

Public Consultation On RSPO Remediation & Compensation Procedures Summary

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Sari Pan Pacific, Jakarta

Summary Report prepared
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RSPO

Roundtable on Sustainable Palm Oil

General comments

1. Detailed explanation and example of land cover classification (for example primary forest) for each coefficient to avoid misinterpretation.
2. Adding vegetation coefficient between 0.4 and 0.7 (one group). Coefficient 0.4 and 0.7 could not be differentiated (a different group).
3. NDA between parties that are processing LUCA and company.
4. Setting a time limit for LUCA review to avoid disadvantaging members.
5. Guidelines/clarification in cases in which the compensation & remediation area overlap, to avoid double counting.
6. All types of land clearing for non-commercial purposes should not be compensated.
7. Provision of forest resources (PSDH) or retribution fee, which has been paid to the government need to be considered as factors that reduce compensation.
8. The certification process should be continued while LUCA process and compensation plan take place (no need to wait for approval).
9. The new membership comes into effect after disclosure, no need to wait for LUCA's review.
10. Explanation concerning the process in cases in which Complaint Panel receives reports concerning RSPO member that is still processing its LUCA.
11. The certification process could be continued and the complaint closed once the concept note for compensation and remediation is received by RSPO.
12. Equal priority for both on-site and off-site. Some companies may prefer on-site project because it could be managed directly and benefit for the local community.
13. The definition for off-site, including links to several types of permits.



General comments

14. The cost of compensation project planning should be included in the compensation cost.
15. It is necessary to have the list of potential third parties to be invited to cooperate in the conservation project.
16. Parameter for the four project criteria.
17. Provide examples of remediation and compensation project that have been implemented and sample for HCV 5&6 as Annex to provide guidance for companies.
18. Transparency on members of Compensation Panel.
19. RSPO to cover the cost of reviewing the compensation plan.
20. Detailed explanation on social compensation and accounting standards on HCV.
21. Clarification in cases of acquisition both between RSPO members and between RSPO member and non-member.
22. Clarification in terms of corporate's responsibilities once it has paid the compensation cost towards a third party – what happen if problems arise in the project?
23. Clarification on the process in which non-compliance of compensation projects are sent to the Complaints Panel.
24. The procedures need to pay more attention and provide references to the law and regulation in the relevant countries.
25. What if smallholders refuse to implement compensation process?
26. It is necessary to have a timeline for the entire process.
27. Speeding up the FPIC guidelines because it is part of the procedures.



Specific comments or proposed changes to text

1. Issues that were discussed and recommendations from the workshop on LUCA need to be accommodated in the procedures and Annex 1.
2. Reference date must be specific, for example 1 November and 31 December. If satellite imagery is not available for such dates, then it is necessary to look for images on subsequent (eg. 2 November, dst) to a certain limit.
3. Matrix: Point 3 after 9 May 2014, it is recommended that the vegetation coefficient that is tradable as certified product is changed to ≤ 0.7 .
4. It is recommended to have a separate remediation for HCV 4 (instead of combined with HCV 5&6), because it might only concerns technicalities and does not required participatory mapping.
5. "Groundtruthing" process in the flowchart of Annex 1 concerning LUCA should be deleted because it is impossible to be implemented for past clearance, or at least it is made optional and with additional implementation technical quidelines.
6. Glossary need to be inserted as a separate sub-chapter
7. The structure of the new document needs to be improved, Section 12 and 13 (social) should be placed before the project planning instead.

Responses to questions

How appropriate, effective and feasible will it be to request companies to submit top management-approved SOPs as evidence that they have taken steps to avoid new non-compliant clearing? If not appropriate, what could be alternative sources of evidence?

- 3 groups suggested its appropriate and needs to be monitored by Certification Body.
- 1 group suggested that getting feedback on SOP could be valuable.
- 2 groups suggested that its more important to see evidence of revised procedures within the management plan/compensation plan rather than just the SOP themselves.
- 2 groups suggested a declaration of revised SOP's is enough, not SOPs themselves.
- 1 group highlight that often SOP's are “controlled” documents so may not be able to be shared with RSPO.



