submitted (Cumulative number in brackets)	153	125 (278)	49 (327)	57 (384)	54 (438)	37 (475)	188 (673)
RaCP completed (Cumulative number in brackets)	17	15 (32)	10 (42)	8 (50)	5 (55)	4 (59)	123
% of cases where RaCP has been completed	11.1	11.5	12.8	13.0	12.6	12.4	18

Sources: Data from 2014 to 2019 is from the RSPO website. The final column is based on the analysis carried out for this review.

⁵ The large increase in the number of cases in 2020 is the result of work of the administrative team to count cases at the level of individual management units / supply bases rather than companies.

3.2 Reasons for delays and shortcomings in implementation

The RaCP is coordinated by the Biodiversity and HCV Working Group within the RSPO Secretariat. Incoming documentation is checked by Secretariat staff and, where necessary, sent to external technical reviewers for evaluation. Individual cases are evaluated and formally approved by one of several Compensation Panels consisting of members of the Working Group.

Factors perceived to be contributing to the delays and shortcomings in implementation included limited capacity within the RSPO Secretariat, limited availability and technical capacity of compensation panel members and reviewers, weaknesses in the external review process, limited capacity and low awareness amongst growers, and a lack of sufficiently clear guidance and adequate socialisation and support.

A more detailed breakdown of these factors is presented in this section.

Limited capacity within the RSPO Secretariat:

- Lack of adequate staffing and technical capacity within the administrative team has undoubtedly been a major cause of delays in processing RaCP cases, especially in the initial implementation stage when the number of cases of disclosure far outstripped expectations.

Limited availability and technical capacity of compensation panel members:

- Compensation Panel members work on a voluntary basis and are not always able to respond quickly to requests for their input.
- Many panel members lack the technical expertise to evaluate certain aspects of the cases. This applies particularly to the LUCA and to social liability, remediation and compensation.
- Some inconsistency in decisions between panels was reported by individuals who are members of multiple panels. This was attributed to the lack of sufficiently definitive evaluation criteria and the lack of publicly available information on individual cases.

Aside from these administrative issues, the Working Group and the Compensation Panels were reported to function well, with a high level of constructive engagement with the issues and an inclusive, consensus-based approach to decision-making. Previous concerns about conflicts of interest in the compensation panel system appear to have been addressed adequately: no panel members expressed continued concern about this, and no-one reported instances where they felt that another panel member had been over-critical or over-lenient in their comments on a particular case.

Weaknesses in the external review process:

- External, suitably qualified and experienced reviewers were hard to find and were not always available immediately, and this has caused significant delays.
- Comments from reviewers in some cases showed limited technical understanding, to the extent that in some cases Secretariat staff have felt it necessary to repeat the review in-house.
- Comments on successive drafts sometimes raise different points, especially (but not only) when successive drafts go to different reviewers.
- The review system was perceived by some growers to allow insufficient flexibility for adapting the approach to the local context.
- Reviewers called for a revised fee structure whereby reviews of second and third drafts incur an extra charge to companies and an appropriate supplementary payment to reviewers.
- One reviewer was reported to have been contacted directly by a grower in order to dispute the review findings. The identity of reviewers should be kept confidential.

Limited capacity amongst growers, and the lack of adequate socialisation, accessible guidance and support:

- Many growers lacked technical capacity, especially in relation to the LUCA and to social / community issues. Partly because of this, first submissions of documents were often very poor.
- Growers also reported difficulties in finding information and coordinating with the Secretariat. Two of the three growers interviewed who were not part of the Working Group reported that they had had difficulty in finding even the most basic information on the RSPO website, including who to contact, and had really struggled to understand the guidance. It was reported that some growers had resorted to completing templates without reference to the guidance in order to gain feedback and support.
- These issues were exacerbated by the lack of guidance in languages other than English and the lack of Secretariat staff who speak other languages (particularly Spanish).
- A further problem that was raised was a lack of adequate notice and an appropriate transition period when revisions are made to the Procedure.

The Secretariat and the Biodiversity and HCV Working Group are aware of many of the above issues and have taken some steps towards addressing them, although much remains to be done. The administration team for the Working Group has been expanded over the past year⁶, and this may account for the doubling in the number of completed RaCP cases since 2019. Steps have also been taken to move responsibility for the review of the LUCAs to the Secretariat. In relation to compensation panels, a quorum system is used in which only a minimum number of members including at least one NGO and one grower are required to comment on a case, provided there are no objections to the feedback, before comments are returned to the grower. A policy is also in place that each Panel should include representatives from at least one environmental and one social NGO, in order to make sure that between them the Panel members have the necessary range of technical skills. Panels can also call on external experts for assistance if necessary, and the administrative team also aims to review the documentation and provide technical advice to the Panel.

It was less clear what steps had been taken so far to address the lack of capacity amongst growers and the lack of adequate socialisation, guidance and support, and these are issues that likely to become even more of a barrier as the number of smallholder groups in the RSPO increases.

Several additional issues were identified in relation to the constituent components of the Procedure and overall continuity between them, and these are described below.

None of the steps in the Procedure are redundant but there is considerable potential for simplification and improvement of all steps and several gaps and weaknesses in continuity need to be addressed, especially in relation to social liability. The disclosure note template needs substantial revision as a matter of urgency. An option to bypass the Concept Note may be appropriate for companies who have already successfully completed the RaCP for other sites.

Specific points in relation to the **disclosure note** were the following:

- There was confusion amongst growers about whether the disclosure note should be completed for an entire company, for each subsidiary company or for each Management Unit. This led to inconsistency in the information provided and because of this, difficulty in identifying and tracking the documentation for a specific estate or mill. It was reported that some disclosure notes overlapped in terms of the areas that they covered, which caused further confusion and duplication of effort.
- There was also reported confusion about the procedure for submissions for newly acquired subsidiary companies and this creates a gap in accountability. For example, one anecdotal report

⁶ According to the Biodiversity Manager, a Salesforce database management system was developed and launched in September 2019, and contract workers were hired (i) to conduct the LUCA reviews for growers and LUCAs for independent smallholder groups in-house and (ii) to extract information and update Salesforce records.

was given of a submission relating to the estates of a newly acquired subsidiary company that did not reveal the connection to the parent company in order not to endanger their RSPO membership status.

- Analysis of completed disclosure notes revealed that because of poorly formulated wording, much of the information provided in relation to social liability cannot be interpreted with any confidence. More detailed comments and suggestions on this are provided in Annex 3.
- Stakeholders also reported concerns about adequate verification of disclosure, both in relation to land clearance and in relation to social liability. Currently two checks are in place: (i) for new membership applications the Secretariat carries out a check on land clearance using a source such as Google Earth; and (ii) a check is made of documents supplied in relation to potential social liability, although this check is often superficial other than in priority cases because of insufficient staffing.

The **Land Use Change Analysis (LUCA)** is the most technically challenging step in the procedure. Many initial drafts of LUCAs, as well as some comments from reviewers, were reported to be unfit for purpose and this was attributed both to lack of technical capacity amongst growers and to the quality of satellite images, which were often of insufficient resolution and clarity. This is further explored later in the report.

No comments were made on **social liability reports** during the consultation process and it was unclear to what extent they are being undertaken and who is formally responsible for reviewing them.

Concept notes duplicate some of the information that is provided in the subsequent remediation and compensation plans and Panel members were reported to vary greatly in terms of how much detail they expect in the concept note. A question was raised about whether they could be abolished altogether. However, concept notes were reported to be performing a useful role as a check to ensure that the grower is on the right lines before they invest resources in the development of a full plan. First drafts of concept notes sometimes required substantial feedback and revision in order to ensure that the underlying outline plan was consistent with the requirements.

The full **Remediation and Compensation Plan template** is regarded by growers as over-complex and time-consuming, especially when the final conservation liability is small. External reviewers flagged the need for a more standardized template and more definitive evaluation guidance, although this needs to be balanced against the need for flexibility. Detailed examination of completed Plans also revealed some gaps in the information, especially in relation to equity and social impacts of off-site compensation projects. Especially in cases where compensation is on-site there was also confusion between environmental remediation and conservation compensation, both of which could include identical ecological restoration measures. External reviewers requested that the Secretariat carries out an initial screening to ensure that all the necessary documents are present before sending them out to review, and growers asked that the fee of US\$1800 is clearly flagged in the guidance to avoid delays and friction in their companies when it is required with no advance warning.

Additional issues related to the **overall continuity of the Procedure and coordination with other RSPO processes**. These included duplication of information required in the different templates; potential gaps in quality assurance (especially given that the reviewers at each stages do not see the submissions from earlier stages); the difficulty of exchanging information with other RSPO processes (including membership and complaints); and the lack of adequate integration of measures related to social liability, remediation and compensation into the different steps. One important gap that was identified was that there is no procedure to follow up on disclosure notes that do not include information on social liability.

3.3 Substantive components of the RaCP

3.3.1 Conservation liability

Conservation liability is calculated as part of the LUCA, based on the total area that has been cleared of vegetation without prior HCV assessment since 2005. Multipliers are applied to this amount depending on when the lands were cleared, the RSPO membership status of the landowner at the time, and the state of the vegetation prior to clearance⁷. These factors are brought together in a conservation liability matrix⁸, which was a major focus of discussions during the design and piloting of the RaCP. Where growers opt to meet their conservation liability by providing funding for conservation to a third party (Option 2 in the guidance), the total funding required equals the final conservation liability in hectares multiplied by US\$2,500⁹.

Two principal issues of concern were identified in relation to the assessment and calculation of conservation liability. First, calculations of liability are hampered by the limits in quality and objective interpretation of satellite images.

Cloud cover and insufficient resolution in satellite images has led to lengthy discussions on image interpretation, sometimes for areas of less than a hectare. Technical experts indicate that the quality of images has improved greatly and should no longer be a problem for newer images. However, this will not fully address the problem because images dating back to 2005 will continue to be required.

The use of vegetation coefficients was originally conceived as a proxy for HCVs 1-3 and overall, this is widely perceived to be effective, but distinguishing between structurally simplified forest and multi-species agroforestry on satellite images has proven particularly problematic.

Second, whilst the level of conservation liability, at \$2,500 per hectare, is widely perceived to be acting as an effective disincentive for clear-and-pay practices¹⁰, there are concerns both that it is too low to enable effective conservation and that it is too high and adversely affects RSPO membership. The lower liability rates for non-members and the sanction of immediate expulsion for recent non-compliant land clearance by RSPO members were also reported to be acting as disincentives for RSPO membership.

Many growers perceived the liability rate to be punitive and this, together with lower liability rates for non-members and the sanction of immediate expulsion for recent non-compliant clearance by RSPO members, were believed to be acting as a significant disincentive for membership. Several people asserted that this was discouraging growers from joining the RSPO and one second-hand account was given of an RSPO member that had left for these reasons. The lower liability rates for non-members may be having some perverse consequences: secondhand reports were received of a practice of delaying application for membership in order to avoid the higher liability rates that are applied to members.

However, other respondents were concerned that the liability level was too low and did not generate enough funds to enable long-term effective conservation¹¹. The point was also raised that the liability rate had not been increased for several years and should therefore be reviewed.

It was beyond the remit of this report to review conservation costs per hectare, but there is an established literature on this topic. Cost calculations will vary widely according to the type of conservation and the regional and local context. For example:

⁷ See Table 4 in Annex 3 to the RaCP: LUCA guidance

⁸ Table 3, RaCP section 4.4; Annexes 3, 3a, 5

⁹ See section 5.3 of the guidance. It was reported that the amount of US\$2,500 was based on cost calculations for existing reforestation projects in Southeast Asia.

