

## Annex 2: Project Criteria Guidance

The RSPO Remediation and Compensation Procedures highlights that biodiversity compensation projects should be planned and implemented so as to maximise conservation benefits and outcomes in relation to invested resources, accounting for landscape contexts, regional conservation priorities and institutional/legislative frameworks. Therefore, projects should be adequately resourced, have clearly defined goals, timeframes and responsibilities, to deliver outcomes that are additional, long lasting, equitable, and knowledge-based. The following sections provide more details on these criteria.

### **Additional**

The BBOP glossary defines additional conservation outcomes as “conservation gains over and above what is already taking place or planned<sup>1</sup>”, and as “conservation outcomes (that are) demonstrably new and additional and would not have resulted without the offset<sup>2</sup>”.

Thus, to qualify as additional, conservation projects must be either:

- New, as in not already implemented or planned; or
- (If already existing), be amended or extended so that conservation outcomes are enhanced beyond what is currently achieved, or planned or funded to be achieved.

Another implication is that measures or activities that compensation candidates are required to do anyway, e.g. to comply with RSPO standards, RSPO membership procedures, legislation or nationally applicable treaties or conventions, cannot be considered additional. As an example, maintenance of HCVs cannot be considered additional as it is required by the RSPO standard, while enhancement of HCVs goes over and beyond minimum requirements and may therefore be considered additional. The same applies to e.g. restoration of riparian vegetation: measures to restore vegetation as required to comply with legislation and/or RSPO P&Cs cannot be considered additional, while (those) restoration measures that go beyond such basic requirements should qualify as additional. Measures related to protected areas which are the responsibility of governments to maintain in public interest will also normally not be considered additional.

However, where options or opportunities exist to address weaknesses or failures in protection or management of protected areas (as described in the IUCN Protected Areas Categories System<sup>3</sup>, including such areas designated by government), then compensation proposals which seek to address the weaknesses or failures can be considered to be additional. In such cases, the compensation proposal must present an argument which includes a statement of the IUCN category to which the compensation target proposal

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<sup>1</sup> BBOP Biodiversity Offset Design Handbook Updated

<sup>2</sup> BBOP Glossary

<sup>3</sup> [http://www.iucn.org/about/work/programmes/gpap\\_home/gpap\\_quality/gpap\\_pacategories/](http://www.iucn.org/about/work/programmes/gpap_home/gpap_quality/gpap_pacategories/)

belongs and an explanation of how the proposal will bring current weaknesses or failures up to the intended IUCN standard.

As 'avoided deforestation' is likely to be a commonly proposed compensation measure, it will be important for Compensation Panels to assess to what extent such measures qualify as additional. The idea is clear: to protect forests (on site or off site) that would otherwise be severely degraded and/or permanently converted to other land use. However, for such protection to be considered additional, a strong case must be made that the default scenario is indeed degradation or deforestation. As an example, the Australian Government Carbon Farming Initiative<sup>4</sup> only gives avoided deforestation credits to forests with a formal permit to be converted to cropland or grassland issued prior to 1 July 2010.

## Long lasting

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

To ensure compensation measures are long-lasting, the following requirements shall be met:

1. The planned duration of the compensation project shall be clearly stated in the proposal. That shall be at least 25 years but shall also explain why the expectation is that benefits will not continue to be delivered for longer, if that is the case.
2. Evidence shall be available that those responsible for implementing the plan have the requisite capacity and resources for the duration of the plan.
  - The plan should have specific time-bound goals, objectives and activities, and clearly assign roles and responsibilities for the company and all other stakeholders involved in its implementation. In particular agreements outlining expectations, understandings and commitments with external stakeholder should be documented.
3. Legal and financial plans and mechanisms<sup>5</sup> shall be in place to guarantee the viability of the compensation project for its planned duration, including under foreseeable conditions of a sale, or transfer of ownership or management of either the company and/or the project itself.
  - Therefore a compensation proposal shall include:
    - **A financial plan:** This shall include a budget to cover estimated the costs of activities required over the planned life of the project (including costs associated with building the capacity to implement the defined measures), along with an indication of the source of the funds available for this purpose.

