

Roundtable on Sustainable Palm Oil (RSPO)
Complaints and Appeals Procedures (CAP) 2017
Recommendations Report

January 27, 2025

Executive Summary

The Remedy Project Limited (**TRP**) was engaged by RSPO to review the effectiveness of CAP 2017 and to explore the implementation of a restructured grievance system to handle alleged and actual breaches of RSPO Key Documents.

TRP set out the findings of this review in the document “Review of Roundtable on Sustainable Palm Oil (RSPO) Complaints and Appeals Procedures (CAP) 2017: Review and Key Findings Report.” In response, this present report sets out two parts: TRP’s recommendations corresponding to the review findings of the current RSPO Complaints System (**CAP 2017**), which are specific to addressing those findings (Part A); and recommendations for a restructured grievance system (**RSPO Grievance Mechanism**) that aims to broadly improve the independence and legitimacy, as well as the efficiency, transparency, and fairness, of the process (Part B).¹ In Part A, the current process is referred to as “CAP 2017” and existing functions are referred to by their current designations; in Part B, the restructured process is referred to as the “RSPO Grievance Mechanism,” and the relevant functions and roles are referred to using their recommended designations. Our recommendations for each part are summarized in respective sections below (the corresponding chapter in the main body of this report is noted in parenthetical).

Part A: Recommendations in Response to Review Findings of the Current RSPO Complaints System (CAP 2017)

- **Clarity of Purpose and Scope (Chapter 1):** We recommend that the RSPO update its procedural documents to further specify: (1) the underlying purposes and objectives that CAP 2017 is intended to effectuate; and (2) the nature and subjects of complaints that are within (or excluded from) the scope of the CAP 2017 system. These purposes and objectives, as well as scope and case eligibility criteria, should be socialized to rightsholders and stakeholders. These clarifications and specifications will reduce rightsholder and stakeholder confusion about the function of CAP 2017, promoting proper utilization of CAP 2017 by rightsholders and stakeholders. At a practical level, it also reduces the volume of submitted ineligible and out-of-scope complaints.
- **Establishing Procedures for Pre-2004 Grievances (Chapter 1):** We recommend that the RSPO establish formal and specialized procedures to handle historical cases where the alleged harm predates RSPO’s establishment in 2004. A reconciliation approach should be prioritized over a Determination process (“**Determination**” refers to the process undertaken by the Complaints Panel (**CP**) to review, investigate and resolve a complaint, as distinguished from resolutions via Bilateral Engagement (**BE**) and Dispute Settlement Facility (**DSF**), given the evidentiary challenges for adjudicating historical cases. The procedures should be publicized and clearly communicated to the parties at the outset to set expectations and facilitate resolution via amicable means.
- **Ensure Clear Timebound Procedures (Chapter 1):** We also recommend ensuring that each stage of the grievance process is clearly timebound. Relatedly, we recommend improving transparency and clarity in communicating the status and progress of each stage, including remaining time in relation to applicable timebound limits. This recommendation aims to enhance the system's efficiency and sets clear expectations for stakeholders.

¹ We note that certain aspects of the restructured RSPO Grievance Mechanism overlap with recommendations in response to the CAP 2017 review findings, as these are important aspects intended for both systems. Broadly speaking, we advise that the RSPO Grievance Mechanism incorporate all applicable recommendations for addressing the review findings of CAP 2017 to ensure optimal operations of the grievance system.

- **Promoting and Expanding Accessibility and Engagement of the Grievance System (Chapter 2):** We recommend steps to expanding the modes by which stakeholders can engage with CAP 2017. This includes diversifying complaint channels, making available interfaces and communications in locally appropriate languages, and expanding targeted outreach and promotion of the complaint channels and the grievance system more generally to stakeholders, rightsholders, and other intended user groups of CAP 2017.
- **Building Rightsholder and Stakeholder Trust (Chapter 2):** We recommend improving stakeholder and rightsholder trust by ensuring that robust policies and procedural safeguards on independence, confidentiality, and zero tolerance for retaliation are implemented and maintained. RSPO should actively communicate these safeguards and establish a visible presence through local liaisons to foster trust and ensure that the grievance system is perceived as reliable and trustworthy. With respect to smallholders, trust levels can be improved by increasing targeted engagement with smallholders and expanding the inclusion of smallholders in RSPO representation. These steps aim to improve stakeholders' trust in the impartiality of the process and legitimacy of the process and results.
- **Facilitating Conciliation-oriented Resolution (Chapter 4):** For cases that undergo Bilateral Engagement (BE) or Dispute Settlement Facility (DSF), we recommend introducing the following steps to improve the process:
 - *Initial Mandatory Meeting (Chapter 4):* Once the parties have agreed to pursue BE or DSF, the parties (or their properly authorized representatives) should be required to participate in an initial mandatory meeting with a facilitator. For BE, the facilitator is a member of the Grievance Mechanism staff. In the DSF context, the facilitator is the selected mediator. The meeting is designed to outline the advantages of the BE or DSF process, its procedural steps, the parties' roles and responsibilities, the expected process timelines, potential resolution expectations, and any potential costs and funding support. These facilitators are to be specifically trained to ensure they have the appropriate knowledge and information (and for BE, also the appropriate experience and skillset) to lead the meeting. The meeting is intended to enhance the integrity and efficiency of the process, establish initial dialogue and a platform for trust-building between the parties, set appropriate expectations early in the process, and better ensure a successful resolution. These intended results all ultimately help prevent delays and resource drain on CAP 2017.
 - *Redirecting Cases to Determination (Chapter 4):* The Grievance Unit should be empowered to redirect cases directly to Determination if there is significant informational or bargaining power asymmetry between the parties and/or retaliation concerns that impede effective BE or DSF processes. The Grievance Unit should also refer cases directly to Determination when complainants wish to remain fully anonymous or where the issues are systemic in nature and thus warrant review via Determination.
- **Improving Communication and Information Sharing (Chapter 3):** Procedures should be established for exceptional circumstances in which certain information needs to be treated confidentially or handled with additional care (e.g., sensitive commercial data, or a credible allegation and/or reasonable risk of retaliation or reprisal for the complainant). Relatedly, we also recommend formalizing internal information flows within the RSPO grievance system, in particular case information within the RSPO Secretariat, to ensure clear communications and streamlined operations.

- **Streamlining Case Intake and Clarifying Initiation Criteria and Procedures (Chapters 1 and 3):** We recommend streamlining intake procedures to improve efficiency and expedite resolutions by conducting the following:
 - *Setting Clear Eligibility Guidelines (Chapters 1 and 3):* Set guidelines for the roles and responsibilities for making case eligibility decisions, the criteria for making such decisions, the threshold for case initiation in response to allegations raised in the public domain.
 - *Introducing the Subsidiarity Principle Requirement (Chapters 1 and 3):* Set requirements that cases undergo intended first-instance resolutions before being accepted under CAP 2017 (i.e., the “subsidiarity principle”). This requires prospective complainants to first submit complaints to available operational-level mechanisms, unless the complainant demonstrates the futility or unfairness of such processes or a reasonable risk of retaliation. Similarly, RaCP and/or NPP-related cases should first undergo those respective policies’ resolution procedures. However, we suggest that grievances regarding violations of the RSPO Policy on the Protection of Human Rights Defenders, Whistleblowers, Complainants and Community Spokespersons (**HRD Policy**) be excepted from this subsidiarity principle requirement. Instead, such cases should be directly raised to CAP 2017, as they involve potentially serious risk to the safety or security of human rights defenders.
 - *Proactively Assessing Retaliation Risks (Chapter 3):* Intake procedures should also include assessment of reprisal and retaliation to protect complainants and other involved parties. This step is ideally undertaken upon receipt of the complaint to early-identify risks and, where appropriate, allow immediate steps to be taken to mitigate the risk of harm.
 - *Establishing Procedures to Identify Cases That Require Involvement by External Parties (Chapters 1 and 3):* Embed protocol at early stages of case assessment to identify if external parties should be engaged. If so, follow-on decisions should be made regarding the proper time and method of engagement, and whether the case should appropriately proceed, be suspended, or closed under CAP 2017 procedures. For example, complaints against Certification Bodies (**CBs**) regarding audit procedures should be referred to the relevant channels rather than proceeding through CAP 2017; and complaints to which there is a parallel and ongoing state-based mechanisms or judicial proceedings should be identified and held pending until the proceeding’s conclusion. These recommendations require both procedural guidelines as well as engaging personnel with appropriate experience, knowledge, and judgment to identify the abovementioned instances during intake and initiation phases.