¹⁰ Clear-and-pay refers to the strategy of clearing land without a prior HCV assessment with the intention of then paying the compensation.

¹¹ A 2014 study produced a figure of US\$3540 as the "typical cost of tropical forest restoration" per hectare. (<https://www.cbd.int/doc/meetings/ecr/cbwecr-sa-01/other/cbwecr-sa-01-iis-en.pdf>).

- Are social costs included alongside ecological costs?
- Are transaction costs and opportunity costs included?
- Does the conservation project involve reforestation or restoration of degraded areas or protection of existing forests?
- Over what length of time?
- Does it involve strict no-go areas or areas with some level of use (and potentially income generation)?
- Does it build on existing local community initiatives?

The cost will also vary between different regions of the world and according to the local conditions (for example, key factors are likely to be the level of threat and the quality of national and local governance). Obviously a more focused study of the existing literature on this subject will be needed if it is decided to review the per-hectare liability level.

3.3.2 Environmental remediation

Environmental remediation is required in order to ensure that all areas of land where past clearance and / or planting is not compatible with the RSPO Principles and Criteria are returned to compliance¹². In order to do this, the grower must minimise and control soil erosion on steep slopes; minimise subsidence in existing plantings on peat; prevent the degradation of fragile and problem soils; maintain the quality and availability of surface and ground water, and maintain or restore the habitat functions of riparian zones¹³. The RSPO Principles and Criteria include several relevant sections giving further details on the requirements for environmental remediation¹⁴ and the RSPO has also published extensive technical guidance on measures for the management and restoration of riparian buffers¹⁵ and peatlands¹⁶.

Guidance on environmental remediation is well-developed within the RSPO but there were concerns about its implementation and some inconsistencies were reported in interpretations of the requirements, including among auditors.

More specifically there were inconsistencies in how people interpreted the requirements and timescale for remediation: some growers believed that all oil palms had to be removed immediately whereas others asserted that where oil palms were over a certain age, remediation could be delayed until the end of the current 25-year planting cycle. This confusion was also raised as an emerging problem by technical advisors, who emphasized that the nature and timing of remediation measures is crucial to their effectiveness. Removal of oil palms without remedial actions well in advance can lead to significant and lasting falls in soil organic carbon, in nitrogen, in soil biodiversity, and in a range of other indicators of soil quality, and this is likely to be particularly severe on steep slopes and peat soils¹⁷. The existing guidance sets out several options for remediation, of which immediate removal of oil palms is only one, and therefore this problem appears to be related more to insufficient awareness than to omissions in the guidance. However, some growers reported that they have been at the mercy of different auditors who have different interpretations on this point.

Concerns were also expressed about the cost to growers of discontinuing palm oil production over very large sloped areas. In addition, one company said that they did not feel able to tell outgrowers, some of whose holdings were as small as 0.4 ha, that they must stop production entirely in the riparian buffer, which constituted a large proportion of their total holding. Instead, the riparian buffer had been

¹² See RaCP section 4.3.

¹³ See RaCP sections 5.2

¹⁴ See RSPO 2015 P&C (criteria 4.3 and 4.4; also 7.1, 7.2 and 7.4) and RSPO 2018 P&C (criteria 7.5 to 7.8).

¹⁵ Section 4.5.1 in RSPO Manual on Best Management Practices (BMPs) for the Management and Rehabilitation of Riparian Reserves (2017). <https://rspo.org/resources/conservation-sustainable-management-of-natural-resources/best-management-practices-for-riparian-areas>

¹⁶ <https://rspo.org/resources/peat>

¹⁷ Ashton-Butt, Adham John (2018) Factors influencing biodiversity, ecosystem functioning and ecosystem services in oil palm landscapes. University of Southampton, Doctoral Thesis, 248pp. <https://eprints.soton.ac.uk/431101/>

demarcated and all application of chemicals, including fertilisers, had ceased, but the ground beneath the oil palms was still being cleaned regularly and the fruit bunches were still being harvested (For further details see case study 4 below and Annex 4).

A further point arising was that some growers expressed confusion between environmental remediation and conservation compensation (to the extent that they had expected remediation to be covered as part of their conservation liability compensation package). Reviewers also expressed confusion over this issue and indeed it is difficult to distinguish between them in some remediation and compensation plans, where identical environmental restoration measures may be included both for remediation and as part of compensation.

Annex 4 to this report presents brief summaries of five Remediation and Compensation Plans, which were analysed as case studies during the review as part of the assessment of measures on conservation compensation and social liability. Case study 1 illustrates the above point.

3.3.3 Conservation compensation

Conservation compensation projects may be on-site or off-site and may be related to liability from a single site (estate or management unit) or from several sites. They may contribute directly to environmental restoration, management and protection, and / or address the underlying causes of biodiversity loss and degradation. There are two options by which companies provide conservation compensation: either an area of land is managed for conservation that is equal in size to the final conservation liability (Option 1: hectare for hectare), or the company pays US\$2,500¹⁸ per hectare final conservation liability to support a conservation project (Option 2: dollar payment per hectare). Whichever option is chosen, the company is responsible for devising and / or identifying a project that meets four criteria - additionality, longevity, equity and knowledge-based – and for monitoring and reporting back to the RSPO. All project proposals must also give defined goals, timeframes and responsibilities and indicate how the project will be adequately resourced¹⁹.

The table below gives a breakdown of conservation compensation projects in terms of the kinds of activities involved.

Table 2 Breakdown of conservation compensation projects and the types of activities

Biodiversity Compensation Project Types	% ²⁰
Off-site restoration of degraded forest to high quality habitats	57.1
Off-site species-based conservation measures	14.3
Off-site avoided deforestation and / or avoided degradation of high-quality habitats, and community conservation and / or livelihood development	10.7
On-site forest / high quality habitat re-establishment	10.7
Off-site avoided deforestation and / or avoided degradation of high-quality habitats	3.6
On-site set-aside of plantable areas for conservation and community livelihood development	3.6

Source: RSPO Impact Update 2019 (page 31)

The rest of this section focuses on the four compensation criteria, which emerged during the stakeholder consultation as one of the areas of greatest concern and confusion. Each criterion is discussed in turn with references to the five case studies that are summarised in Annex 4.

¹⁸ RaCP section 5.3

¹⁹ See section 5.4, RaCP and Annex 6.

²⁰ No sample size is given.

3.3.3.1 Longevity

“To qualify as long-lasting, projects should be adequately resourced, have clearly defined goals, timeframes and responsibilities, and be designed to deliver specific outcomes that last at least 25 years (and preferably in perpetuity).”

RaCP Annex 6

During the consultation process widespread doubts were revealed about whether the criterion for longevity was realistic, especially when the sums of money involved were small. An additional concern was that a robust assessment of the potential longevity of projects would need quite complex technical studies, include threat assessment and predictive modelling, which are outside the areas of technical competence of many palm oil growers. However, the concerns about whether longevity was realistic were based largely on two over-stringent interpretations of what is required:

- i. That compensation payments must be spread over 25 years. In fact, it is the outcomes that must last for at least 25 years (and preferably in perpetuity). The Plan must simply provide evidence of capacity and resources to this end. Thus, especially where funds are provided as an add-on to an existing project, it may not be necessary to spread the funds over the full implementation period. For example, in case study 4 payments are committed for only seven years, with the expectation that activities will contribute to ongoing conservation by the forestry authority.
- ii. That outcomes must be guaranteed. This would indeed be a tall order given the difficulty of foreseeing events with certainty decades into the future. However, the wording in the guidance emphasises the intent to conserve rather than a guarantee. This wording is taken from international conservation policy on private protected areas that has been developed specifically to address this problem. It assumes the intent to conserve in perpetuity but in recognition of the difficulty of securing sites for conservation indefinitely, the requirement is for robust documented measures for conservation to be in place for at least 25 years²¹.

The table below summarises measures relevant to longevity from each of the case studies. The information covers the follows aspects:

- Funding: Each Plan included a statement of the duration of committed funding and other than case 2 (which involved hectare for hectare compensation) there was also a statement of the level of funding committed.
- Institutional arrangements: For cases 1 and 2, on-site conservation management was to be directly by the company for the duration of the twenty-five-year planting cycle. For the off-site cases the long-term institutional arrangements involved management by a private institution with a 60-year licence (in cases 3 and 5) or ongoing collaboration between community resource management groups and the government forestry authority (in case 4). In cases 2 and 4 additional information is provided on the exit strategy, which in both cases is based on building collaborative partnerships between stakeholders. In case 2 the aim is transfer of leadership to local communities.
- In some cases, additional information was provided on increased ecological resilience (particularly in case 5) and / or on plans for the project to become at least partially financially self-sustaining (in case 2 and to a lesser extent in case 3).

²¹ Further details of international conservation policy on longevity, including examples of the kinds of documentation that are considered sufficient in international conservation policy, are given in Annex 5.

Table 3 Summary of measures relevant to longevity from case studies

Case studies: Summary of measures relevant to longevity	
Case 1 (on-site)	<ul style="list-style-type: none"> Managed directly by the company as part of the on-site conservation management plan. The plan includes a mean five-year operational budget, to be renewed over a total of 25 years. No measures are described for continuation after the end of the 25-year period.
Case 2 (on-site)	<ul style="list-style-type: none"> The company has a 'holistic budget' for 25 years and will provide funding in stages based on annual planning; it will also explore a wide range of co-funding opportunities. The project at each site will be overseen initially the company, with subsequent establishment of co-management committees. The exit strategy is based on multi-stakeholder engagement, gradual transfer of leadership to local communities, and links to regional government programmes. The aim is that the project will become financially self-sustaining through sustainable commodity production.
Case 3 (off-site)	A limited company was created and granted a 60-year licence to two areas of limited production forest as Ecological Restoration Areas. The licence fee has been paid in full for the period and the company has committed to supporting the project financially for the duration of the licence. Some income generation is expected after about ten years.
Case 4 (off-site)	Compensation will pay for supplementary activities by the government forestry authority at a nearby National Park over seven years. Strengthening of community resource management groups and development of good community-Park relations is expected to provide continuity after the end of the funding.
Case 5 (off-site)	The intermediary institution has a legal mandate to manage the area for the purposes of ecosystem restoration for 60 years (until 2073). The replanting and restoration of peatlands vastly reduces future fire risks and thus the supports the continued maintenance of this forested peatland.

3.3.3.2 Additionality

“To qualify as additional, conservation projects must be either new (as in not already implemented or planned) or if already existing, amended or extended so that conservation outcomes are enhanced”.

RaCP Annex 6

The criterion for additionality was perceived to be problematic on several counts:

- i. The difficulty of identifying new areas that have high biodiversity value, are not already protected, are available, and are eligible to be legally recognised as new conservation areas.
- ii. Setting up new areas and ensuring conservation over the long term would require a large budget.
- iii. Level of technical studies that could be required in order to assess additionality robustly.

The RaCP guidance allows for conservation compensation through add-on activities to existing projects and areas as long as there is a clear statement of how the contribution will address current weaknesses and failures and therefore add to outcomes. This addresses the first two of the above concerns. IT is reflected in the case studies: all three of the off-site compensation projects involved the provision of resources to existing projects (all in areas neighbouring National Parks) for activities that would not otherwise be carried out. In contrast, on-site compensation projects related to the set-aside of new conservation areas.