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<sup>4</sup> <http://www.environment.gov.au/system/files/resources/24af3360-05ee-45ee-addb-e018d0df34d5/files/factsheet-avoided-deforestation-9jan2014.pdf>

<sup>5</sup> Information on options for financial plans and mechanisms, including conservation trust funds and alternative approaches, as well as information on legal issues, are discussed in BBOP's Offset Implementation Handbook, available at [www.forest-trends.org/biodiversityoffsetprogram/guidelines/oih.pdf](http://www.forest-trends.org/biodiversityoffsetprogram/guidelines/oih.pdf).

- **A clear mechanism for delivering the required finance:** As well as knowing how much the compensation activities will cost and where the funds will come from, a mechanism will be needed to disburse and deliver the funds. The financial mechanism will need to be in place to guarantee financing for as long as the project operates.

## Equitable

Where companies have cleared HCVs after 2005, under defined circumstances RSPO allows member companies to avoid sanctions as long as they provide a remedy or make compensation for the HCVs destroyed. One option is to secure additional compensatory HCV areas to make up for those lost. A requirement is that these compensation areas (sometimes referred to as 'offsets') are established in an equitable manner (see box below).<sup>6</sup>

*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

In line with the RSPO P&C, and to ensure equitable outcomes in the compensation areas, the following provisions and associated Indicators and Guidance apply (adjusted to suit compensation areas set up to compensate for HCVs lost in the original operation(s)):

**1.1** Growers and millers provide adequate information to relevant stakeholders on environmental, social and legal issues relevant to RSPO Criteria, in appropriate languages and forms to allow for effective participation in decision making.

**1.2** Management documents are publicly available, except where this is prevented by commercial confidentiality or where disclosure of information would result in negative environmental or social outcomes.

**2.1** There is compliance with all applicable local, national and ratified international laws and regulations.

**2.2** The right to use the land for compensation areas is demonstrated, and is not legitimately contested by local people who can demonstrate that they have legal, customary or user rights.

**2.3** Use of the land for compensation areas oil palm does not diminish the legal, customary or user rights of other users without their free, prior and informed consent.

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<sup>6</sup> RSPO, 2014, *RSPO Remediation and Compensation Procedures Related to Land Clearance without Prior HCV Assessment*, RSPO, Kuala Lumpur.

**6.2** There are open and transparent methods for communication and consultation between growers and/or millers and those managing compensation areas, local communities and other affected or interested parties.

**6.3** There is a mutually agreed and documented system for dealing with complaints and grievances, which is implemented and accepted by all affected parties.

**6.4** Any negotiations concerning compensation for loss of legal, customary or user rights are dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions.

**6.13** Growers and millers respect human rights.

**7.1** A comprehensive and participatory social and environmental impact assessment of the compensatory areas is undertaken, and the results incorporated into planning, management and operations.

**7.5** No compensation areas are established on local peoples' land where it can be demonstrated that there are legal, customary or user rights, without their free, prior and informed consent. This is dealt with through a documented system that enables these and other stakeholders to express their views through their own representative institutions.

**7.6** Where it can be demonstrated that local peoples have legal, customary or user rights, they are compensated for any agreed land acquisitions and relinquishment of rights for compensatory areas, subject to their free, prior and informed consent and negotiated agreements.

A detailed Guide on how to comply with these requirements has recently been developed by RSPO.<sup>7</sup> Additional guidance can be obtained from Business and Biodiversity Offset Programme.<sup>8</sup>

#### *Legality, management and monitoring considerations:*

Companies establishing compensation areas outside their own land banks must pay particular attention to the legal and management security of these areas to ensure long term sustainability and equity. Communities with rights and livelihoods in the compensation areas need to be assured of the benefits of conserving these areas and the areas' managers (whether communities, companies, NGOs or government authorities) need to be legally assured of their authority and control of the area.