- **Improving Investigations and Factfinding (Chapters 5 and 6):** We recommend the following to improve the investigation phase of the Determination process:
 - *Clarifying Roles and Responsibilities Among Parties Involved (Chapter 5):* Procedural documents should specify the distinctive roles between the CP and Grievance Unit, as well as other adjacent parties (e.g., CB, Assurance Services International/Accreditation Body (**AB (ASI)**)) in the course of an investigation. This aims to reduce confusion, increase process efficiencies during investigations and maintain proper separation of powers between the various bodies of the RSPO.
 - *Establishing Clear Protocols (Chapter 5):* Adopt the detailed Terms of Reference (**ToR**) for external investigators that outline the scope of investigations and set minimum standards and expectations. Separating and clarifying roles and responsibilities helps

resolve inefficiencies from confusion and unintended interference between different functions and also furthers accountability and oversight responsibilities (for example, setting forth appropriate circumstances around site visits and limiting the appropriate level of CB involvement in certain investigative processes). Establishing clear procedures for investigations also helps improve efficiency, as well as ensuring consistent approach, standards and expectations across cases and investigators.

- *Setting Formal Determination Procedures (Chapter 6)*: Introduce formal steps allowing all parties to present and contest factual evidence. Ensure the availability of investigation reports in understandable formats and timelines are provided to the parties incorporate Non-Disclosure Agreements (**NDAs**) to protect the confidentiality and safety of the investigative process.
- *Further Capacity Building (Chapter 5)*: Such efforts should be an organizational effort and include using the existing ring-fenced fund to finance independent investigators to ensure investigations' integrity and impartiality. It is also advisable to develop a pre-vetted roster of qualified independent experts who can be engaged for specialized tasks, including onsite verification work. This pool of pre-vetted experts should be managed by the RSPO. We also recommend setting exceptions for engagement of experts outside the pool to balance the need for flexibility to tackle varying contexts and needs when they arise.
- **Setting Guiding Principles for Determination and Remediation Processes (Chapter 6)**: We recommend that, for the Determination process, the CP rely on core principles and concepts based on international best practice, engagement with rightsholders and respondents, and consideration of applicable case precedents when evaluating complaints and deciding on remedies. The CP should ensure full consideration of all remedies available under RSPO policies and procedures, as detailed in RSPO Key Documents. Procedurally, adjustments and clarifications should be made to better identify and manage conflicts of interest for CP members. The CP should also further develop a bench of independent experts as a resource for expert advice and opinions, particularly to support complex or specialized complaint matters. The CP should decide when independent expert opinion is required for a particular case. Irrespective of any independent expert opinion, the power to decide the case ultimately rests with the CP.² Finally, it is important for the RSPO to articulate these procedures and remedies clearly in procedural documents and, where appropriate, informational materials distributed to rightsholders and stakeholders.
- **Clarifying the Process and Criteria for Appeals (Chapter 7)**: We recommend implementing a unified appeals process that recognizes the right and limitations to appeal a Determination decision. Specifically, appeals should be expressly limited to where procedural violations or specific allegations of misconduct by grievance mechanism staff, investigators, or CP members arise, and the procedural impropriety had a material impact on the fairness or outcome of the decision. Appeals lodged solely due to disagreement with the decision's outcome should *not* be accepted to avoid repetitive and inefficient efforts. Appeals to address procedural concerns should be heard by an Appeals Panel to reduce conflict of interest and ensure objective review on appeal.
- **Improving Guidelines for Post-grievance Monitoring (Chapter 8)**: We recommend clearly setting out responsibilities and procedures of the Grievance Unit, CP, and CBs for monitoring

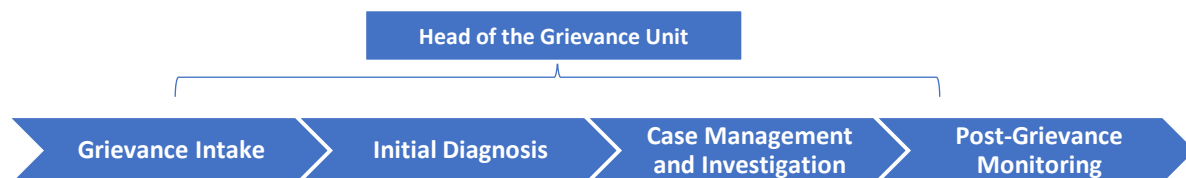
² Please note this recommendation does not mean that subject matter experts may *not* serve as CP members. However, an expert should not concurrently serve as a CP member and as an independent expert on the bench, so as to preserve the independence of opinions from experts on the bench.

the implementation of resolutions and remediation plans. Each post-grievance monitoring plan should be tailored to the nature and implementation of the underlying resolution, corrective action or remediation plan. In the context of Determination, the CP should be involved in developing the monitoring plan to align the process with the Determination outcomes. The Grievance Unit should oversee the active management of the plan, perform the actual monitoring responsibilities, and update the CP. Furthermore, a proactive approach engaging rightsholders will help assess satisfaction of results and identify gaps and reprisals while ensuring robust and rights-compatible outcomes. This approach will promote regular engagement with rightsholders, ensure procedural consistency in verifying corrective action, and accommodate tailored, independent verification where needed. Separately, an information feedback protocol should be set to communicate remedial implementations and enhancements that affect systems and procedures within the scope of CBs’ regular audit reviews. This helps ensure that CBs are well-informed when conducting their audit procedures.

- **Continuous Improvement (Chapter 9):** Finally, we recommend embedding a robust performance data feedback loop into CAP 2017 procedures to review rightsholder and stakeholder feedback, identify and address root causes of system-level issues, and effectuate continuous improvement plans. This includes seeking follow-up feedback from parties to a closed case, developing key performance indicators (**KPIs**) to measure impact, and introducing a regular review cycle for assessing performance feedback and developing and implementing improvement plans. Learnings and performance metrics should be shared through the RSPO membership, fostering a shared culture of learning and continuous improvement among all stakeholders.

Part B: Recommendations Specific to the RSPO Grievance Mechanism Restructuring

- **Shifting to a Restructured Grievance Platform (Chapter 10):** The RSPO Grievance Mechanism is designed to promote independent accountability. This aims, at its core, to improve independent decision-making and bolster legitimacy, both in operation and external perception. Independence and legitimacy underpin the utility and reliability of the mechanism.
- **Restructuring the Grievance Unit Along Distinct Functional Blocks (Chapter 10):** Restructuring the Grievance Unit into functional blocks—Grievance Intake, Initial Diagnosis, Case Management and Investigation, and Post-Grievance Monitoring—will alleviate the Secretariat’s burden and improve overall process efficiency. The blocks will report to the head of the Grievance Unit.



Each block has distinct and clearly defined roles and responsibilities, and each would be staffed with its own personnel. These design elements reduce redundancy of tasks and confusion of responsibilities, while promoting accountability and specialization. In summary, each block would have the following responsibilities:

- *Grievance Intake:* focuses on supporting complainants to complete case intake forms; and socializing the Grievance Mechanism’s basic process, procedures, and rules to complainants, as well as to stakeholders and rightsholders more broadly.

- *Initial Diagnosis*: focuses on independent first-instance assessment of complaints, including determining case eligibility and appropriate resolution channel (BE, DSF or Determination), as well as supporting the parties through BE and DSF processes as required.
- *Case Management and Investigations*: focuses on developing and managing the execution of factfinding and investigation plans in the Determination process. This block's responsibilities include overseeing investigators, coordinating between parties for information requests, and compiling and synthesizing evidence and findings for reporting to the CP.
- *Post-Grievance Monitoring*: specializes in verifying implementation of remediation and helping to resolve follow-up disputes between the parties regarding implementation of the remedy.