Table 4 Summary of measures relevant to additionality from case studies

Case studies: Summary of measures relevant to additionality	
Case 1	“The business as usual approach would have led to the lost opportunity of conserving additional biodiversity values and ecological functions within the concession... The HCS areas are considered as an additionality”.
Case 2	6,875 hectares of new conservation areas created, principally on HCS set-asides, and sustainable livelihoods alternatives sought. Connectivity of set-aside areas to be enhanced and biodiversity sustained / improved; tree cover to be increased where necessary.
Case 3	The project aims to provide resources needed to halt deforestation and carry out forest restoration in two buffer areas to a National Park. It is stated that the government, including the Park authorities do not have the means for the former and there are no government plans for the latter.
Case 4	“The intervention will address the most significant constraint to effective management of the National Park, which is inadequate resources”.
Case 5	Restoration of the deforested areas of peat swamp would not be achieved without the compensation plan activities... There is no financial incentive for commercial investment in replanting activities.

Overall, the additionality criterion has been appropriately applied in the case studies in relation to the guidance. However, one gap in the RaCP guidance is consideration of ‘leakage’: the shifting of environmental impacts away from the project area to another area²². For example, where an area is successfully protected against illegal logging or clearance for farming and the perpetrators then move their activities elsewhere, there may be no net additionality. Other than in case study 2, which includes a substantial component to develop livelihoods alternatives to restricted activities, it is not clear from the information provided whether the case studies address leakage adequately and therefore whether there is net additionality.

3.3.3.3 Equity

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.

RaCP Annex 6

The consultation process revealed a very low level of understanding of what is meant by equity not only amongst industry representatives but also amongst technical advisors, RSPO Secretariat staff and NGOs. Some respondents said simply that they couldn’t comment because they didn’t know what it meant; others stated that equity was only relevant for community projects; and yet others said that this criterion was fulfilled simply because there had been some community involvement.

The table below summarises the measures relevant to equity in the five case studies. For on-site projects (Cases 1 and 2) it was difficult to distinguish between treatment of equity (related to conservation compensation) and treatment of social impacts and liability (related to non-compliant land clearance). In off-site cases – particularly cases 3 and 4, which involved displacement of local people and / or restrictions of their use of resources - there was insufficient information in the documentation examined to assess whether the requirements for equity had been met.

²² Additionality, leakage and longevity are closely related and are commonly considered together. Leakage is the subject of BBOP criterion 5.2 (http://bbop.forest-trends.org/guidelines/Standard_Guidance_Notes.pdf).

Table 5 Summary of measures relevant to equity from case studies

Case studies: Summary of measures relevant to equity	
Case 1	<ul style="list-style-type: none"> • The population depends on river water and therefore riparian remediation and compensation support equitable hydrological benefits to the local communities. • Regular community engagement is undertaken. • “Implementation of community-based programmes and initiatives ensure equitable sharing of the benefits”.
Case 2	<ul style="list-style-type: none"> • The proposal is that the company will manage the project initially and leadership will gradually be transferred to local communities. • Participatory spatial planning and FPIC is planned for remediation on community-owned lands • There is a strong emphasis on the collaborative development of alternative livelihoods. • Community members will be offered training and support for alternative livelihoods activities.
Case 3	<ul style="list-style-type: none"> • The team has conducted extensive community consultations. • The project hires about 25 permanent employees from the area and local community members are prioritised for building contracts. • Forestry farmer groups are permitted to plant various economic tree species in allocated plots in return for rent to the project in the form of crop-sharing.
Case 4	<ul style="list-style-type: none"> • Protection of riparian areas and a ban on the use of chemicals in riparian buffers will improve water quality both for farmers and communities. • Effective protection, conservation and protection of biodiversity offsite will benefit all segments of society and will even benefit people beyond the borders of the country.
Case 5	<ul style="list-style-type: none"> • Ongoing agreements have been signed to maintain rights of access to community members. • Local community members are involved in determining sites for restoration and in planting plans • Community members will be employed in planting and will sell seedlings to the project

The requirements outlined in the guidance on equity focus on the need for compliance with the relevant RSPO indicators. These include indicators related to information-sharing, the social impact assessment, respect for rights, FPIC, documentation of negotiations through representative institutions, compensation, and consultation and grievance arrangements. However, none of the case studies followed this framework. The guidance also includes a section focusing on the need for provisions related to legal authority and control in relation to community rights and livelihoods in off-site conservation projects.

3.3.3.4 Knowledge-based

Knowledge-based: based on sound scientific and / or traditional knowledge with results widely disseminated and communicated to stakeholders and partners in a transparent and timely manner.

All respondents said that the criterion for compensation plans to be knowledge-based was relatively straightforward. However, those who commented in more detail gave a wide variety of explanations of what was required, including that the plan must be based on science, that it is logical, well thought-through and justified with evidence or convincing arguments; that it includes adequate monitoring procedures; or (in one case) that it allows for researchers who wish to do so to come and study the project. The table below summarises the measures relevant to ‘knowledge-based’ in the five case studies, which demonstrate a similar diversity of measures.

Table 6 Summary of measures relevant to knowledge-based from case studies

Case studies: Summary of measures relevant to knowledge-based	
Case 1	A knowledge-based, scientific approach is adopted in the management and monitoring. This includes monitoring of wildlife and vegetation based on transects and monitoring plots. There will also be mutual learning and knowledge-sharing with local communities and stakeholders.
Case 2	The compensation plan includes the establishment of a research and training centre, to be run in collaboration with universities and other research organisations and to underpin the development of integrated conservation and alternative livelihoods approaches. Training will be provided to communities and company staff and relevant government institutions will be updated at least once a year.
Case 3	The legal requirements include satellite imagery analysis, an HCV assessment, short- and long-term planning of activities, monitoring, regular technical training and re-accreditation of project staff. Monthly progress reports are a statutory requirement once the project has started its operations. The company has also committed to sharing field monitoring data and the develop a transparent quality control system of field activities by local and international NGOs.
Case 4	In collaboration with the Forestry Commission, the company will provide education to local people on the impact of deforestation and biodiversity loss and the importance of forest management and protection of wildlife in conservation areas. The programme will also build the capacity of smallholders and communities on preservation and protection of water bodies and biodiversity.
Case 5	Species planted will be selected in line with international good practice guidance. Third-party independent audits will be conducted, and there will be additional annual monitoring between audits.

In contrast, the guidance focuses much more closely on the requirement for an underlying ‘knowledge base’, which should consist of publicly available reference materials that are available for scrutiny by the compensation panel, such as scientific papers and reports by NGOs and others. In cases where there is little existing scientific evidence there should be a ‘clear knowledge-based rationale’ and provision for ‘a robust research and monitoring programme from which the findings will be made publicly available’. Implementation is thus only partially in line with the guidance. There are also some inconsistencies in the guidance itself, particularly in relation to how the emphasis on publicly available sources relates to the recognition of traditional knowledge as a valid knowledge base.

In summary, the level of understanding of the four conservation criteria was variable and whilst their application was broadly in line with the guidance for longevity and additionality it was on partially so for ‘knowledge-based’ and very poor for equity. One significant gap in the criteria relates to leakage (the displacement of environmental impacts to elsewhere), which needs to be considered in order to ensure genuine net additionality. The guidance for the ‘knowledge-based’ criterion needs to be revised to clarify more precisely what is required and the criterion for equity needs to be rewritten in line with the 2018 RSPO P&C and to address issues arising from this report.

3.3.4 Social liability, remediation and compensation

Social liability relates to the social impacts of land clearance without prior HCV assessments and the obligation to maintain or enhance HCVs 4 (environmental services), 5 (basic needs), and 6 (cultural identity). Growers must provide evidence to demonstrate that they do not have outstanding social liability and to demonstrate adequate engagement with communities²³. Where there is no such evidence they

²³ RaCP, section 4.2. Evidence is required that communities’ livelihoods or uses in the permit areas and potential negative social impacts were identified, that remediation was made for these impacts, and that there was no clearing without remediation of areas required to maintain HCVs 4, 5 or 6

must establish an appropriate level of social remediation and negotiate an agreement with affected parties on what form remediation will take, to whom it will be provided, and on what terms, following RSPO FPIC guidance²⁴. The agreement must also include a participatory monitoring plan.

Social liability emerged overwhelmingly as the component of the RaCP where there was the least understanding and experience and the least information available on implementation. Only five of the ten participants from industry and none of the technical advisors who reviewed the LUCAs and compensation plans had come across a case with social liability. Several people said that they didn't feel sufficiently informed to have a view on social liability and the few comments that were made revealed some fundamental misunderstandings, including that social liability applies only to indigenous peoples. Concerningly, several respondents said that it was too difficult to assess social liability retrospectively and it was more practicable simply to wait and see whether formal complaints were made. This 'social clear and pay' approach is contrary not only to RSPO Criterion 7.12 (on the need to protect and enhance HCVs and HCS forests) but also to Principle 4 (on respect for community and human rights). It shifts the burden of proof from the grower to communities, and it shifts the administrative burden within the RSPO from the RaCP to the complaints mechanism.

No summary information was available on the disclosure or scale of social liability and therefore an analysis was carried out of a 10% systematic sample of cases based on disclosure notes, or where these were not available or sufficient, LUCAs and additional available documentation, including social liability reports²⁵. Flaws in the wording on the disclosure note template (detailed in Annex 3b) and gaps and inconsistencies in the dataset placed severe limits on what could be accomplished with this analysis, but 12 cases (18% of the sample) were identified that had disclosed potential social liability. Of the rest, in 41 cases (61%) it was stated that there was no social liability and in 14 cases (20%) either the responses were unclear or there were no data. Therefore, a figure of 18% is likely to be an underestimate.

A further issue that requires attention is the lack of clear guidance in what is required in a social liability report. Social liability reports ranged from a 2-page table (based on the table at the end of the social liability identification guidance) to a narrative report of over 100 pages, and yet even in the longer reports some of the details that would be needed for a robust evaluation were not included. In some of these cases reference was made to the SIA or HCV assessment for these details, but these documents were not provided for review.

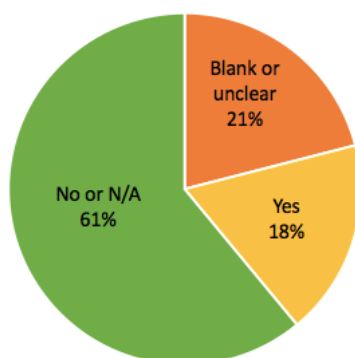


Figure 3 Proportion of a 10% sample of disclosure notes reporting potential social liability (n=67)

²⁴ RaCP, sections 4.2 and 5.1.

²⁵ For earlier versions of the disclosure note template and the LUCA, this was based on responses to a direct question on whether there were any potential social impacts related to losses of HCVs 4, 5 or 6. For the current version of the disclosure note, potential social liability was taken to be indicated if it was stated that communities / users' livelihoods or uses in the permit area at the time of clearance were identified (box 3.1(i)) or that potential negative social impacts were identified in the environmental and social impact assessments (box 3.1(ii)).

The boxes below summarise information on social liability, compensation and remediation from four RaCP cases. The first two of these are two of the cases that were analysed in relation to conservation compensation (cases 1 and 4). Two further cases were selected (labelled cases 6 and 7). Each case has been selected to illustrate a specific aspect of the Procedure that are problematic.

