

Suspension of IOI Group's Certification

The RSPO Complaints Panel at its meeting on 17 March 2016 recommended IOI's suspension to the RSPO Board of Governors (BoG) in view of infringements of the RSPO Principles & Criteria. The BoG agreed that the suspension shall be effective commencing on midnight, the 31st of March 2016 (Malaysian time).

The Panel convened on Thursday 31 March 2016 to deliberate on the details of the implementation of suspending the certification of IOI Group of Companies as of 1 April 2016.

In its deliberations on 31 March, the Panel was mindful that its main objective was to ensure that IOI not only put forward a comprehensive plan of remediation, but also implements the plan at the earliest possible opportunity, to enable the suspension to be lifted.

The Panel's mandate is to deliberate on complaints against members and prescribe appropriate sanctions if the rules of the RSPO were infringed upon. In prescribing these sanctions, the Panel recognises the responsibility it has to mitigate unintended negative consequences that might befall stakeholders linked to the affected member. Especially if these stakeholders have been supporters of RSPO's vision and mission.

The Panel acknowledged that they do not have the specialized expertise to resolve the complex supply chain problems which might arise from the IOI suspension. Therefore, the Panel has requested the Secretariat to produce a working paper which addresses these potential problems as such expertise is available within the RSPO Secretariat.

Set out in the Appendix to these memorandum, is the expert opinion on how these problems could be addressed with minimal implications for the disruption of the sustainable palm oil products market especially in Europe.

The Panel has deliberated on these proposals in considerable detail and concluded that the proposals in the Appendix attached offered solutions, which would help mitigate unintended consequences to stakeholders who are within the IOI supply chain.

Appendix: Working Paper

The discussion around the suspension of the certificates of the IOI Group has produced numerous detailed questions and deliberations on the effects of such a measure. This also includes discussions about variants and what is allowed and not allowed after suspension.

This note is as comprehensive as possible, based on the questions raised by IOI, its supplier, competitors and expert market experience. At the same time, it has been tested against the current RSPO rules.

1. Supply of stock of product in tank or in transit to customers.

All products which are produced in a particular site, before the date of suspension can by definition be labelled as certified. The scope as mentioned on the certificates typically will use the wording of “production of”. Meaning that products which are already in transit from that particular site on their way to customers is permitted to be claimed as RSPO certified.

At the same time, the stocks in the product tanks is allowed to be delivered out to customers as RSPO certified products. However, no further processing is allowed from this point. This includes blending, packing or other operations.

Full disclosure of all certified stocks of oil palm products by 3rd April 2016 (00:01h Kuala Lumpur time) will be required, per product, per site, per SCC model (IP, SG, MB).

2. Selling of GreenPalm (GP) certificates.

An explanation of a scenario:

A certified mill can sell its total certified volume in GP certificates on day one of its license period. That means that for the rest of the year, the mill is not allowed sell any extra volume physically or through certificates.

That also means that, if a suspension occurs halfway through the license year, the mill has effectively oversold itself. So the mill has to check and disclose the total sales of GreenPalm certificates (if any). IOI will not be allowed to sell GreenPalm certificates as of 4 April 2016 (00:01h Kuala Lumpur time) until the suspension is lifted. Buyers of certificates from IOI prior to 4 April will not be affected and can make RSPO related claims as usual.

This rule complies with the RSPO certification requirements.

3. Can IOI continue to trade RSPO Certified Sustainable Palm Oil products?

RSPO provides for traders and distributors. They do not have to be certified, but need a license (to be approved by RSPO) to be able to buy and sell. Traders cannot take physical possession (e.g. storage responsibilities); distributors cannot relabel or repack. Full details are spelled out on the RSPO website (<http://www.rspo.org/resources/key-documents/certification/rspo-supply-chain-certification>).

IOI, can, as an RSPO member, apply for a trader's license and, as a result, buy the crude oil from a certified mill (competitor of IOI), sell this to a certified refinery (IOI competitor), buy back the refined products and sell this to the IOI customers. The effect is that IOI will have to make commercial arrangements with its competitors, but at the same time the downstream customers of IOI will be supplied with products according to the contracts they have. Assuming that the supply of CSPO from the IOI competitors is enough to fulfil the demand, and the refining capacity is present, the downstream market will not be badly disrupted. The only problem may come in an area where IOI has tailor-made products from its speciality refinery in Wormerveer, the Netherlands.

The Panel is aware that there may be IOI customers who depend commercially and significantly on IOI as their supplier of specialist palm oil products. Such customers will no doubt have adequate risk management processes in place to cope with the implications of this suspension.

4. Can IOI equipment be used for tolling/outsourcing?

In the Supply Chain Certification (SCC) standard it is clearly defined that SCC operations can be outsourced with a number of conditions (see RSPO Supply Chain Certification Standard 5.5).

That means that an IOI competitor (RSPO certified) can supply CSPO to the (non-certified) IOI refinery, and CSPO can be refined/modified there and supplied back to the competitor. The competitor can then supply the (ex)-IOI customers. The certificate holder has to make sure that the outsourcing operation is included in its scope when undergoing third party audits from RSPO Certification Bodies (CB).

The CB has to decide whether the unit to which it has been outsourced (IOI refinery) has to be visited or not, as it depends on the risk. Typically for refining operations a visit is undertaken, as this is potentially risky for Identity Preserved (IP) and Segregated (SG) material.

Tolling/outsourcing is a potential solution to mitigate immediate shocks in the temporary disruption of supply in the EU market, as a result of the suspension of the IOI refineries.

5. The Panel is aware that suspension of IOI may have adverse repercussions on certified Fresh Fruit Bunch (FFB) suppliers to IOI mills. The Panel considers that this is a matter which IOI will have to resolve by individual discussion with RSPO certified FFB suppliers.
6. RSPO is aware that a number of queries will inevitably be raised as a result of the IOI suspension, as such please contact Inke van der Sluijs (inke@rspo.org) for queries related to EU market and Jan van Driel (janvandriel@rspo.org) for the rest of the world.

*due to the fact that the working paper from the Complaints Panel was only available on midday 1 April 2016, the suspension becomes effective as of Monday 4 April 2016.

RSPO Secretariat on behalf of Complaints Panel
31st March 2016