Under these distinct blocks, personnel management is also streamlined. Each block can target hiring candidates with the knowledge, expertise, and qualification specific for that block. However, while this is the ideal structure of the Grievance Unit and designed towards maximizing cost-efficiency and functioning with reduced or minimal staffing, RSPO can further integrate or consolidate the recommended roles for cost and hiring considerations. In addition, tailored training can also be provided to improve performance efficiency with available staffing resources.

- **Revised Grievance Procedure Under RSPO Grievance System (Chapter 10)**: The lifecycle of a case under the RSPO Grievance Mechanism would reflect the abovementioned restructured blocks (which also bears resemblance to the CAP 2017 process):
 - Cases begin with Grievance Intake, whereby the issue, underlying facts, and the requested remedy (if any) are clearly recorded; any supporting evidence of the complaint is also collected.
 - Next is the Initial Diagnosis phase, in which case eligibility and the appropriate channel(s) for resolution (BE, DSF and/or Determination) are assessed.
 - Cases that are deemed appropriate can proceed to a conciliation phase, which include BE or DSF. The parties will work towards a settlement agreement according to the respective procedures.
 - Cases go into Determination if BE and DSF are not deemed appropriate based on the circumstances, or either party or both parties opt out of conciliation pathways. In Determination, the Case Management and Investigation phase is initiated, during which additional information and records are requested, and additionally needed fact verification and evidence gathering is performed. The results of the findings are summarized and delivered to the CP for review and rendering a decision.
 - Either party can appeal a Determination decision, if the circumstances meet the appeal criteria. An Appeal Panel reviews the reason for appeal and renders an appeal decision.
 - Cases are considered "closed" once a settlement agreement or final Determination decision (including any appeals) is formed. At this stage, the Post-Grievance Monitoring phase starts. This phase begins with determining whether follow-up surveys and verification are required to ensure that the remedy—whether mutually agreed via BE or DSF or decided via Determination—is sufficiently and timely performed by the parties. If so, a monitoring plan is developed and executed. This

phase also contemplates procedures to address non-performance by one or more parties to the case.

A flow chart of the recommended process is included as Annex II. Each phase should have clear guidelines and SOPs to ensure standardized and streamlined operations. Such guidelines and SOPs can be built upon current CAP 2017 procedures.

- **Making Initial Diagnosis More Efficient and Independent (Chapter 11):** We recommend improving the intake procedures by frontloading information gathering and case triaging assessment to improve efficiency of the Grievance Mechanism. The role is best performed by a designated and properly trained officer (the Initial Diagnosis Officer). The Initial Diagnosis Officer should have independent reporting lines from the CP to reduce conflicting interests and bolster independence and legitimacy. This phase is critical to ensuring proper screening out of ineligible cases, directing cases to the most appropriate and ideal resolution pathway (conciliation versus Determination), and early-identifying and addressing retaliation concerns.
- **Adding a Mandatory Pre-conciliation Meeting to Promote Resolution by Mutual Agreement (Chapter 12):** We recommend introducing a pre-conciliation meeting for certain cases to promote non-adjudicatory resolution methods. If the Initial Diagnosis Officer identifies that a case would benefit from BE or DSF (collectively, “**Conciliation**”) after considering factors such as the risk of reprisals, previous engagement attempts, asymmetry of power, and the nature of the issues, the parties are then required to collectively participate in a mandatory meeting facilitated by the Secretariat or an independent facilitator (collectively the “**Facilitator**”). The Facilitator will guide the parties in understanding the BE, DSF, and Determination processes. This dialogue is intended to familiarize parties with Conciliation processes and build the parties’ trust in these processes. The goal is to identify and redirect appropriate cases towards Conciliation, which will alleviate Determination process costs and can produce expeditious and satisfactory results. However, the parties must mutually consent to Conciliation to proceed, and any party may opt for resolution via Determination at any point (we also recommend establishing procedures to safeguard against a party abusing or gaining an unfair advantage when rescinding consent to proceed with Conciliation).
- **Improving Efficiency and Independence of the Factfinding Process (Chapter 13):** We recommend establishing a Case Manager role with the specific mandate of developing and managing factual investigation plans in the Determination process. In addition, we recommend building a pool of pre-vetted and pre-selected external investigators who can be quickly engaged and deployed to conduct necessary fact-finding, particularly on-site and in-person verification work. The Case Manager would manage the external investigators. Procedures for the Grievance Unit to internally request information and record from other teams within the Secretariat will be formalized. The CP’s involvement in fact-finding would be limited. Instead, the Case Manager will summarize and deliver all fact-finding results to the CP for considering its case decision. This structure aims to promote independence of the Case Manager’s function, as well as optimal allocation of bandwidth and resources between the Case Manager and the CP.
- **Restructuring the Complaints Panel (CP) to Enhance Independence (Chapter 14):** The current CP composition of volunteers from the RSPO’s stakeholder base carries the benefit of broader stakeholder representation, but it would benefit from additional safeguards aimed at promoting independence. To address these gaps and bolster impartiality, the membership of the CP will be restructured to a hybrid-independent panel. In this model, at least two of its members are external to the RSPO, contributing impartiality and credibility in the Determination process. The other three panel members would be RSPO member representatives. The hybrid model is also an opportunity to learn and establish milestones

and conduct regular reviews to assess the model's effectiveness. This hybrid structure will be evaluated during the next review of the Grievance Mechanism structure.

- **Appeals Process (Chapter 15):** We recommend clarifying the appeals process to provide for appeals against any procedural faults that may occur in the appeal process itself. In consideration of potential appeal procedural faults or violations (e.g., conflict of interest or unqualified Appeals Panel member), the written procedures should provide for request to review the reported fault and render a cure. Accordingly, we recommend providing for parties to request a “higher appeal,” whereby a special appeals panel is convened to review the reported procedural fault and determine whether the underlying appeal decision should be revised or overturned. Consistent with the recommended appeals procedures generally, the scope of the “higher appeal” should be expressly limited to the specific fault—i.e., other aspects of the underlying appeal process and the CP decision are not subject to higher appeal review. Furthermore, faults deemed insignificant or merely “technical”—i.e., they are not found to have substantively affected the underlying appeal outcome—should not lead to a high appeal decision to revise or overturn the underlying appeal decision in question.
- **Post-Grievance Monitoring (Chapter 16):** We recommend enhancing post-grievance monitoring by tasking specialized Monitoring Officers with developing tailored Monitoring Plans based on case-specific needs and contexts, actively engaging with complainants and respondents to assess the effectiveness of remedies, and conducting necessary verifications. Monitoring Officers should have the authority to seek direct feedback from rightsholders and respondents to ensure the thorough implementation of agreed-upon remedies. Moreover, in situations where issues arise during monitoring—such as non-cooperation, significant failure to perform the agreed remedy or concerns about the Monitoring Officer’s conduct—the Monitoring Officers, complainants, or respondents, as the case may be, can refer these issues to the relevant CP for an expedited review process. This process aims to ensure the parties’ timely performance of the adjudicated resolution and that post-grievance issues are resolved efficiently, without re-initiating a new complaint case.
- **Continuous Improvement through Feedback Loop (Chapter 17):** Finally, we recommend a framework for establishing a feedback loop for sustainable self-improvement. After issuing Determination decisions and before transitioning cases to post-grievance monitoring, the CP will analyze patterns and root causes of grievances to build institutional knowledge and reinforce robust internal grievance mechanisms among member companies. This analysis, recorded by the Case Officer, will be used by relevant units within the Secretariat and working groups to refine their processes. Annually, CP Chairs will review cases and share key insights with the Grievance Unit via publicly available reviews, factsheets, and bulletins. Anonymized case studies will highlight systemic conflicts and effective remediation to help member companies improve compliance and deliver better rightsholder remedies. Quarterly performance reports on the grievance mechanism, including case statistics and KPIs, will be provided to the Board of Governors. The CP Chairs will oversee the reporting while maintaining independence from the Board, offering comprehensive insights to ensure transparency and accountability.