Case 1: Social liability and issues of continuity through the RaCP

Lack of consistency between and within documents for this case study and a lack of clarity in the information provided made it extremely challenging to assess whether there was social liability and whether the measures taken comply with the RaCP requirements. No potential social liability was reported although there were community-owned lands within the concession for some of which compensation had been paid. One particularly thorny issue raised, which is not unique to this case, was the relationship between individual and community use and rights and the implications in terms of liability.

Details:

- 2014: The disclosure note stated that there were no social impacts and no potential social liability.
- 2014: The Remediation and Compensation Plan stated that there were some 50 local communities within the concession and that community use of the area was longstanding but that there was no social liability.
- 2016: A detailed (101-page) social liability report was submitted which includes substantial information, including on consultation and FPIC processes. However, the information in the report is very difficult to evaluate because of inconsistencies and gaps. For example, the report states initially that there were no villages within the concession but later refers to “about 58 local communities (land owners) who are still operating within the concession”. It states that farms within the concession were on land owned by the community and were the main source of livelihood for the farmers but were not classified as HCV5 because each farm was used by individuals rather than by a whole community. It states that there was no social liability in relation to the farms but gives details of compensation payments, which were made to individuals even though communities owned the lands. The report also describes a raft of CSR measures to support those who have not taken up the offer of compensation, and further measures related to engagement with villages outside the concession. It is not reported whether any of the farms have been affected by non-compliant land clearance since 2005 but no social HCVs or social impacts except potential river pollution (HCV 4).
- 2016: A second disclosure note was submitted stating that areas needed by the communities to secure basic needs were not found within the concession and therefore there was no social liability. It also gives details of CSR activities.
- 2020: The monitoring report states that there is no social liability and does not include information on social remediation or compensation, nor on CSR (other than inclusion of a figure for CSR in the summary of expenditure).

Case 4: Social liability related to non-compliant clearance by outgrowers

No impacts on HCVs 5 and 6 areas were reported but in relation to HCV 4, outgrowers’ oil palm had affected riparian zones and the proposed environmental remediation measures will have a significant impact on some outgrowers because it will affect a high proportion of their smallholdings. This is reported in relation to loss of social values but is addressed only in terms of environmental remediation: the company plans to work with the farmers involved to restore and manage those areas appropriately, and to embark on a programme of training and awareness-raising to gain their FPIC. Non-agreement by farmers to proposed remediation measures is cited as a risk for implementation but it is not clear what will happen if FPIC is not given. Mitigation measures listed involve education, sensitisation and training, but not compensation or the provision of alternatives.

Section 5.2 of the RaCP Guidance (on the environmental remediation plan) states that the remediation plan must include a description of the process of getting FPIC for the planned activities, including specifically in relation to restoration and maintenance of riparian zones. However, the wording could be interpreted either to mean that the FPIC process must already have taken place or simply that the plans for an FPIC process need to be described (which is what was done in this case). The supplementary guidance on social liabilities does not provide a clarification: it refers only to social liability at the time of the original clearance, not to new liabilities that could be incurred by the proposed remediation and compensation plan.

Case 6: Social liability and the potential for complaints

In this case, the disclosure note stated that there was no social liability, but the subsequent social liability report identified significant social impacts of land clearance, including on community rights. The company engaged with the communities and initiated a CSR programme, but the report recognized that there may be complaints, which could be dealt with through the grievance procedure as they arise.

Social liability was identified only in relation to HCV 4 (but confusingly this includes impacts on livelihoods, which would normally be classified as HCV 5). It is stated that there was no social liability related to HCVs 5 and 6 because no HCVs 5 or 6 areas were cleared. Measures to address impacts on HCV 4 are listed as part of a 'social liability programme' even though no social liability was disclosed. They consist of environmental remediation (with community involvement), equal employment opportunities, local purchasing / contracting, and 'community empowerment programmes with a focus on meeting the needs of local communities.

Case 7: Social liability, wider social impacts, and social remediation

In this case, no direct impacts of non-compliant land clearance on HCVs 4, 5 and 6 were identified. Nonetheless social remediation is planned of broader impacts, including impacts on livelihoods related to immigration (stimulated by the company's operations), existing land conflicts, and potential cultural impacts related to increased reliance on consumer goods and services. A new foundation has been created to manage social projects and a long list of current social remediation activities and programmes is presented.

The RSPO already recognises that new guidance is needed on social liability, remediation and compensation therefore the current guidance will not be discussed in detail here. The main issues arising, both from the case study analysis and from other components of this review, were the following:

- There is evidence that some companies are acting to remediate and compensate social liability without disclosing it. The problem with this is that it means that there is no transparency and no means of verification that social liability assessment and negotiation of compensation has been done in a way that fulfils RSPO requirements. The current wording on the disclosure note lends itself to this practice because it asks only for evidence to demonstrate that there is no outstanding social liability (clearing without remediation)²⁶. Similarly, the 2016 guidance on social liability identification refers to 'correct' identification of social liability to be zero liability²⁷. As one assessor commented, "the guidance tells you how to make sure you have no social liability".
- Reliance on standard HCV or HCV-HCSA assessments to identify social liability for past land clearance. These assessments are not designed to assess presence of HCVs in the past and therefore they cannot assess social liability unless the methodology is adapted for this purpose.

²⁶ See Annex 3b for further details

²⁷ RSPO: Guidance on identifying social liability for the loss of HCVs 4, 5 and 6. Page 2. Approved 15th April 2016.

Whilst this would be relatively straightforward to do using standard social science methods, adequate information on this is not provided in the case studies.

- A lack of procedures to ensure consistency and continuity between the different steps in the RaCP in relation to social liability. For example, there is no formal procedure to follow up on disclosure notes that do not include information on social liability.
- A lack of adequate guidance on what level and kind of detail is needed in the social liability report.
- Potentially, the use of ‘social clear and pay’ practices whereby social liability is not recognised or addressed unless and until a grievance or complaint is raised.
- A lack of clear guidance on the need for FPIC in relation to social impacts of proposed environmental remediation measures. In summary social liability emerged overwhelmingly as the component of the RaCP that is least advanced. Potential social liability was disclosed in an estimated 18% of cases but gaps and weaknesses in the procedure make it very difficult to track how these were subsequently investigated and addressed. On the other hand, in several cases there were substantial social impacts, including on rights and livelihoods, that had been compensated but not acknowledged as social liability. There is evidence that social liability is being underreported. No case was identified of disclosed social liability that was then remediated and compensated other than for HCV 4 (relating principally to clearance of riparian buffers), which was commonly addressed through environmental rather than social remediation.

3.3.5 Monitoring and reporting

Given that the template for monitoring reports was finalised in September 2019 and, presumably because of this, only one monitoring report has been received to date, there is little to review in terms of progress. However, the urgency of implementing monitoring and reporting requirements was underlined by a first-hand account of a dollar-per-hectare conservation compensation project that was approved in 2016 but has not yet started, four years later, because the company has still not made the promised funds available.

One minor point that arose in relation to monitoring and reporting was confusion about whether the costs of monitoring can be included as part of the liability. This may be because of a potential contradiction in the guidance: Section 5.7 of the guidance (on monitoring) states explicitly that “Costs for monitoring shall be borne by the company and are in addition to the value per hectare under Option 2” whereas Section 5.1 (on social remediation) states that “in the case of monetary compensation, this may include independent audits”.

The single 68-page monitoring report received was based on the 2019 template and therefore serves as a useful pilot for the template. The box below gives some detailed observations comparing the report to the template, with suggestions for future revisions of the template. Some overarching recommendations are that a template format is introduced that ensures all questions are answered, in the desired format (a point that could usefully be applied to all templates); that steps are taken to minimise repetition and redundant information, and that questions are added on monitoring of threats, on stakeholder engagement, and on equity and social compensation and remediation in relation to conservation compensation activities.

Comments on the monitoring report and points for consideration in future revisions of the template

- Some questions in the template are not included exactly as designed or answered in the way that is indicated. For example, this applies to the final three boxes in the opening table. In this report, the information provided is more than adequate, but it would be easy for omissions to slip through unnoticed. Use of a pdf with standard fields to be completed would resolve this issue.
- The introduction / background section includes several pages of information that is redundant (if reviewers have access to the earlier case documentation). It would be useful to indicate clearly on the template what kind and level of background information is required.

- The background section in the report includes a very useful subsection titled ‘ground-truthing the Remediation and Compensation Plan’, which outlines changes made to the Plan following initial steps in implementation. A section of this kind may be a useful addition to the standard template.
- No information is provided on social compensation because no social liability was confirmed.
- The Plan included extensive information on farmers within the concession, on compensation payments made and on CSR but no update is given on these aspects of the Plan.
- Some of the information provided in section 3 is duplicated in section 4 (project results), where activities are again described. Further clarification may be needed in the guidance on the difference between these two sections.
- An impressive level of effort has clearly been dedicated to monitoring and extensive and extensive results are presented. In relation to monitoring of wildlife, inclusion of an indication of sampling effort would greatly improve the value of monitoring data because otherwise, changes in species presence, diversity and abundance may be due simply to change in sampling effort.
- Section 4 also includes a subsection on management and monitoring of potential threats and on stakeholder consultation and engagement. Again, these may be useful additions to the standard template. A section is also needed on equity and on social compensation and remediation related to the conservation compensation activities, which featured in the compensation plan for this case.

4. CONCLUSIONS: SIGNIFICANCE FOR THE RSPO MISSION AND CREDIBILITY

The overall mission of the RSPO is to transform markets to make sustainable palm oil the norm. In order to do so it is important to grow the RSPO membership, to retain credibility, and also to influence the wider palm oil industry, and therefore RSPO procedures need to be both robust and credible in terms of the standards they claim to uphold, and also practicable in terms of their effects on the financial viability of production operations.

The issues that the RaCP was set up to address are crucial to the RSPO’s mission and credibility: it addresses one of the matters that is of greatest public concern in relation to climate change (deforestation) and also acts to mitigate the impacts of unchecked past clearance on biodiversity and on local people. Several respondents commented that the broad principles behind the creation of the RaCP have stood the test of time: there is clear agreement, in principle, on what needs to be done. Moreover, the RaCP was widely perceived to be acting as an effective disincentive for clear-and-pay practices.

However, the lack of publicly available information on implementation, the lack of evidence of remediation and compensation on the ground and the lack of effective measures in relation to social liability, remediation and compensation pose a reputational risk to the RSPO. At the same time, there it is a widely held concern that high resourcing requirements and long delays in the process may be disincentivising new members from joining the RSPO and causing some members to leave. No first-hand evidence of this was found but some participants stated that they knew of particular instances where this had happened. The failings need to be addressed as a matter of urgency, balancing the need for rigorous standards and quality assurance against the requirement for measures to be practicable and not prohibitively burdensome.

5. RECOMMENDATIONS

5.1 Recommendation for the revision of the RaCP: A roadmap

The recommendations in the following pages are divided into three main stages which together form a roadmap for the revision of the RaCP. I have indicated priority points in stage 1.