Responses to questions

Should a summary of the findings of the Land Use Change Analysis, once accepted by RSPO, be made public or kept confidential between members and the RSPO? Why?

- 4 groups said it is not appropriate to share LUCA and it should be kept confidential by RSPO because of national regulations, company confidentiality, unfair competition.
- It is already included in Criteria 1.2.
- 2 groups agreed that it could be shared as a summary of figures but without maps.
- 2 group suggested that a summary could be shared only by requests or specific stakeholders and without maps or specific data and with an NDA.



Responses to questions

How appropriate is it to offer a US\$ option for meeting conservation liability? If the value currently proposed is not appropriate, what method and/or data could be used to help the CTF develop a more robust value?

- Reference and explanation for ESD 2,500/ha. One group referring to a joint-group study on HCV in Indonesia, which stated USD1,000/ha
- Is the decision making process that leads to the reference of USD 2,500/ha already involved all stakeholders?
- Monetary value is inappropriate (one group) as the compensation value should be determined by the impact and benefit of the compensation project, not just input/cost. Need to have a procedures to determined such benefit.
- The compensation could also be in form of CSR (one group).
- Should the compensation value be paid all at once, or gradually for 25 years?
- What is the currency exchange rate? It is suggested to use the rate for 2005, since it is the HCV reference year. It is important to also consider Indonesia's regulation, which requires all transaction to be in IDR.



Responses to questions

In order to fulfil the criteria of “long-lasting” to meet conservation liability, in the case that the concession changes ownership, which company should take responsibility for the ongoing compensation conservation project: the incoming company or the outgoing company with the original liability?

- It should be up to the companies making the transaction. Non-members certainly would not be willing to take over the compensation liabilities.
- Handed over to the buyer (one group), unless if the buyer is a non-member.



Individual questions

Project planning and implementation

- What is the criteria of the implementing agencies of compensation project? (2) They should be transparent.
- Can compensation projects be implemented by companies within one group?

Compensation Value

- Specific explanation for USD2.500
- Exchange rate of the USD value from planning or during implementation?
- Has the compensation value of USD 2.500/ha been known by the general public, considering that it could influence the process of compensation for land on the ground?

LUC and coefficient

- Should LUC analyses conducted from 2005 or 2010, as 2005-2010 was considered as socialization phase?
- Could vegetation coefficient 0.7 be reviewed or revised? The current scope of land cover is too wide, from the initial phase of succession (shrubs, bush, damaged secondary forests) up to secondary forest with great condition.
- If historical data on land cover could not be found, what would be used as the basis for LUCA?
- How about the limitation of imagery data to conduct LUCA?
- How to differentiate between commercial and non-commercial land clearing?

Procedures making process

- Why does the process that determines the compensation procedures take too long without referring to previous meetings/discussions?
- Will the results of public consultation be really used as constructive inputs? So far it looks like it has been taken for granted.
- Have recommendation/inputs from growers been considered throughout the formulation of RaCP?
- What to do to allow remediation and compensation procedures be implemented quickly and be implementable?



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Individual questions

Others

- What areas are included in the remediation based on RSPO (slope, riparian, etc)?
- Can the remediation and compensation per November 2005 accommodate land clearing in previous years?
- What if companies already implemented HCV assessment internally in 2003, are they considered as violating/starting from zero/same as the procedures?
- What is the compensation and remediation procedure for schemed smallholders?
- Would it be better for schemed smallholders to see how ready the cooperatives/associations are first?
- Who will bear the LUCA cost for independent smallholders? How long does it take for RSPO to develop the plan for independent smallholders? What if the mapping brings new social conflict or dispute and implementation is hindered?
- Why is there a regulation in which members could be expelled from RSPO, while it will not help RSPO in transforming the industry?
- To what extent will RSPO be “patient” to wait and advocacy its member on progress report of RaCP before it is raised to complaint system? It needs to be clear
- Who would monitor the implementation/realization of compensation program, does it have to be a separate organization or is it enough for the company to report to RSPO?
- To what extent could CB verify RaCP phases created by the management unit?
- What about the certification status of companies that are in the process of LUCA assessment? Could the certification remain valid while continuing remediation and compensation process?
- Should the compensation be paid all at once from Nov 2005 up to now?
- Does it means that issues related to company compensation are resolved once the compensation is paid?
- Could PSDH and DR value be deducted from the compensation projects that companies must implement?