These recommendations present a dual strategy to refine RSPO’s grievance mechanism: Part A proposes immediate enhancements to the existing CAP 2017 framework, focusing on improving accessibility, efficiency, transparency, and fairness to align more closely with international human rights standards. Part B recommends a transition to a more independent grievance mechanism overall. These recommendations aim to streamline grievance handling, enhance stakeholder engagement, and ensure impartial decision-making. By implementing these changes, RSPO can advance towards an

effective, transparent, and accountable system, capable of addressing grievances respectfully and responsively for all stakeholders involved.

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Glossary of Abbreviations

Acronym	Full Name/Description
AB (ASI)	Assurance Services International/Accreditation Body
BE	Bilateral Engagement
CBs	Certification Bodies
CAO	Compliance Advisor Ombudsman of the International Finance Corporation and Multilateral Investment Guarantee Agency
CP	Complaints Panel
DSF	Dispute Settlement Facility
FFP	Fair Food Program
FSC	Forest Stewardship Council
GIS	Geographic Information System
HCV	High Conservation Value
HRD Policy	RSPO Policy on the Protection of Human Rights Defenders, Whistleblowers, Complainants and Community Spokespersons
HRWG	Human Rights Working Group
IMU	Investigations and Monitoring Unit
KPI	Key Performance Indicator
MSI	Multi-stakeholder Initiative
NGO	Non-Governmental Organization
NPP	New Planting Procedure
P&C	Principles and Criteria
RaCP	RSPO Remediation and Compensation Procedure
RSPO	Roundtable on Sustainable Palm Oil
SOPs	Standard Operating Procedures
TRP	The Remedy Project Limited
UNGPs	UN Guiding Principles on Business and Human Rights

Introduction & Background

Following an open tender in August 2022, The Remedy Project Limited (**TRP**) was engaged by RSPO to review the effectiveness of CAP 2017³ and to explore the implementation of a wider RSPO grievance system to handle alleged and actual breaches of RSPO Key Documents.⁴

TRP laid out its analysis in the document “Review of Roundtable on Sustainable Palm Oil (**RSPO**) Complaints and Appeals Procedures (CAP) 2017: Review and Key Findings Report” dated January 16, 2024 (henceforth referred to as the “**Key Findings Report**”). In brief, the Key Findings Report noted generally that the RSPO is a leader among multi-stakeholder initiatives (**MSIs**) and offers meaningful opportunities for the resolution of complaints. At the same time, the Key Findings Report identifies areas to further enhance the effectiveness and efficiency of the mechanism.

Based on the aforementioned review and analysis, TRP has formulated recommendations for RSPO to develop and implement an effective, integrated grievance system (henceforth referred to as the “RSPO Grievance Mechanism”). In addition to addressing the findings indicated in the Key Findings Report, these recommendations also aim to further align the RSPO Grievance Mechanism with the UN Guiding Principles on Business and Human Rights (**UNGPs**) generally, and include more opportunities for de-escalation, conciliation and facilitated dialogue between parties to a complaint. In doing so, it is hoped that the proposed grievance system is a safe space where diverse stakeholders can work collaboratively on human rights and environmental issues in the production of sustainable palm oil.

This recommendations report consists of two parts:

- A. Recommendations in response to the findings in the Key Findings Report; and
- B. The proposed model for a restructured RSPO Grievance Mechanism.

The recommendations described in Part A offer specific solutions to the findings noted in the Key Findings Report, organized by each phase of the current complaint resolution process.⁵ The current process is referred to as “CAP 2017” and existing functions are referred to by their current designations. Part B presents a new restructured, hybrid model that focuses on overall structural improvements, particularly emphasizing bolstering impartiality, independence and legitimacy, as well as specialization in roles and responsibilities. The restructured process is referred to as the “RSPO Grievance Mechanism,” and the revised functions and roles are referred to using their recommended designations.

To help implement recommendations practicably and dovetail the recommendations in Part A and Part B herein, RSPO could take up the recommendations in Part A as a part of transitioning to the model outlined in Part B; alternatively, Part A recommendations could be implemented even if RSPO does not adopt some or all of the Part B proposed restructures. In both Part A and Part B, this review has sought to better embed dialogue and stakeholder engagement as means to address and resolve grievances.

In line with the Terms of Reference of this review, the RSPO Grievance Mechanism proposed by TRP aims to integrate, harmonize and/or strengthen pathways between the following channels where

³ RSPO Complaints and Appeals Procedures (RSPO-PRO-P01-001 V3 ENG), as endorsed by the Board of Governors on November 16, 2018 (**CAP 2017**).

⁴ As defined in Section 4.2 of the RSPO, CAP 2017. These include: the RSPO Statutes and By-laws; RSPO Principles & Criteria for Sustainable Palm Oil Production (**P&C**); RSPO Supply Chain Certification Standard (S&C); RSPO endorsed National Interpretation of the P&C; RSPO Code of Conduct; RSPO New Plantings Procedure; RSPO Certification Systems; RSPO Rules for Trade, Traceability, Communication, and Claims; and any other documents the RSPO Board of Governors may add.

⁵ To see the corresponding chapter in the Key Findings Document, see Annex I.

grievances and complaints relating to the conduct of RSPO members may be redirected for resolution via CAP 2017 procedures:

- Matters directly raised to CAP 2017 in the first instance;
- RSPO Policy on the Protection Human Rights Defenders, Whistleblowers, Complainants and Community Spokespersons ("**HRD Policy**");
- Issues identified by the Risk Unit (including allegations made in the public domain, or raised to the office of the RSPO CEO);
- Issues identified through the Geographic Information System (**GIS**) - New Planting Procedure (**NPP**)-High Conservation Value (**HCV**) and hotspot monitoring and investigation;
- RSPO Remediation and Compensation Procedure (**RaCP**); and
- Issues raised to the Board of Governors.⁶

⁶ CB and AB (ASI) are not mentioned here because they are envisioned as a separate process. See Section 5.1

Part A: Recommendations Corresponding to Each Phase of the Current RSPO Complaints System

Part A sets out TRP’s recommendations for enhancing CAP 2017 in response to the findings from the Key Findings Report.⁷ This Part covers Chapter 1 through Chapter 9, which articulate targeted recommendations across various facets of the grievance process—from the initial submission of complaints and investigation to post-grievance monitoring and continuous system evaluation. It advocates for further clarification of CAP 2017’s purpose and scope under its procedural documents, and ensuring and communicating timebound procedures in the process (Chapter 1), expanded accessibility through diversified complaint channels and multilingual support, and building rightsholders’ and stakeholders’ trust in utilizing CAP 2017 by aligning engagement strategies (Chapter 2). The report emphasizes adding new procedural steps to facilitate expeditious and consistent decision-making on in the initial diagnosis phase (Chapter 3). It also raises enhancements to promote the utilization of Bilateral Engagement (**BE**) and Dispute Settlement Facility (**DSF**) channels for resolving disputes (Chapter 4). The report further suggests enhancements to standardize and streamline both fact-finding and investigation processes (Chapter 5) and review process by the Complaints Panel (**CP**) under the Determination procedures (Chapter 6). Recommendations are also noted for clarifying the scope of cases available for appeals to ensure procedural fairness (Chapters 7). Additionally, it highlights the need for robust post-grievance monitoring protocols to ensure satisfactory closure to a complaint (Chapter 8). Finally, the report includes recommendations on establishing a feedback loop for continuous improvement, including developing key performance indicators (**KPIs**) and a review cycle, to ensure sustained efficiency and performance (Chapter 9).

⁷ See Annex I for a table of corresponding chapters to the Key Findings Report.

Chapter 1: Improved Clarity of Purpose and Scope⁸

Based on the analysis laid out in the Key Findings Report, TRP has formulated the following recommendations to improve clarity in the purpose and scope of RSPO's grievance mechanism. Relatedly, TRP has also considered approaches to address issues around timeliness. As a practical recommendation, TRP recommends reflecting the improved clarity via revisions in the relevant policy and process documents, as well as in communications and trainings with the RSPO members and their managers and workers.