Stage 1

- 1.1 **Implementation of stopgap measures:** These recommendations relate to measures that would address some immediate weaknesses in current procedures while a more substantial overhaul is undertaken. Most are minor administrative tasks. There are also slightly more substantial recommendations relating to monitoring and social liability (the two aspects of the RaCP that are weakest) and these have been marked as priorities.
- 1.2 **Revision and rationalisation of the overall procedure.** I am recommending that this begins with an economic feasibility study on moving all technical aspects of the RaCP in-house to the Secretariat. This would remove the need for external reviewers and substantially simplify the process, reducing the demands on growers and on compensation panel members. I have outlined some of the major changes that could be made.
- 1.3 **Development of clear, practical guidance on social liability, remediation and compensation.** Clear guidance on social aspects of the RaCP is needed as a matter of urgency and I am recommending that it be developed in parallel with the previous steps.
- 1.4 **Development of a mechanism to invite conservation project proposals from external organisations and build up a portfolio of approved projects to which companies could make liability payments.** A portfolio of this kind may increase efficiency and decrease the overall workload, although robust evaluation and monitoring mechanisms would still need to be in place. Therefore, it is something that I think the Working Group should consider carefully.

Stage 2 Detailed revision of procedures and guidance

- 2.1 **Revision of detailed criteria, requirements and procedures.** Recommendations are made for revisions related to the different steps and topics covered by the RaCP, to be decided upon once the overall outline for the revised procedure is agreed upon. Recommendations are also made for measures to improve overall timeliness and in relation to potential negative impacts of the RaCP on the RSPO membership and mission. I have indicated which of these require a policy decision by the Working Group, which involve administrative tasks that can be carried out by the Secretariat alone, and which involve both.
- 2.2 **Development of new, integrated guidance.** This is presented as a separate step, which will involve checking through the various documents and revisions to ensure consistency and efficiency.

Stage 3 Socialisation, training and technical support

Once the new guidance is completed, a training and socialisation programme will be needed to upscale awareness and capacity of all actors. The RSPO should also seek ways to provide technical support to growers and others during implementation.

5.2 Detailed recommendations

Stage 1

1.1 Implementation of stopgap measures

The following measures are currently in process and need to be continued / completed:

Measures	Description
Staffing at RSPO Secretariat	Monitoring and adjustment of staffing levels in order to catch up with the backlog of cases, improve turnaround times for new submissions, complete the population of the RaCP database and publish case summaries in order to introduce a degree of transparency
Data management	Development of procedures to enable efficient data management, including cross-referencing within the RaCP database and between the RaCP and other RSPO processes.

Additional potential stopgap measures are as follows

Measures	Description
Documentation and information	<ul style="list-style-type: none"> Edit the disclosure note template (a draft is included in Annex 3 to this report). Introduce a cover page to the disclosure note requiring details of subsidiary companies, mills, management units and estates that are included. A draft is included in Annex 3 to this report Remove outdated guidance on the LUCA from the main annexes to the RaCP and revise titles of remaining LUCA-related annex so that it is immediately obviously what each one is for. Add information on the fee for the Plan to a prominent position on the RaCP web page. Ensure that all social liability reports undergo quality assurance Send a reminder to growers and auditors of the requirements related to timing of remediation measures in relation to planting cycles. Send a reminder to growers that environmental remediation is to do with measures that are needed in order to restore the site to a condition that meets the standard RSPO P&C and cannot be included as part of conservation compensation (although the two may also involve similar ecological restoration measures). Set up an FAQ page on the website where these two reminders can be posted for ongoing reference, along with future points as they arise.
Compensation panels and review process	<ul style="list-style-type: none"> Give compensation panel members and external reviewers access to full documentation of each case they review. Provide induction training to new compensation panel members. Recruit social experts to compensation panels and as external reviewers. Introduce a basic screening step by the Secretariat to ensure that all the necessary documents are attached before sending to reviewers. If the revision process will take more than a year, introduce supplementary fees and reviewer payments for resubmissions.
Monitoring reports	Call for monitoring reports on implementation of all approved Plans to be submitted within the next six months.

1.2 Revision and rationalisation of the overall procedure

- Undertake a feasibility study on the economic implications of moving all technical aspects of the RaCP (both environmental and social) in-house to the Secretariat.
- Develop a new outline of the procedural steps. If technical aspects can be moved in-house, the procedure could be simplified as in the box below. If not, a less substantial revision of the overall procedure will be possible.

Some recommendations for new outline procedure if technical aspects can be moved in-house to the RSPO Secretariat

- The grower submits a disclosure note containing only information that is essential in order for the Secretariat to proceed with the LUCA and make a call on whether a full social liability assessment is required.
- The Secretariat carries out the LUCA and notifies the company of the results. The company can then either accept the results or provide comments and clarifications.
- The company then completes a social liability report (if required), based on community engagement and an FPIC process. The report outlines social liability. It may be an option also to report agreed social remediation and compensation measures at this stage where evidence can be provided of FPIC. Effective, practical guidance needs to be developed for this process and its evaluation.
- In cases where the final conservation liability is below a threshold value and there is no outstanding social liability, the remaining steps may be waived or involve only a light-touch approach (setting out measures for environmental remediation).
- The company submits a simplified concept note briefly outlining the proposed environmental remediation, outstanding social remediation and compensation, and conservation compensation measures. Companies who have already successfully completed the RaCP could have the option to bypass this step.
- The concept note is evaluated by Secretariat staff, who provide guidance if it does not meet a set of basic requirements.
- The full Remediation and Compensation Plan is then submitted for evaluation by Secretariat technical staff and then by Compensation Panels.
- In cases where the final conservation liability is below a threshold value, there is no outstanding social liability following completion of the social liability report, or where conservation payment is by means of payment to an RaCP-approved project, a simplified Plan will be sufficient.

1.3 Development of clear, practical guidance on social liability, remediation and compensation.

Clear guidance and protocols on social aspects of the RaCP is needed as a matter of urgency and I am recommending that it be developed in parallel with the above steps. It will involve the following:

- Development of guidance on social liability assessments
- Revision of the social liability report template and development of a protocol for its evaluation
- Recommendations for full and effective integration of measures on social liability into the overall Procedure, including in relation to conservation compensation projects

1.4 Development of a mechanism to invite conservation project proposals from external organisations and build up a portfolio of approved projects. Companies could then choose to make liability payments to one of the approved projects rather than setting up or seeking a project independently.

The mechanism could be similar process to that used by many Foundations, involving a set application form, a technical review of proposals and then approval or non-approval by the Working Group. The workload and technical requirements for growers would be greatly reduced, because they could simply name the recipient project, state the amount to be donated, and include a schedule of payments. The project itself would need to confirm these arrangements and could provide monitoring reports either to the company or directly to the RaCP (corresponding to all donations received, which may be from multiple companies). However, the Secretariat and / or Working Group would need to assess the projects rigorously prior to their inclusion in the portfolio. One key question is whether this would involve more or less work for the Secretariat / Working Group than assessing projects for each RaCP case separately.

Stage 2: Detailed revision of procedures and guidance

In this section, items are marked as requiring policy decisions, purely administrative revisions, or both. They are not in any particular order.

Items	Description	Type of Revision
Conservation liability matrix	<ul style="list-style-type: none"> • Introduce a threshold value below which liability is either waived or else standardised at a fixed minimum payment. • Combine the middle two vegetation coefficients (0.4 and 0.7), or else introduce a default option to use the higher figure where there are difficulties in distinguishing between them. • Consider removing the different liability rates for members and non-members, which appears to be acting as a disincentive for RSPO membership. • Introduce a set of graduated sanctions in place of immediate expulsion of RSPO members who have cleared forest without an HCV assessment since 2014. Suggested sanctions included fines, formal warnings with time limits for attaining compliance; ‘red flag’ indications on the RSPO website, and expulsion as a last resort. • Set a timetable for review of the US\$2,500/ha liability rate, to be preceded by a desk-based study of the available literature on area-based costs of conservation. 	Policy decision
Land Use Change Analysis (LUCA)	<ul style="list-style-type: none"> • Introduce a limit on the level of resolution that is required in LUCAs (in other words a minimum size for patches that need to be identified where satellite images are unclear). • If LUCAs are to be conducted in-house, define what information needs to be included in the disclosure note by the company and what information should be included in the LUCA report prepared by the Secretariat. 	Policy decision
	<ul style="list-style-type: none"> • Design templates accordingly and develop procedure for company acceptance or appeal. 	Administrative

Items	Description	Type of Revision
Environmental remediation	<ul style="list-style-type: none"> Ensure the guidance and relevant templates state explicitly that environmental remediation is to do with measures that are needed in order to restore the site to a condition that meets the standard RSPO P&C and cannot be included as part of conservation compensation (although the two may also involve similar ecological restoration measures). 	Administrative – RSPO Secretariat
	<ul style="list-style-type: none"> Add guidance on the relationship between environmental remediation and FPIC (especially in relation to smallholders). 	Policy decision / Administrative
Conservation compensation:	<ul style="list-style-type: none"> Split the table on environmental remediation and social liability into its two component parts in order to ensure that each is addressed in its own right. Provide different templates for on-site and off-site compensation projects. 	Administrative
	<ul style="list-style-type: none"> For on-site projects, consider adding text giving guidance on landscape connectivity 	Policy decision / Administrative
	<ul style="list-style-type: none"> Add an option for growers to fulfil conservation compensation requirements by donating to an RaCP-approved project. They could then submit a simplified Plan. 	Policy decision
	<ul style="list-style-type: none"> In relation to the criteria for compensation projects: <ul style="list-style-type: none"> Add measures on leakage to the criteria for additionality. Clarify the criteria for ‘knowledge-based’ to make it clearer exactly what is required. Revise the guidance on equity and prioritise this criterion in socialisation and training. Consider broadening the criteria to include non-area-based conservation compensation projects (for example, those that focus principally on addressing drivers of forest loss and HCV destruction). 	Policy decision / Administrative
Measures to improve overall timeliness	<ul style="list-style-type: none"> Publish target turnaround times for processing of all submissions by the RSPO Secretariat. Monitor performance and adjust staffing and procedures as necessary. 	Policy decision / Administrative
	<ul style="list-style-type: none"> Introduce target turnaround times and cut-off dates for submission of documents by growers, and also default procedures and / or sanctions to be applied where these are not met. Introduce a set policy on the transition time between notification of changes to procedures and full mandatory compliance. For major changes, where appropriate, include provision for staged implementation that allows minor adjustments to be made after an initial trial period. 	Policy decision

Items	Description	Type of Revision
Impact of the RaCP on RSPO membership and on the RSPO mission	<ul style="list-style-type: none"> Review the requirements on the stage at which RaCP growers are eligible for new membership, for auditing and for certification 	Policy decision
	<ul style="list-style-type: none"> If it is not already in place, develop a simple exit questionnaire for members who leave the RSPO, and a follow-up questionnaire to growers who enquire about membership but don't decide to join. 	Administrative
	<ul style="list-style-type: none"> Introduce mechanisms to ensure consistency and transparency in decision-making across Compensation Panels, and to produce a consolidated record of decisions made that is readily accessible to members can act as a frame of reference for future decisions 	Administrative – BHCVWG / RSPO Secretariat
	<ul style="list-style-type: none"> Seek to further increase the number of social NGOs who participate in the Biodiversity and HCV Working Group and Compensation Panels 	Policy decision / Administrative

Stage 3: Socialisation, training and technical support

Develop a comprehensive strategy to upscale awareness and capacity of all actors through socialisation, training and technical support. This could include:

- Induction training for new Working Group members, Compensation Panel members and external reviewers (if these are still employed)
- Virtual and / or on-the-ground training by the RSPO, by NGOs or service-providers, or by regional growers' associations. Training of trainers by the RSPO Secretariat and its regional hubs and / or
- Guidance, templates and training materials and support services need to be available in multiple languages.
- Establishment of a helpdesk within the Secretariat and / or in regional nodes.