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<sup>7</sup> RSPO and FPP, 2015, *Free, Prior and Informed Consent, A Guide for Members*. RSPO, Kuala Lumpur.

<sup>8</sup> Business and Biodiversity Offsets Programme (BBOP). 2009. *Biodiversity Offsets and Stakeholder Participation: A BBOP Resource Paper*. BBOP, Washington, D.C; Business and Biodiversity Offsets Programme (BBOP). 2012. *Guidance Notes to the Standard on Biodiversity Offsets*. BBOP, Washington, D.C.

Innovative management and tenurial options should thus be considered including establishing lands as:

- Protected areas, where rights are respected, communities have a strong role in (co-) management and adequate provisions are made for livelihoods;
- Community-owned and/or -controlled forests, which the community in question would not otherwise have secured clear rights to.

In cases where companies themselves will not be the managers or co-managers of the compensation areas, provisions need to be made for monitoring by the parties with authority over these areas.

## **Knowledge-based**

Knowledge-based is defined as based on sound scientific and/or traditional knowledge<sup>9</sup> with results widely disseminated and communicated to stakeholders and partners in a transparent and timely manner. Compensation packages can encompass compensation requirements for hectare per hectare forest restoration as per national legal requirements. These will be evaluated on a case by case basis for fulfilment of RSPO Compensation Panel's objectives and will be monitored and evaluated within the Compensation Panel in addition to other evaluation activities by third parties.

The compensation package should be developed using the most up to date scientific evidence and fully referenced factual information available. The evidence presented should be used to robustly justify that the proposed course of action will have maximum conservation benefit, longevity, additionality and equitability, and is the best option available.

The "knowledge base" can include peer-reviewed scientific literature, and information in the public domain from NGOs, private companies, government or other sources, and may include GIS information, maps and environmental and social field surveys. Anecdotal information, expert opinion and other qualitative forms of evidence may be submitted only to further support other quantitative pieces of evidence, and the source should be clearly cited. An example of where this form of evidence may be permissible would be to elucidate whether a particular conservation technique shown to work elsewhere would expect to have the same

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<sup>9</sup> The Convention on Biological Diversity seeks to protect communities' traditional knowledge, access and benefit-sharing and sustainable customary use (Articles 8j, 10c and related articles) and support them in developing remedial measures in degraded areas (Article 10d). To deepen understanding of how communities and traditional knowledge can secure ecosystems the InterGovernmental Platform on Biodiversity and Ecosystem Services has a work stream on traditional knowledge. Some useful links on how to apply traditional knowledge to secure ecosystems include the following:

<https://www.cbd.int/traditional/>

<https://www.cbd.int/tk>

<https://www.cbd.int/abs/>

<http://www.ipbes.net/>

<https://tkbulletin.wordpress.com/category/2-international-organisations/ipbes/>

<http://www.forestpeoples.org/topics/environmental-governance/customary-sustainable-use>

benefits in the chosen location. Pieces of evidence which are not available for scrutiny by the compensation panel may not be used in support of the proposal.

The knowledge base should inform and support the choice of geographical location of the compensation action, the methods and practices adopted, and the expected impact of the compensation action. It is important to consider the impact of the compensation action in the context of the wider landscape and regional scale to ensure that the maximum conservation benefit is achieved, and that there are no unintended negative impacts, for example, if community hunting activities could be displaced to more vulnerable locations, or downstream water resources affected. The knowledge base should be consulted to identify where placement or type of compensation activity might provide greatest added value in the landscape or regional context, for example, by increasing habitat connectivity, benefiting more species, protecting rare habitat or creating greater co-benefits for local communities.

Novel and experimental conservation projects where there is little existing scientific evidence available to indicate their effectiveness, should include a clear knowledge-based rationale for why they are the chosen option, and the compensation package should include provision for a robust research and monitoring programme from which the findings will be made publically available to inform future conservation efforts.