1.1 Clarity of Purpose

1.1.a CAP 2017 should be renamed to the "RSPO Grievance Mechanism Procedure" and the system renamed to the "RSPO Grievance Mechanism" in order to more clearly highlight its intended purpose.

The name "grievance mechanism" better encapsulates the system's role as a forum for stakeholders to address the human rights and environmental impacts of RSPO members on the bases set forth under the RSPO Key Documents (see below). In addition, the term "grievance mechanism" is aligned with the language of the UNGPs.

1.1.b The RSPO Grievance Mechanism should have a more clearly stated purpose, which is consistent with the scope of the mechanism and the case eligibility criteria.

The RSPO Key Documents that form the grounds for a grievance need to be clearly listed. The procedural rules should state that CAP 2017 is based on the effective Key Documents. This "catch-all" phrase is meant to allow for revision to the grounds for a grievance without necessitating formal amendment to the procedural rules. The relevant Key Documents would be those that are effective as of the time of the complaint.

In the statement of purpose, process documents, and communications to stakeholders, RSPO should clarify, for example, whether the system's purpose is to specifically address non-conformance with the Key Documents and certification standards, or whether it has a broader goal of supporting remediation of various complaints relating to member companies. Such explicit communication would help prevent the submission of ineligible complaints and misaligned stakeholder expectations, which can respectively cause inefficient operations and stakeholder dissatisfaction. (For detailed recommendations on clarification of scope, please see below).

1.2 Clarity of Scope: Subsidiarity Principle

1.2.a When submitting a complaint, prospective complainants should be required to meet the "subsidiarity principle" (i.e., they have sought to resolve the grievance through the respondent members' operational-level grievance mechanism or bilateral engagement, where available).

Only cases that cannot be effectively resolved bilaterally or via the members' grievance mechanism should be escalated to RSPO. At the same time, acceptable situations excepting this requirement should be clearly outlined, including: the members' grievance mechanism is inaccessible or ineffective for the complainant,⁹ attempts have been made by the complainant but those efforts have been

⁸ Corresponds with Key Findings Report Chapter 4: Cross-Cutting Areas of Consideration.

⁹ This situation occurs when the established channels for addressing complaints are not readily available to the complainant, or when these channels fail to provide a meaningful resolution. "Inaccessibility" can arise from physical, technological, linguistic, or psychological barriers, rendering the mechanism out of reach for certain members. Ineffectiveness, on the other hand, refers to the inability of the grievance mechanism to adequately address or resolve the complaints raised, possibly due to systemic issues, lack of resources, or insufficient authority to enact change.

frustrated,¹⁰ and/or there is a risk of retaliation against the complainant.¹¹ As examples, indicators of such circumstances include:

- Demonstrable barriers to access (e.g., the mechanism is not available in the language(s) spoken by workers).
- The complainant having received threats or being subject to reprisal after submitting a complaint (both the instance in question or in past instances).
- Instances of the respondent failing to respond to the complaint.
- Respondent's failure to implement an agreed or awarded remedy.
- Showing that the procedures are prejudiced against the complainant and cannot fairly resolve the dispute, such as conflict of interest.
- Prior instances and/or threats of the respondent member engaging in reprisals, intimidation, or harassment.
- Significant and/or unreasonable procedural delays.
- Case was initiated but there were procedural violations by the respondent which were not resolved.
- Allegations that involve systemic and widespread human rights or environmental violations that are unlikely to be effectively addressed at the member level.

An exhaustive, enumerated list of types of acceptable (and unacceptable) reasons should be outlined in the policy based on the preceding examples. The validity of reason(s) should be verified during initial diagnosis (see Section 3.2).

In addition, we recommend that cases alleging violations of the HRD Policy should be generally exempted from the subsidiarity principle requirement. Such cases, by their nature, present a heightened risk of retaliation or harm to human rights defenders.

1.2.b To support constructive application of the subsidiarity principle, RSPO should engage with its members to improve the effectiveness of grievance mechanisms implemented by members.

While TRP neither assesses nor makes any recommendations regarding RSPO members' individual grievance resolution procedures, the individual procedures do have an indirect and practical impact on CAP 2017's ability to adopt the subsidiarity principle. Specifically, the overall functionality of CAP 2017 and RSPO's adherence to the subsidiarity principle can be positively influenced if member companies maintain robust grievance resolution mechanisms. Therefore, while not required, it is advisable for RSPO to engage with its member companies where practicable to improve the effectiveness of member-level grievance resolution mechanisms (in accordance with the applicable

¹⁰ This example pertains to scenarios where the complainant has actively engaged with the existing grievance process but has encountered obstacles that prevent the resolution of the issue. Such obstacles may include bureaucratic delays, lack of transparency in the grievance handling process, unresponsiveness from those responsible for addressing the grievance, or any form of procedural complexity that hampers the progression of the complaint through the mechanism.

¹¹ This condition highlights the concern for the complainant's safety and well-being in the aftermath of filing a grievance. Retaliation can manifest in various forms, such as demotion, termination of employment, harassment, social ostracization, or any other punitive actions taken against the complainant as a consequence of their complaint. The risk of such retaliation may deter individuals from utilizing the grievance mechanism or may necessitate the escalation of the complaint to a higher authority within the company to ensure the complainant's protection and the impartial handling of the grievance.

Principles and Criteria (P&C) standards, as appropriate).¹² This will benefit the overall collective function of CAP 2017 as well as the relationship between member-level grievance mechanisms and CAP 2017. Additionally, such engagement will contribute to a healthier ecosystem of remedy, enhancing the accessibility and efficacy of remedies at a more proximate level for complainants, thus promoting an integrated approach to grievance resolution.

Based on feedback from growers, engagement activities may include developing and disseminating guidance for members on effective grievance mechanisms and good practice guidance, offering capacity building, and providing guidance to Certification Bodies (CBs) on verification of effective grievance mechanisms. We note that this guidance is meant to strengthen understanding and build capacity, rather than replacing certification standards requirements.¹³

1.3 Clarity of Scope: Admissibility of Cases

1.3.a RSPO should specifically address members' obligations with regards to harm caused by their upstream suppliers.

Although current case eligibility criteria allow only complaints where the complainant can demonstrate that the member's sourcing practices are in violation of the Key Documents, stakeholders have expressed confusion on whether RSPO members must ensure that their suppliers avoid general unsustainable practices (e.g., infringements on human rights).

While the grievance mechanism can only receive complaints regarding RSPO members' actions or inactions, RSPO should also consider the extent to which members can be held responsible for environmental and human rights impacts of their suppliers. The UNGPs emphasizes a full value chain approach; at the same time, fully expanding the grievance mechanism's scope to cover supplier risks overwhelming the grievance mechanism, and in reality, RSPO does not exercise control or the required leverage over such suppliers.

To balance the implications of such a change, RSPO may decide to maintain its current scope of admissible cases to those which implicate the action or inaction of an RSPO member. At the same time, RSPO may consider options to, for example, expand the extent of its members' obligations to supervise the conduct of its suppliers or prevent harmful conduct by its suppliers. Failure to fulfill such obligations would constitute a breach of the Key Documents that can give rise to a grievance under CAP 2017.

Once RSPO has decided on the scope of the acceptability of such cases via the grievance mechanism, RSPO should set forth the scope clearly in the procedural rules and communicate the same in public

¹² In light of the organic connection between CAP 2017 and the assurance processes, it is suggested that the Assurance Standing Committee (ASC) undertakes a review to explore ways in which internal grievance mechanisms could be enhanced through targeted training and guidance. This initiative would directly contribute to building the capacity of member companies, facilitating a more robust and effective grievance resolution framework. By focusing on the development of such support mechanisms, the ASC can play a pivotal role in improving the operational synergy between member-level grievance mechanisms and CAP 2017. Additionally, acknowledging the review of the P&Cs, RSPO's expectations of members around grievance mechanisms could be more clearly articulated and addressed as a cross-cutting criterion, rather than within three separate thematic criteria (Principles 4, 5, and 6).