6. ANNEXES

List of Annexes

Annex 1: Terms of Reference for the review

Annex 2: Multi-stakeholder consultation methodology

- a. Overview
- b. Cover letters and emails
- c. Interview guide
- d. Participants in the consultation process

Annex 3: The disclosure note template

- a. Draft disclosure note cover sheet
- b. Critique of current disclosure note template (version 3): identifying social liability
- c. Draft new disclosure note template (proposed as the basis for version 4)

Annex 4: Remediation and compensation case studies

Annex 5: Recent developments in global conservation policy in relation to longevity

ANNEX 1: TERMS OF REFERENCE FOR THE

Rationale and Context

In November 2015 the Board of Governors of the RSPO endorsed a Remediation and Compensation Procedure (RaCP) related to land clearance without prior HCV Assessment. However due to concerns expressed at that time it was agreed that the Procedure would be reviewed after two years in operation, in order to determine its effectiveness. The current Call for tenders is in response to that agreement and sets out the aim of the proposed review as follows:

To review progress, learn lessons, assess the implications for RSPO and develop recommendations on how the process can be improved.

This document outlines a tender in response to the Call. Specifically (in line with the details of the Call) it sets out an appropriate methodology for the review, which is to be carried out between September and November 2019.

Methodology

Scope of the review

The four objectives of the review, stated in the Call, are as follows:

1. To independently check the status of RaCP implementation and identify the reasons for delays and shortcomings
2. To assess the two existing approved RaCP projects and those in the pipeline
3. To identify stakeholder concerns with the process and review the effectiveness of the procedure in the light of these concerns, and
4. To make recommendations on how to improve the process, bearing in mind the 2018 P&C and RSPO's mission and objectives.

Several more specific topics for consideration are listed in the Call and these, together with additional issues that I am aware have been raised by individuals involved in the RaCP process as of particular concern, are proposed as a starting-point for the review.

Methods

The tender states that the review needs to be carried out over three months (September to November 2019). The review will therefore be desk-based and will focus on providing an overview illustrated with brief examples from implementation, rather than in-depth case studies.

The review will consist principally of two processes: (i) a multistakeholder consultation and (ii) an analysis of RSPO guidance and documentation, including an assessment of a sample of approved LUCAs, Concept Notes, Compensation Plans and Social Remediation Plans. Each of these processes is described in more detail below. Particular attention will be given to the following issues:

- The efficacy of the RaCP in terms of preventing members from clearing land without HCV assessments and disincentivising non-members from "clear and pay" practices;
- The quality and sufficiency of environmental and social remediation and compensation;
- The social liability process, including challenges, gaps and ways forward;
- Quality control, including in relation to of the LUCAs, compensation plans and social remediation plans;
- Successes and challenges related to the operation of the Compensation Panels;
- Broader institutional needs and challenges facing RSPO, including capacity, transparency, the quality of guidance and mechanisms for institutional learning.

Multi-stakeholder consultation process

The multistakeholder consultation process will consist of the following steps:

1. An initial round of interviews with a limited number of key stakeholders, identified in consultation with RSPO, in order to identify key concerns and issues and build a summary for use in a second round of consultation (see step 3). The interviews will be carried out principally via skype but written comments will also be invited.
2. Production of an initial report based on the above, and informed by a document- based analysis of RaCP procedures.
3. Circulation of the report to a wider range of stakeholders (including LUCA and Compensation Plan reviewers, social and environmental NGOs, representatives of community organisations and growers: baseline contact list to be provided by the RSPO), followed by a further multi-stakeholder consultation process. The consultation at this stage will be principally online, based on comments arising from the report. Written comments will be analysed qualitatively through thematic coding in NVivo. It is anticipated that tailored skype interviews will be held with specific individuals as appropriate, to explore emerging issues and examples.

Assessment of a sample of approved LUCAs, Concept Notes, Compensation Plans and Social Remediation Plans

The broad objectives of this process will be:

- To identify problems and develop recommendations for improvement in identifying liability.
- To evaluate the robustness of decision-making on project selection and potential achievement of conservation additionality, longevity, knowledge-base, and equitability.

It is envisaged that the two existing approved RaCP projects will be included in these assessments. Other than this, the sampling strategy and sample size will be agreed with RSPO in the initial scoping stage of the project. The specific objectives and criteria for the assessments will be developed based on an initial analysis of the institutional arrangements for RaCP and on the findings of the initial round of stakeholder interviews (but see preliminary list of topics, above). Analysis will be principally by means of coding and thematic analysis of a sample of documents using dedicated qualitative data analysis software. There is also potential for some basic quantitative analysis across a larger sample of documents (should this be a priority with the limited resources available).

Deliverables

- Report on findings from the initial stakeholder consultation
- Report on the overall RaCP, with conclusions.
- Recommendations.

Revised Timeline for Tender to RSPO (as of 28 Nov 2019):

The timeline has been adjusted to cover 16 weeks instead of the original duration of 12 weeks. This is because of the change in the timing of the project, which was originally planned to run from September to November 2019, and the need to allow for existing work commitments during in the first quarter of 2020.

Start date: 6th January 2020	Jan				Feb					March				April			May	
Weeks	1	2	3	4	5	Verbal interim update on progress and emerging issues	6	7	8	9	10	11	12	13	14	15	16	
Initial planning and setup	█																	
Review and desk analysis of RaCP guidance and institutional structures	█	█																
Multistakeholder consultation: first phase (interviews)																		
Interview design		█	█															
Identification of respondents with RSPO, collation of email list, coordination emails		█	█	█														
Interviews and data analysis			█	█	█			█	█	█	█							
Preparation and circulation of initial report											█	█	█					
Assessment of a sample of LUCAs, concept notes and compensation and social remediation plans															█	█		
Multistakeholder consultation: second phase (online)															█	█		
Production of final report																█	█	█

ANNEX 2: MULTI-STAKEHOLDER CONSULTATION METHODOLOGY

A. Overview

The multi-stakeholder consultation consisted of 24 one-to-one qualitative semi-structured interviews with a cross-sectional sample of stakeholders.

The stakeholder groups were identified in consultation with the RSPO Secretariat, which also provided a list of names and contacts (other than for the Working Group, for which the list of names on the RSPO website was used). The initial intention was to include ‘community organisations’ as one of the stakeholder groups, but following initial discussions with RSPO and the social NGOs on the Task Force, it was decided not to do this because they are not directly involved in the RaCP at a central level and therefore any consultation with them would be of very limited value. The stakeholder groups and sample sizes are given in the table below.

Table 7 Sampling Protocol for the Initial Consultation Process

Stakeholder Group	Sample Size	Sampling Strategy ²⁸
BHCV WG members (n=23)	10	Targeted
Active LUCA reviews (n=11)	2	Random sample
Active CP evaluators (n=7)	2	Random sample
RSPO Secretariat staff	3	Snowball sample
Miscellaneous	4	Snowball sample
Non-BHCV WG members with liability	3	One from each region (Latin America, Africa, Asia and the Pacific)
Total	24	

Within the Working group, a targeted sampling approach was used that also attempted to maximise the coverage across stakeholder groups, member institutions, and compensation panels. Initially two members were approached representing different institutions in each stakeholder category (co-chairs, growers, environmental NGOs, social NGOs and processor / traders), selected to ensure that respondents were included from all nine compensation panels. Where suggestions were made of additional members who were particularly well informed on different aspects of the RaCP, they were approached subsequently. The final sample included one co-chair, four growers, one environmental NGO, two social NGOs, and two processor / traders.

Participants were approached via email, with an accompanying cover letter from the RSPO Secretariat (see annex 4). Once they had confirmed their participation an interview guide was emailed to them setting out a list of topics and questions (see annex 5). Interviewees were informed that all information provided would be anonymised, and all interviewees gave their consent to be named as participants in an Annex to the final report.

The interviews were carried out remotely, principally via skype, except for one face-to-face interview. They were conducted in English other than one interview in Spanish. Each interview lasted between 25 and 80 minutes. At the start of each interview permission was sought (and in all cases granted) to record the interview. Conditions of anonymity were outlined and verbal confirmation of consent was then sought (and granted in all cases). The rest of the interview guide was not followed rigidly but was used as a guide to ensure that all relevant topics were covered. Allowance was made for the fact that not all stakeholder

²⁸ Targeted sampling involves targeting people who are particularly likely to have useful contributions to make, either because of their knowledge and experience or because of their institutional or social position. Snowball sampling is a form of targeted sampling in which each respondent is asked for suggestions of additional people who it may be useful to include in the sample. Random sampling, in contrast, is designed to eliminate any intentional or unintentional bias in the selection process. It involves allocating a number to each person listed and then using a random numbers generator to select those who would be included in the sample.

groups had experience of all aspects and stages of the RaCP and respondents were encouraged focus most on aspects that were most relevant to them or of most concern to them.

All interviews were audio recorded, and in addition, written notes were taken. Following the end of the interview the notes were checked through for inconsistencies, and where necessary the audio tape was used to edit points that were not clear and fill in gaps. In some cases there was further communication with the respondent in order to clarify specific points or gather supplementary information.

For the analysis, respondents were categorised into four overarching stakeholder groups (industry, NGOs, Secretariat staff and technical advisors). Interview notes, transcriptions of key sections of interviews, and written comments received were uploaded into the qualitative data analysis software programme NVivo and coded by themes. This enabled the text to be extracted systematically by theme and stakeholder group, giving a robust dataset on which to base the narrative summaries in this report. Principal themes were defined in advance based on the topics listed on the interview guide and additional themes and subthemes were developed from the data.

B. Cover letters and emails

i. Template for initial approach email:

Dear

I have been commissioned by the RSPO Secretariat to carry out a review of the Remediation and Compensation Procedure (RaCP), and as part of this process I am currently interviewing a sample of key individuals in order to gather information on their views, concerns and suggestions. I would very much like to include you in this process. Would it be possible to arrange a skype interview between [dates]?

I am based in the UK, and therefore the skype interview would need to be between 7am and 6pm UK time. I expect the interview to take between about 30 and 45 minutes.

Attached is a letter from the RSPO confirming my role in this process and requesting your support and cooperation. Once we have agreed a time, I will send some further details on the interview format and questions.

All information provided will be anonymised and will be used solely for the purpose of reporting to the RSPO, unless agreed otherwise in advance. Your name would be included in a list of all those consulted in an Annex, unless you indicate that you would prefer not to be named.

Many thanks in advance and best wishes

Helen Newing

ii. Template for confirmation email:

Dear

Many thanks for your quick and helpful response, and for making time for this. [Confirmation of time and date of interview]

Attached is the interview guide that I will be using when we talk. I am using it as an indicative list of topics rather than as a fixed questionnaire, partly to allow for different people's different areas of experience, concern and expertise.

Could you send me your skype address?

Best wishes,

Helen

iii. Cover letter from the RSPO Secretariat:



13 February 2020

To whom it may concern,

Re: Review of the Implementation of the RSPO Remediation and Compensation Procedure (2015)

The RSPO, through the RSPO Biodiversity and High Conservation Value Working Group (BHCVWG), has engaged Dr Helen Newing, to carry out an independent review of the implementation of its Remediation and Compensation Procedure (RaCP), which is required of all RSPO member companies that cleared lands without a prior HCV assessment since November 2005.

When the RaCP was adopted in 2015, it was agreed that an Implementation Review should be carried out. This decision was affirmed by the Board of Governors in 2015 and reaffirmed in a members' Resolution at the General Assembly in 2016.