Individual Ideas

Project Development

- It is necessary to provide a clearer definition for “off-site”, e.g. whether it means utilization permit (HGU)/location permit, the legal status (2).
- The land status must be clear: on-site must be APL, off-site must mean conservation area, including protected forest, nature reserves & national parks.
- Provide an example of remediation & compensation implementation (2) and specific guidelines to ensure appropriate targets and that the program could be accepted by RSPO (2)

Coefficient and LUCA

- The definition of coefficient categories need to be clarified by adding ownership status, e.g. what if the land is owned by the community and the area was indirectly converted by communities.
- Vegetation coefficient must be reviewed and revised. Coefficient 0.4 (agroforestry) should concern composition of species, instead of vegetation structure, thus it is difficult/impossible to be recognized through remote sensing and it is impossible to extrapolate based on the result of groundtruthing.
- It is important to add land use classification being applied, as well as the correlation between different class of land use and the coefficient applied.
- It is necessary to have clear boundaries on areas used for land use analysis, is it the entire concession area, such as utilization permit (HGU) / location permit, or limited to area that have been “cleared”
- No need to send the .shp files (boundaries or land cover).
- Independent smallholders should not be subjected to the LUCA procedure under the member company → can inform them of the process but cannot force.
- Clear guidelines for LUCA.



Individual Ideas

Compensation value and possible deduction

- Reviewing the USD currency value, which should be adjusted with the benefits of the compensation program (4) or management plan (1).
- PSDH and retribution fee that has already been paid for should be calculated to reduce the compensation.
- Projects that have been implemented before RaC should be used to reduce compensation values.
- HCV social remediation 5&6 could be conducted through CSR programs if they meet the requirements.
- Compensation of USD 2,500/ha should be replaced with CSR program (2).
- Reducing compensation cost (not USD2,500/ha)
- Compensation fee should be paid out in stages per year.
- Justification on USD2,500/ha – it varies according to geographical area. Also exchange rate then USD to RM3.30, today USD is RM4.40, ie increase of 25% in favor of USD.

Improving overall document

- Clear timeline, flowchart for the whole process from entering until the approval of the plan (3).
- “Groundtruthing” should be deleted from flowchart in Annex 1.
- Glossary of relevant terms/phrase in the RaCP.

Consultation Process

- It is important to consult with the national government of the relevant country (4)
- Remediation and compensation must be in-line with the regulation of the country in which the company operates, not overlapping (7).
- Data and documentation dissemination mechanism from RSPO need to be made more systematic, so that participants could read documents that would be discussed and agree on the results of public consultation (2).



Individual Ideas

Others:

- Clarification on how the compensation panel is appointed by BHCV WG, and transparency of the panel to growers (3), allow for a change of panel if not responsive enough.
- RSPO should develop an online portal to provide update to CBs, growers and other stakeholders on the progress and status of LUC submission, compensation process, and progress monitoring (3).
- Perhaps RSPO CTF should also develop tools for CB to evaluate and monitor the RaCP, especially the parameter of the implementation.
- RSPO membership process could be continued without waiting for approval of liability.
- RSPO needs to provide technical guidelines for its members that received complaints in regards with its compensation/ remediation program.
- HCV area that are lost, but have already been compensated by agronomic NPP treatments (for example on slopes), could be used to reduce the amount of compensation liabilities.
- The issue under reference arises because of RSPO's muddy directives pertaining to NPP requirements. It is situational, not due to growers' fault. Now it appears as if growers are indeed at fault. Does the RSPO share any empathy with the growers?
- In cases of acquisition , payment for compensation: Seller 25%, buyer 75%
- Compensation liabilities should stay with RSPO members although the company has been sold to non-members, because otherwise, non-member would be the one creating the damage and this would violate conservation principles.