¹³ Incidentally, these engagement activities should also help certified facilities and members seeking certification more effectively demonstrate Principles 4.2 (having a mutually agreed and documented system for dealing with complaints and grievances relating to human rights and community rights), 5.1.9 (availability of grievance mechanism for smallholders) and 6.5.4 (implementation of grievance mechanism at all levels of the workforce) of the P&Cs, thus aligning with efforts that certified facilities already take in the certification process.

documents regarding the operation of the grievance mechanism. This scope should also be clearly communicated in RSPO's socialization and outreach efforts relating to the grievance mechanism, ensuring that stakeholders are fully aware of the scope and procedure for submitting complaints.

1.3.b Criteria for the types of allegations raised in the public domain that trigger CAP 2017 case initiation should be specified in the procedural rules.

The Secretariat must assess the credibility of public concerns and allegations that suggest violations of the Key Documents. The CEO should be empowered to do the same. This initial assessment is crucial to determining the admissibility of cases for further investigation. If such concerns or allegations are deemed credible and are within the scope of CAP 2017 allegations, the CEO through the CEO's office should be empowered to initiate a case under CAP 2017 (as detailed further below). We emphasize, however, that such cases should only lead to the formal initiation of a CAP 2017 complaint case if they allege, on their face, a potential breach of the Key Documents.

Currently, the Risk Unit monitors public allegations of potential breaches of RSPO Key Documents by members. Where found, the Risk Unit has the capability to investigate and, if warranted, refer these allegations to the CEO. The CEO may decide to initiate a formal complaint through CAP 2017, designating the Secretariat as the complainant. The role of the Risk Unit in monitoring public allegations and its capability to bring such allegations to the attention of the Secretariat should be expressly stipulated in the procedural documents. In particular, TRP recommends explicitly enumerating the types of serious allegations that the Risk Unit should escalate to the Secretariat for determination of admissibility. These include the following examples: severe (in scope, duration or harm) environmental damage, infringements on Indigenous Peoples' rights (e.g., failure to obtain FPIC), forced labor, child labor, violence and physical harm against rightsholders and HRDs, unsafe living and working conditions, and conduct potentially rising to level of criminal conduct. Some such cases may also present legal risks for RSPO. Thus, this escalation process also aids RSPO in identifying such risks and considering appropriate mitigation responses. Finally, we recommend that these specific procedures are clearly communicated to the Grievance Unit and CEO's office to ensure that they are appropriately implemented in practice.

1.3.c RSPO should clearly lay out criteria and procedural rules for complaints relating to conduct that occurred prior to the establishment of RSPO (2004).

TRP recommends that the RSPO develops a framework of criteria and procedures for addressing grievances related to conduct occurring prior to its establishment in 2004, particularly those concerning customary rights and Indigenous Peoples' rights. Given the complexities associated with these grievances, we advise prioritizing reconciliation and mediation through its offices over formal adjudication. This approach would better accommodate the unique challenges of resolving disputes lacking contemporary evidence and rooted in historical contexts.

The process should begin with an initial diagnosis to identify whether the case qualified for this specialized protocol. The qualification criteria should refrain from establishing a rigid cut-off date for grievances. Instead, adopting a case-by-case evaluation based on predetermined criteria guidelines would allow for a more equitable and practical consideration of grievances.¹⁴

¹⁴ Such a framework may include factors such as: (i) assessment of the nature and extent of the harm; whether the harm is still continuing; (ii) whether the complainant had reasonable opportunities to discover and raise the complaint sooner; (iii) whether the harm could be addressed through alternative channels; (iv) where applicable, whether a fair and reasonable factual investigation can still be performed; and (v) whether

For cases that qualify, the resolution process should prioritize reconciliation and mediation over Determination. As such, the parties should be first required to undergo a reconciliation phase, in which the parties are given opportunity to have a dialogue to explore the issues and potential resolutions by mutual agreement. Given the high likelihood of limited factual evidence and records supporting a Determination decision, resolution by mutual agreement is critical to successful resolution to the satisfaction of both parties. As such, the reconciliation process should be supported by facilitation and/or mediation (the process can mirror the BE and DSF procedure discussed in Chapter 4).

If, however, the reconciliation process becomes unproductive, unfeasible, or one or both parties formally refuses to proceed further, then the case can be considered for Determination as a secondary option. The Determination process would be the same as the effective Determination procedures under CAP 2017, including fact investigation. The investigation can be tailored to the context and circumstances of the historical case. TRP recommends establishing specialized procedures for where factual investigation reveals insufficient evidence to support a Determination decision (this is distinguished from where there *is* sufficient evidence to determine that the complaint is unsupported or unmerited). Procedural options for such instances can include a return to mediation and facilitated dialogue if practicable and has become more likely to be productive (e.g., if the parties become more amenable to reconciliation in light of inconclusive or unavailability of evidence from the fact investigation), or transition the case to external resolution mechanisms suited for such historical grievance. If the parties are not amenable to such steps, the case would be dismissed and closed without resolution.

The process should be guided by transparent guidelines and documentation processes to enhance clarity and guidance for managing such cases, while also respecting the primacy of national laws concerning customary and land rights. It emphasizes the RSPO's commitment to equitable resolutions in the face of evidentiary challenges for historical cases predating 2004. At the same time, such procedure underscores the importance of not extinguishing or disregarding any rights due to passage of time, especially those pertaining to customary and Indigenous Peoples.

Importantly, this process should be publicized and explained to the parties at the outset to set expectations. The likelihood of successful outcomes can be helped by the parties understanding the consequences of their decisions and actions in this process.

1.4 Clarity of Scope: Issues Raised through other RSPO Channels

1.4.a Cases concerning violations of RaCP and/or NPP should only be referred to CAP 2017 when the matter remains unresolved under the respective policies' procedural requirements.

It is recommended that cases that have not undergone normal NPP and/or RaCP resolution procedures should do so in the first instance for resolution. At the same time, CAP 2017 should be availed to complainants relating to the NPP or RaCP under exceptional circumstances, in particular complaints for (i) a member's refusal to co-operate, comply or undergo the RaCP and/or NPP processes, (ii) a member having violated the NPP or RaCP complaint procedures and such violation cannot be

remedial action has already been granted in part and/or systematic changes have been implemented to prevent similar harm in the future. For reference, the FSC takes an ad hoc analysis approach in its Policy for Association, which states that the "timeframe for how far back a violation is considered relevant is handled on a case-by-case basis...using conditions such as, but not limited to: (i) whether there is lingering harm; (ii) the scale and impact of the harm done; (iii) the level of action already taken to remedy past harm; (iv) whether there is demonstrable systemic change to prevent the re-occurrence of the unacceptable activity".

appropriately addressed via the NPP or RaCP procedures, and/or (iii) a member's failure to perform remediation and compensation in accordance with any plan agreed to under RaCP should be escalated to CAP 2017.

The specifics of criteria and procedures for escalation to CAP 2017 should be clearly enumerated under the grievance mechanism procedural rules. While the RaCP and NPP are outside the scope of TRP's review, their policies should be harmonized with the CAP 2017 procedure and the process of escalation similarly echoed in the relevant RaCP and NPP procedural documents. This clarification should avoid confusion and inconsistent practices in the future.¹⁵

1.4.b Where a member is identified through the HRD Policy as having engaged in activities that result in risks to the safety or security of human rights defenders, the Secretariat should escalate the case to the CP under CAP 2017.

The criteria and circumstances for the limited circumstances in which the Secretariat escalates a case to the CP under CAP 2017 should be expressly enumerated in both the HRD Policy and the procedural rules. Such complaints escalated by the Secretariat should be immediately accepted and lodged onto the public case tracker and forego usual intake assessment procedures. Additionally, training and Standard Operating Procedures (**SOPs**) on HRD-related cases should be piloted, implemented and strengthened as needed to ensure appropriate implementation.