The RaCP has now been actively applied for over five years. The study is aimed at assessing progress in implementation of the RaCP, identify stakeholder concerns, and make recommendations on future improvements.

As part of this, Dr Helen Newing would be conducting interviews in order to gather information on views, concerns and suggestions. All information provided will be anonymised and will be used solely for the purpose of reporting to the RSPO, unless agreed otherwise in advance. The names of all those consulted will be listed in an Annex, so you would be named there unless you indicate that you would prefer not to be named.

The RSPO hopes that you will extend your support and cooperation to Dr Helen Newing.

Should you have any queries, please direct it to both the persons below:

- a) The RSPO Biodiversity Manager, Khing Su Li: khing.suli@rspo.org; and
- b) The consultant, Dr. Helen Newing: h.s.newing@gmail.com

Yours faithfully,

A handwritten signature in black ink, appearing to read "Julia Majail".

Julia Majail
Standard Development Director

Cc: Co-chairs of the RSPO Biodiversity and High Conservation Value Working Group (BHCVWG)

C. Interview guide

Review of the RSPO Remediation and Compensation Procedure: Guidance questions for use in initial stakeholder interviews²⁹

February 2020

Prepared by Helen Newing³⁰

Name of interviewee:

Institution:

Role:

Date of interview:

Note on confidentiality and anonymity:

The information that you provide will be used solely for the purpose of reporting to the RSPO and will be anonymised prior to reporting, unless agreed otherwise with you in advance. Are you happy for me to include your name in an Annex to the final report to the RSPO listing all those consulted?

YES / NO

My notes and any recording will be used solely for the purposes of the review and will be deleted within a year of the end of the review process. On that basis, are you happy for me to record the interview?

YES/NO

Procedural note: I am using the questions below as an indicative list of topics rather than as a fixed format questionnaire, partly to allow for different people's different areas of experience and expertise. In the interview I would like to focus on your own areas of interest, expertise and experience, and therefore we are unlikely to discuss all the questions in detail.

Indicative questions:

1. What has been your role or involvement in the RaCP?
2. In your view, what aspects of the RaCP are working well and what aspects need further development?
3. The following is a list of the tasks involved in the RaCP. For each of these that you are familiar with, what are your experiences and impressions?
 - i. Disclosure notes
 - ii. The Land Use Change Analysis (LUCA)
 - iii. The concept Note and the Remediation and Compensation Plan
 - iv. Conservation liability, remediation and compensation
 - v. Social liability, remediation and compensation
4. What are your experiences and views about the functioning of the following?
 - i. The BHCV Working Group and Task Force
 - ii. Compensation Panels
 - iii. Coordination with other stakeholders (growers, NGOs, technical experts, community organisations)
 - iv. Internal coordination with other sections of the RSPO Secretariat

²⁹ A shorter, more exploratory set of questions was used for the first five interviews and informed the design of this guide.

³⁰ H.s.newing@gmail.com; skype helen.newing

5. There have been significant delays and shortcomings in implementation of the RaCP since its endorsement by the RSPO in 2015. Is there anything you would like to add on the reasons for these and what needs to be done to address them?

 6. What is your view of the following in relation to the RaCP?
 - i. RSPO capacity
 - ii. Mechanisms for institutional learning
 - iii. Wider training and socialisation
 - iv. Governance, transparency and accountability

 7. The RSPO's mission is to transform markets to make sustainable palm oil the norm. How do you think the RaCP has impacted on this mission, and do you have any suggestions for how this could be improved?
-

That is all I wanted to ask you. At the end of the interview I will ask if there is anything that you would like to add.

D. Participants in the consultation process

Industry (11):

- Audrey Lee, Olam International Limited
- Chin Sing Yun, Wilmar International Limited
- Dr Gan Lian Tiong, Musim Mas Pte Ltd
- Fernanda Murillo, Agroindustrias del sur del cesar Ltda y cia
- Ginny Ng, Wilmar International Limited
- Gotz Martin, Golden Agri-Resources Ltd (GAR)
- Kwame Acheampong, Twifo Oil Palm Plantations Limited
- Laszlo Mathe, New Britain Palm Oil Ltd
- Lee Swee Yin, Sime Darby Plantations
- Lim Sian Choo, Bumitama Agri Ltd
- Pedro Cerrate, Femexpalma

NGOs (5):

- Adam Harrison, ex-WWF
- Cahyo Nugroho, Fauna and Flora International (FFI)
- Lanash Thanda, Sabah Environmental Protection Association (SEPA)
- Marcus Colchester, Forest Peoples Programme (FPP)
- Michael Guindon, WWF (ex-Zoological Society of London, ZSL)

RSPO Secretariat staff (3):

- Oi Soo Chin
- Salahudin Yaacob
- Su Li Khing

Technical advisors and evaluators (5)

- Bukhari, Daemeter
- Erik Meijaard, Borneo Futures
- Faizal Parish, GEC
- Jenny Lucey, SEARRP
- Dr Kasturi Devi, Universiti Teknologi Malaysia, UTM

ANNEX 3: THE DISCLOSURE NOTE TEMPLATE

A. Draft disclosure note cover sheet

This draft is based on the disclosure note for RaCP 1531, which includes separate excel spreadsheets for each of 16 estates, labelled by three-letter abbreviations.

The purpose is to make information more accessible on what estates are included and to clarify the relationship between estates, mills, subsidiaries and RSPO member companies. Addition of the RaCP ID numbers will also make it possible to find information on a specific estate from this cover sheet alone, instead of having to open every sheet in the Excel file. Inclusion of the RSPO membership number will assist in cross-referencing with other RSPO processes.

Draft cover sheet for multi-site disclosures

RSPO member company name:			
RSPO membership number:			
Name of subsidiary company (if different):			
Total number of estates held:			
Number of estates included in this submission:			
Country of operations:			
A SEPARATE SPREADSHEET MUST BE SUBMITTED FOR EACH ESTATE (CONCESSION AREA)			
Date of submission:			FOR OFFICIAL USE:
Name of mill	Name of corresponding estate(s)	Estate disclosure note: Sheet Number	RaCP ID number (for each estate)
		1	
		2	
		3	
		4	
		5	
		6	
		7	
		8	
		9	
No Mills yet		10	
		11	
		12	
		13	
		14	

B. Critique of current disclosure note template (version 3): Identifying social liability

		Review comments
	3. IDENTIFYING SOCIAL LIABILITY FOR THE LOSS OF HCVs 4, 5, & 6	
To demonstrate that growers do not have outstanding social liability under the RaCP, the following should be provided as evidence to the RSPO Compensation Panel:	i) Communities/users' livelihoods or uses in the permit area at the time of clearance were identified.	The explanatory guidance does not make sense because the questions are not about evidence. Also, it prejudices the case by asking only for evidence for a lack of outstanding social liability.
	ii) Potential negative social impacts were identified in environmental and/or social impact assessments.	
	iii) Remediation was made for these impacts.	Remediation measures should only be defined and undertaken once liability has been properly assessed and reported, and with due FPIC process. Therefore questions about remediation belong later in the RaCP.
	iv) There has not been clearing without remediation of areas required to:	The grammatically correct answers to 'there has not been clearing' are 'yes there has' or 'not there has not'. However, the double negative is used differently in different languages and it is clear from a sample of disclosure notes that some respondents are using yes and no the other way around (yes there has not and no there has). Therefore the responses to these questions are ambiguous.
	- maintain environmental services to communities;	
	- meet communities' basic needs; and	
	- protect areas that are crucial to communities' cultural identity	

Contributory evidence of adequate engagement with communities to address the above issues may include:	<ul style="list-style-type: none"> ○ Environmental and social impact assessments; 	For the first four points, to be meaningful the question needs to be divided into whether such documentation is available and (as a separate question whether it provides evidence of adequate engagement). However this is a complex matter and requires a social liability report, so it can be omitted from the disclosure note other than in cases where there is evidence that there was no use of the area by local people prior to clearance.
	<ul style="list-style-type: none"> ○ Documentation of free, prior and informed consent (FPIC) processes; 	
	<ul style="list-style-type: none"> ○ Land-use maps based on participatory exercise; 	
	<ul style="list-style-type: none"> ○ Documentation of land acquisition process; 	
	<ul style="list-style-type: none"> ○ Absence of unresolved land disputes; 	These last three points are not 'evidence' but aspects that may be reported on in the above documents.
	<ul style="list-style-type: none"> ○ CSR activities that demonstrably maintain, enhance, or remediate for social HCVs; and 	
	<ul style="list-style-type: none"> ○ Consultations with communities demonstrate no social liability. 	

C. Draft new disclosure note template (proposed as the basis for version 4)

Reporting Template: Disclosure of Areas Cleared without Prior HCV Assessment since November 2005	
A SEPARATE SPREADSHEET MUST BE SUBMITTED FOR EACH ESTATE (CONCESSION AREA)	
Date of submission	
1. COMPANY INFORMATION	
1.1 - Name of RSPO member	
1.2 - RSPO membership number	
1.3 - Date of joining RSPO	
1.4 - Name of reporting subsidiary (if different from the above)	
Box 1.5 Date of first RSPO certification	
2. INFORMATION ABOUT THE INDIVIDUAL ESTATE (CONCESSION AREA)	
2.1 Name of the estate	
2.2 Location of the estate:	
District	
Province	
Country	
2.3 Date of acquisition	
2.4. Name of mill supplied by the estate	
2.5 Size of the estate (hectares)	
3. INFORMATION ABOUT NON-COMPLIANT LAND CLEARANCE³¹	
Box 2.1. Has there been any land clearance since Nov 2005 without prior HCV assessment?	Y/N
	IF NO, GO TO QUESTION 3.
Box 2.2 - If so, in which years did land clearance take place?	
Box 2.3 - Land areas cleared, by time period:	
November 1, 2005 to November 30, 2007	area [ha]
December 1, 2007 to December 31, 2009	area [ha]
January 1, 2010 to May 9, 2014	area [ha]
Since May 9, 2014	area [ha]
Total area (hectares)	area [ha]
Name of controlling company at the time of non-compliant land clearance	
RSPO status of controlling company at the time of non-compliant land clearance	Member / non-member / unknown (delete as applicable)
4. INFORMATION ABOUT HCV AND HCSA ASSESSMENTS	

³¹ IF the LUCA is moved in-house to the Secretariat, this section will need to be reviewed and adjusted to include only essential information to enable the Secretariat to proceed.

Reporting Template: Disclosure of Areas Cleared without Prior HCV Assessment since November 2005	
A SEPARATE SPREADSHEET MUST BE SUBMITTED FOR EACH ESTATE (CONCESSION AREA)	
Date of submission	
4.1 What is the current status of the HCV assessment?	Approved / under way / in review (DELETE AS APPROPRIATE)
4.2 Year of HCV or HCSA assessment (if any):	
4.3 Type of assessment:	HCV / HCV-HCSA (DELETE AS APPROPRIATE)
4.4 If an HCV-only assessment has been carried out, has an HCS standalone assessment also been carried out?	Y / N / underway / in review / not applicable
4.5 Year of HCS standalone assessment (if applicable):	
3. INFORMATION ABOUT POTENTIAL SOCIAL IMPACTS	
Were local people using the area prior to non-compliant land clearance?	Y/N /not known
If you have answered no to the above question, please describe the basis for your answer and where possible submit evidence with this disclosure note. IF the evidence is deemed to be sufficient, then the need for a social liability report will be waived.	
Any additional comments?	