While the Secretariat conducts the above-mentioned risk assessment, given the complexity and sensitivity of handling high-level threats against human rights defenders, it may be beneficial for RSPO to evaluate the feasibility of involving a third party with specialized expertise in its risk assessment process. Such threats require a nuanced and highly informed response mechanism. However, TRP notes that any engagement with a third party, such as national NGOs (focal points), state authorities, National Human Rights Institutions (NHRIs), regional human rights mechanisms, and international human rights mechanisms, must occur with the express permission of the HRD(s).¹⁶

The suggestion to engage a specialized third party in such circumstances is not presented as an immediate and automatic procedure, but as a subject for evaluation and discussion by the Human Rights Working Group (**HRWG**). This approach acknowledges the value of drawing on specialized knowledge and resources to enhance RSPO's capacity to respond effectively to urgent threats under the HRD Policy.

1.5 Clarity of Scope: Issues Outside of the Scope of CAP 2017

1.5.a Complaints against CBs relating to the CBs during audit and certification processes should be referred to the relevant CB; unresolved complaints should then be referred to the AB's complaints procedure.

RSPO should make it clear in procedural documents that stakeholders can *only* lodge complaints against a CB where the CB is involved in a violation of the RSPO Key Documents; complaints against CBs regarding the CB's auditing and certification processes should *not* be within the scope of CAP 2017. Instead, alleged violations in relation to the CB's auditing and certification processes should be redirected to, and handled through, the CBs' (or subsequently, the ABs') own grievance procedures or

¹⁵ A review of NPP and RaCP are outside of the review scope. However, we understand that a review of RaCP is currently underway. Following stakeholder input, it is also ideal to review RaCP procedures to ensure they are adequate to handle in-scope issues and that they harmonize well with CAP 2017.

¹⁶ RSPO HRD Policy, Annex 2, Clause 1.2.

notified to the Assurance Services International/Accreditation Body (**AB (ASI)**). The CAP 2017 procedural documents should explicitly and clearly communicate this distinction to ensure the scope is effectively communicated.

At the same time, to ensure specific complaints against CBs are received by the appropriate channel, RSPO should assess such complaints determine whether it alleges a violation of the Key Documents or is solely a complaint regarding a CB's auditing or certification process. Depending on the outcome of that assessment, the case should be accepted or redirected accordingly. If the complaint contains both allegations of Key Document violations and breach of audit and/or certification procedures, RSPO should consider, where possible, bifurcating the allegations, then intaking the Key Document violations as a CAP 2017 case and redirect the audit and/or certification allegations. For cases or portions of cases that are redirected, RSPO should notify the complainant accordingly and handover communications to the appropriate channel.

1.5.b A protocol to address cases undergoing court proceedings or other state-based processes should be reflected in the procedural rules.

Complaint cases for which the underlying grievance issue is also subject to an ongoing court proceeding or state-based processes (e.g., administrative adjudication) should be suspended under CAP 2017. The RSPO may reassess case eligibility once the relevant parallel court or state-based proceeding is complete. RSPO can request that either party to the complaint notify the RSPO when the court or state-based proceeding has concluded.

As an initial intake step, the parties should be asked whether there is or has been any court or state-based proceeding regarding the underlying complaint. If there is an ongoing proceeding, RSPO should communicate to the complainant (or both parties, if appropriate) acknowledgement that the complaint has been received, notice that any further CAP 2017 steps are suspended, and outline of the procedures for handling parallel proceedings (e.g., conditions in which the case will proceed further under CAP 2017 and the party(ies)' obligations to notify RSPO regarding the progress and outcomes of ongoing parallel proceedings).

Upon resolution of a case by court or state-based proceedings or if such a resolution has already occurred, the case can undergo the initial intake phase, whereby the case's admissibility under CAP 2017 will be reviewed by relevant RSPO staff. The following cases should be admissible under CAP 2017 (provided other basic admissibility criteria are also met):

- If the case is dismissed by court or state-based proceedings solely on procedural grounds, or where no decision on the merits of the case was reached, the case may then be considered for opening under CAP 2017;
- There remains a violation that the court or state-based proceeding did not address in its decisions or ruling but is within the scope of complaints admissible under CAP 2017; and
- The complainant is seeking a remedy that was unavailable under the court or state-based process but is available under CAP 2017.

If deemed admissible, the case should proceed under standard CAP 2017 procedures.

The RSPO can generally rely on any factual findings stipulated by the parties and/or determined by the arbiter of a state-based proceeding, assuming the integrity and thoroughness of the judicial or administrative process. These factual findings should form the factual basis for the BE, DSF or Determination processes. This reliance aims to streamline the grievance process, minimize duplicative

efforts, and prevent conflicting factual determinations between state-based mechanisms and CAP 2017.

In the context of Determination, the CP should consider, on a case-by-case basis, whether any additional action or remedy is warranted per its own policies and procedures (e.g., the scope of the court proceedings is narrower than the complaint raised via CAP 2017; the scope of remedy available under an administrative proceeding is narrower than remedies available under CAP 2017; or where RSPO procedures call for specific corrective actions or where procedural- or systems-level enhancements are appropriate to prevent future harm). If any additional remedy is deemed appropriate, the review should account for the resolution or remedy granted under the court or state-based proceedings, ensuring that there is neither irreconcilable conflict nor provision of a duplicative remedy for the same instance of harm.

We reemphasize the importance that this process is communicated with the parties to ensure they understand their duties, admissibility requirements, possible remedies and procedures to set appropriate expectations and avoid confusion.

1.6 Timeliness

1.6.a Ensure proper timebound procedures are set and clearly stated for each stage of the grievance resolution process.

Timebound and duration limits should be established for every procedural step (where such limits are applicable, including newly introduced procedural steps). These limits should then be clearly communicated to stakeholders and rightsholders to ensure quality of the process is maintained. Limits should be set to reasonably allow the parties to access and process information, and engage with necessary support resources and advisors, particularly with regard to more complicated cases and those regarding land claims. Circumstances that would give rise to extensions of the stated timeframes should be set out in the procedural rules. Such exceptions may include genuine difficulties experienced by complainants in obtaining formal documentation, a change in process (e.g., shifting from BE to Determination), or delays caused by external factors outside the party's control (such as pandemics, geopolitical conditions etc.) that may hinder regular processes.

For the staff and consultants under CAP 2017, similar exceptions should be outlined. For example, investigators should be granted additional time to complete factfinding in response to difficulty with gathering evidence or complexity of underlying information, staff members should be granted additional time needed to process cases involving large volume of data, etc.

In particular, timelines in investigations should be agreed-upon at the start of the investigation stage and reflected in an investigation plan (see Section 13.3 for details). Where a complainant or respondent is unresponsive, a standardized protocol should be implemented to proactively follow-up with them. If, following repeated engagement, they continue to be unresponsive, standardized criteria should be applied to determine whether to close the complaint.

1.6.b RSPO should improve transparency in communications with parties to the grievance as well as on the public case tracker with respect to case status and progress.

Subject to confidentiality obligations, RSPO should seek to provide more substantive information on how cases are being advanced. This includes sharing details about actions taken by respondents and complainants, while ensuring that such information does not inadvertently disclose privileged

information. The case tracker should also be transparent about any delays and the reasons for such delays.

RSPO should enhance the Secretariat's capacity in information management. This includes evaluating current processes for updating the case tracker and identifying areas where efficiency and accuracy can be improved. RSPO should also be more proactive in communicating case updates internally to the parties to the grievance.

Balancing the need for transparency with the imperative to protect the confidentiality and procedural integrity of the grievance process is essential. This approach ensures that while stakeholders are informed about case progress, the confidentiality and sensitivity of ongoing investigations are maintained.

1.7 Restructuring the Grievance Unit

Building upon the improvements discussed in CAP 2017's clarity of purpose, scope, and timeliness, we also recommend updating the organizational structure necessary to support these enhancements effectively. TRP recommends restructuring the Grievance Unit into four functional blocks: Grievance Intake, Initial Diagnosis, Case Management and Investigation, and Post-Grievance Monitoring. Doing so is a step towards operationalizing the recommendations provided, ensuring that CAP 2017 is equipped to handle complaints efficiently and effectively. TRP also recommends clarifying the role of the Grievance Unit at various stages of the process. See Chapter 10 for details on the restructured Grievance Unit and recommended role and responsibilities therein.