ANNEX 4: SUMMARIES OF FIVE REMEDIATION AND COMPENSATION PLANS

Case study 1: On-site conservation compensation and remediation for a single management unit under option 1 (hectare for hectare)

Institutional arrangements:

Managed directly by the company as part of the concession's conservation management plan. Five-year budget at a fixed dollar rate per hectare per year. To be renewed at five-year intervals for a total of 25 years.

The site conservation management plan:

The on-site Remediation and Compensation Plan aims to "add and build on the high conservation values and social impact management programmes that have already been developed and implemented", with a focus on landscape connectivity. The total area allocated for conservation is 2,575 hectares (28% of the concession area), of which remediation and compensation makes up 1,335 hectares. Activities include the following:

- Set-aside of 1,240 hectares of HCV areas
- Maintenance and improvement of soil condition and vegetation diversity within oil palm plantings, including by means of integrated pest management and encouragement of epiphytes and natural vegetation
- Monitoring of HCVs, of threats and of ecological and social impacts
- Regular socialisation and communication with stakeholders

Environmental Remediation:

- Abandonment of some 150 hectares of steep slopes that had been clear but not planted or only partially planted, and remediation of 127 hectares of riparian buffers, with enrichment planting and removal of young oil palms

Social remediation and compensation:

- None, because no social liability was declared.

Conservation compensation:

- Set-aside of a total of 745 hectares as conservation corridors and "stepping-stones", over and above the requirements related to maintenance of HCV areas;
- Widening and restoration of riparian buffers by 313 hectares over and above recommendation by HCV assessors, with enrichment planting and removal of young oil palms.

Case study 2: On-site conservation compensation and remediation for multiple management units under option 1 (hectare for hectare)

Institutional arrangements:

To be overseen initially by an internal cross-departmental company steering committee, with subsequent establishment of co-management committees and gradual transfer of leadership to local communities at each site. It is stated that the company has a 'holistic budget' for 25 years and will explore a wide range of co-funding opportunities. The aim is that the project will become financially self-sustaining.

Environmental Remediation:

A one-page summary is presented of remediation and social compensation for each of fourteen management units. Remediation measures include the following:

- 1,927 hectares of HCV areas identified as damaged or planted, mostly in riparian areas.
- Remediation through enrichment planting, limited maintenance, pocket fertilisation and manual palm oil harvesting until the existing harvesting cycle has ended.
- Remediation of peat soils with limited use of chemicals, fire detection and prevention measures, monitoring of water levels and subsidence, and rehabilitation and reforestation of low-yielding areas.
- For remediation of areas on community-owned lands, a community participatory spatial planning and FPIC process is planned.

Social remediation and compensation:

No measures are described as social remediation and compensation but there is a strong emphasis on developing alternative livelihoods activities to replace unsustainable activities such as logging, hunting and mining, including by local communities, and also to negotiate alternatives with communities for the impacts of the required environmental remediation of areas on community-owned lands (through a community participatory spatial planning and FPIC process).

Conservation compensation:

A single conservation compensation plan is presented summarising measures across four management units that will contribute to compensation across the whole group. Compensation measures involve the creation of 6,875 hectares of new conservation areas, the development of sustainable alternative livelihoods options, and the creation of a new research and training centre to inform the development of multifunctional management approaches. Planned conservation areas include 2,500 hectares as a buffer to a neighbouring national park, 2,650 hectares of HCV set-aside, and an 800-hectare community forest (*hutan desa*). Potential alternative livelihoods activities mentioned include use of non-timber forest products; handicraft production; ecotourism; improved farming, including agroforestry and domestic livestock production; collection and cultivation of indigenous plants; fish farms; recycling of farm waste for energy, fertiliser and animal feed; and environmental guardians programmes.

Case study 3: Off-site conservation compensation for two neighbouring management units under option 1 (hectare for hectare).

Institutional arrangements:

The company had committed to the conservation project in 2008 (prior to the establishment of the RaCP). A limited company was created and granted a 60-year licence fee to manage two areas of limited production forest neighbouring a national park as private conservation areas in coordination with a local NGO, the local government and the neighbouring National Park Authority. The budget is set at an average dollar rate per year for 25 years, with higher spending in the early years. Limited income generation is expected after about ten years from crop-sharing by farmer groups and possibly from tourism, and there will be potential for timber exploitation after 20 years.

Environmental Remediation:

None, because no need for remediation was identified.

Social remediation and compensation:

None, because no social liability was declared. Settlers are stated to be mostly landless farmers from outside the 15 local villages.

Conservation compensation: off-site under option 1.

- Gazettement and demarcation of the two project areas as Ecosystem Restoration Areas
- Demarcation, patrolling and strict enforcement to stop illegal logging and farming by local people. All existing smallholder palm oil will be destroyed. Local people are stated to be mostly landless farmers from outside the 15 local villages.
- Ecological restoration of degraded areas. Some of this will be done by forestry farmer groups on allocated plots of land. The limited company will hold land rights to the plots, allocate areas for planting by each forestry farmer group, develop management plans, provide planting materials and supervise planting. Forestry farmer groups will pay rent in the form of crop-sharing.

Case study 4: Off-site conservation compensation and remediation related to non-compliant clearance by smallholders (outgrowers) under option 2 (dollar payment per hectare final liability)

Institutional arrangements:

The off-site conservation compensation will consist of extra activities in the buffer zone of a nearby National Park. Activities will be led by the government conservation authority and the company will pay the required costs directly over a period of seven years according to an agreed budget. Implementation will be overseen by a committee including representatives of the company, the forestry authority and a technical support organisation, to meet twice a year and additionally as necessary.

Environmental Remediation:

Delineation and maintenance / enhancement of riparian buffers, including in outgrower plots. Includes application of company SOPs for riparian buffer management, a ban on use of agrochemicals in the buffer areas; smallholder training and capacity-building, and vegetation restoration where appropriate.

Social remediation and compensation:

It is stated that there were no impacts on HCV 5 & 6 areas during the original land clearance and planting “because the local farmers cleared part of their own existing farmlands”. The proposed environmental remediation measures, however, will have a substantial impact on some outgrowers because they involve restricting production in a high proportion of their lands. The Remediation and Compensation Plan states that the company “recognizes the rights of the local population to give or withhold consent to remediation and compensation actions that may affect their lands” and sets out quite a detailed description of the FPIC processes “to be undertaken during the planning and implementation of remediation & compensation”, but no FPIC had been sought prior to finalisation of the Plan. Non-agreement by farmers to proposed remediation measures on their lands is cited as a risk for implementation of the plan. Mitigation measures listed involve education, sensitisation and training, but not compensation or the provision of alternative lands.

Conservation compensation:

- Awareness-raising, education, training and capacity-building of communities around the National Park
- Establishment of Community Resource Management Groups (CRMGs)
- Training / capacity-building of CRMGs in human-wildlife conflict management and in establishment of woodlots to reduce dependence of forest and provide revenue
- Cleaning and planting of Park boundaries
- Control of illegal logging, hunting and farming: purchase of equipment, training, patrolling.
- Monitoring and periodic evaluation.

It is stated that a full FPIC process will be undertaken during the planning and implementation of remediation and compensation actions, and that there will be participatory monitoring and evaluation of implementation.

Case study 5: Off-site compensation under Option 2 (dollar payment per hectare final liability)

Institutional arrangements:

The company will provide funding through an intermediary organisation.

Environmental Remediation:

- Restoration of riparian areas involving a combination of natural and assisted regeneration, soil and riverbank securement, and improved flood control systems. Existing oil palms will be left in place until understorey is sufficiently recovered.
- Peat areas that have been cleared will be managed according to RSPO Best Management Practices.

Social remediation and compensation:

None. Prior use by communities and potential social impacts were declared in the disclosure note but the Plan reports no uncompensated social liability, based on findings in the HCV assessment that local people used water sources from wells or rivers outside the concession area, that their former plantations inside the concession had already been relinquished and compensated, that they no longer depended upon forest products as their main source of income, that they were using other locations for crop cultivation, and that sacred areas were still being maintained.

Conservation compensation:

The conservation compensation project consists of tree-planting in a pre-existing nature reserve neighbouring a National Park. This is part of a much larger project to restore and protect degraded peatlands. The Reserve has been operational since 2008.

Conservation compensation:

It is stated that a full FPIC process will be undertaken during the planning and implementation of remediation and compensation actions, and that there will be participatory monitoring and evaluation of implementation.

Specific activities:

- Rehabilitation, including tree-planting, across 400 hectares of degraded peatland in an existing Ecosystem Restoration concession neighbouring a National Park.
- Community members to be paid for planting and for seedlings
- Monitoring and firefighting measures

ANNEX 5: RECENT DEVELOPMENTS IN GLOBAL CONSERVATION POLICY ON LONGEVITY

For government-managed conservation areas, requirements related to longevity are usually written into binding policy and legislation. However, for other types of conservation area, including private protected areas (PPAs) and indigenous and community conserved areas (ICCAs) this is not always the case and therefore whilst long-term conservation must be an aim in order for these areas to be recognised as conservation areas.

This concept has been developed in most detail in the **IUCN best practice principles on longevity for Private Protected Areas (2018)**. The guidelines stated that key preconditions for longevity are as follows:

- There must be secure land tenure and resource rights over an area that is large enough (or well-enough connected with similar areas in the landscape that are also conserved) to maintain ecosystem processes and biodiversity over time.
- There must be a firm, documented commitment to land and resource management that is compatible with positive conservation outcomes in perpetuity, or at least for a minimum of 25 years. This commitment may be linked to a legal conservation designation; to other legally binding instruments such as trust agreements and covenants, or to other formal commitments, such including in customary law.
- There must be an appropriate written account of how this commitment will be implemented over time. Details should include the planned financial resourcing; permitted land use and land-use restrictions; active management measures; monitoring and revision procedures, and measures to deal with non-compliance with the commitments made.

In some cases, an initial outline agreement may be put in place while a detailed plan is developed. Where this is done the outline agreement must include details of how it is intended to be developed, the timescale, how it will be monitored and reported, and what will happen in the case of delays or non-fulfilment.

Principle 4.1 states that governance should embody the long-term intent to achieve conservation. Some relevant stipulations are:

- 4.1.1: Permanence is best secured through legal instruments empowering governance
- 4.1.2: Where a legal instrument is not possible, agreements should be renewable, and the conservation intent should be in perpetuity
- 4.1.3: Where a legal instrument or status is not available or feasible, some transparent proof of 'long-term' intent should be developed
- 4.1.4: Individual conservation intent should be secured for future ownership (in other words, there should be mechanisms in place to ensure that intent for conservation does not change with changes in ownership)
- 4.1.6: There should be mechanisms in place to ensure that intent for conservation does not change with leadership
- 4.1.7: Government programmes enabling or encouraging private conservation should include provisions for permanence

Similarly, guidance published by the World Commission on Protected Areas on other effective area-based conservation measures defines longevity in terms of “the probability of the conservation outcome being maintained over the long term through legal or other effective means (such as, customary laws or formal agreements with landowners). This test emphasises the difference between current conservation efforts that can be reversed easily and a measure that can sustain conservation outcomes over the long term”.

SOURCES

IUCN-WCPA Task Force on OECMs, (2019). Recognising and reporting other effective area-based conservation measures (OECMs). Gland, Switzerland: IUCN.

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The RSPO is an international non-profit organisation 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.

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