Chapter 2: Accessibility and Outreach

2.1 RSPO should expand its ground-up, targeted outreach to better socialize CAP 2017 with affected rightsholders and stakeholder groups.

RSPO should enhance its strategic outreach, specifically targeting affected rightsholders and stakeholder groups, to ensure a comprehensive understanding of CAP 2017. This effort involves distinct but complementary strategies to socialize both member-specific grievance mechanisms and the overarching CAP 2017 procedure as potential pathways for grievance resolution, as suggested by stakeholders interviewed for this report. Based on this feedback, we recommend that RSPO maintain steps to ensure that its members actively and regularly disseminate information about CAP 2017 (in addition to any member-level grievance mechanisms). Such outreach should emphasize its role as an escalation option following the exhaustion of member-level grievance processes and for grievances that cannot be resolved through members' own operational-level grievance mechanisms. This tiered approach should be clearly communicated to minimize confusion and underscore the distinction between internal grievance mechanisms and the RSPO system as a subsequent step in the grievance resolution hierarchy.

Furthermore, RSPO's outreach should explicitly include engagement with Intermediary Organizations (IMOs) as a parallel avenue to elevate awareness of CAP 2017 among stakeholders. Partnering with NGOs, trade unions, and grassroots organizations presents a valuable channel for raising awareness about CAP 2017, RSPO's P&Cs, and other key standards. To address potential confusion among growers regarding the interplay between member-level grievance mechanisms and CAP 2017, including procedural requirements before escalating grievances to CAP 2017, it is necessary to articulate the complementary nature of these mechanisms and the proper procedural flow.

More proactive and dynamic methods of stakeholder engagement should be utilized to complement passive dissemination strategies such as making videos and brochures available on RSPO's website. This form of proactive engagement could focus on face-to-face interaction and should be tailored to national/regional context, and rightsholders' cultural preferences and language needs.¹⁷ This approach aims to carefully navigate the complexities of communicating about multiple grievance mechanisms, attempting to equip stakeholders with the knowledge needed to navigate these systems effectively, while being mindful of the potential for confusion and working diligently to mitigate it.

2.2 RSPO could also diversify the channels through which prospective complainants can engage with the RSPO and make information available in more locally appropriate languages and vernacular.

As noted in section 5.2 of the Key Findings Document, many rightsholders face challenges with connectivity and digital literacy, which can inhibit their access to the RSPO site and complaint form. A hotline and SMS/WhatsApp platform to receive and process complaints could be set-up in parallel to expand accessibility.¹⁸ To maximize cost-effectiveness, available portals—digital or physical—can be tailored based on local telecommunication practices of the geography in question. Key geographies can be prioritized.

¹⁷ For example, as highlighted in section 13.2 of the Key Findings Report, capacity building for rightsholders is an integral part of the Fair Food Program (FFP) grievance mechanism. FFP offers worker-to-worker trainings, where workers are paid to attend. Moreover, during audits, FFP auditors inform workers about the availability and successes of the FFP grievance mechanism.

¹⁸ While there is already an emergency HRD hotline, TRP proposes also maintaining a phone line for other complaints.

To alleviate resource constraints on complaint intake, separate informational portals can be set up, staffed solely to provide informational support (without any duties in complaint intake). Such portals can be a combination of passive information (e.g., information posts via social media platforms) and active information (e.g., staffed chat channels to respond to anonymous information queries).

RSPO should also reduce cultural and linguistic barriers to access for rightsholders by ensuring information about CAP 2017 is disseminated in an accessible way. RSPO can produce easy-to-understand instructions and guidance for workers in multiple languages. This can be simplified in terms of minimizing the use of legal language or jargon and by adding flow charts, visuals, and FAQs to increase accessibility. The complaints form is available in four languages (English, French, Bahasa Indonesia, and Spanish) but even broader language coverage would improve accessibility – for example, plantation workers in Malaysia may be from Bangladesh or Nepal; plantation workers in Guatemala may only speak traditional languages, rather than Spanish. Although the RSPO process is conducted in English, RSPO can improve accessibility by providing resources and support in translating important information into the complainant’s language. These measures will help reduce cultural and linguistic barriers to access of the RSPO Grievance Mechanism.

2.3 RSPO should make key efforts to strengthen trust in CAP 2017.

Fear of retaliation is one of the most important concerns of rightsholders, and reducing fear of retaliation is key to strengthening trust in RSPO systems. RSPO should actively disseminate its policies on independence, confidentiality, and zero tolerance for retaliation and emphasize that it has implemented measures to prevent reprisals against complainants, such as enabling complainants to lodge complaints anonymously. RSPO should communicate to rightsholders and stakeholders that a risk assessment is performed at the intake step to identify any immediate risks to the complainant, including of retaliation, and has measures in place to protect the complainant from danger should this be necessary (see Section 3.6).

RSPO should also expand in its socialization efforts that CAP 2017 is generally a reliable and trustworthy system. It is important that stakeholders trust the system in order to utilize the system as intended and also to recognize the outcomes. Partnerships with NGOs and rightsholders’ credible representatives help build and indicate a level of trust in the system. RSPO can also designate a local liaison who can increase visibility and provide information, especially to develop lasting connections with local representatives and increase more repeat-players among NGOs that feel comfortable to make complaints. The local liaison can be appropriately designated personnel of an RSPO member or better yet, an independent RSPO representative who sits in or close to the region. RSPO can also embed promotion of CAP 2017 in its regular human rights training so that RSPO staff are better equipped to explain and serve as point people for the mechanism, making it seem less impersonal and remote.

2.4 RSPO should facilitate greater smallholder inclusion.

Smallholder inclusion can be strengthened in the RSPO ecosystem. As discussed in Section 5.4 of the Key Findings Report, independent smallholder representatives expressed a desire for meaningful engagement and smallholder representation within RSPO. Appropriate CAP 2017 personnel, as well as local liaisons, NGO partners, or support agencies can help fill this gap by providing capacity for more face-to-face engagement with smallholders, as well as on-site capacity building and training courses when possible.

In addition, communicating relevant information from the perspective of smallholders can identify smallholder needs and help improve system efficacy. As an example, the Malaysian Sustainable Palm Oil (**MSPO**) certification scheme in data provided by Malaysian Palm Oil Certification Council (**MPOCC**)

to TRP said it has adapted its guidelines to smallholders by providing specialized guidance with smallholder examples. RSPO can explore challenges that independent smallholders and workers on smallholder farms face in making complaints to similarly adapt its guidance and better understand, engage, and evaluate smallholder inclusion.

These initiatives aimed at enhancing smallholder inclusion can also serve as a model for other member categories. This holistic approach ensures that while the specific needs of smallholders are addressed, the RSPO remains inclusive and responsive to the broader membership community.

As envisioned in the proposed RSPO Grievance Mechanism

The proposed RSPO Grievance Mechanism envisions a role for specialized Grievance Intake Officers (a function of the Grievance Unit) to facilitate potential complainants in accessing and submitting a complaint, as well as socializing the grievance mechanism with rightsholders more broadly. Grievance Intake Officers proactively help prospective complainants complete the form and provide required information to different types of complainants (e.g., workers, NGOs, smallholders, etc.). They would only provide procedural support and not advise on the substance of the grievance. See Chapter 10 for details.

Chapter 3: Initial Diagnosis

3.1 RSPO should clearly articulate which parties are exclusively responsible for making decisions on the acceptance of cases to avoid confusion and inconsistency.

Although the written procedure states that the CP is only engaged after the initial diagnosis of the complaint, in practice, the CP is also currently involved during initial diagnosis. Therefore, to correct any potential inconsistency between policy and practice, RSPO should discuss the role of parties involved in the acceptance of cases and ensure that RSPO procedural documents precisely and specifically stipulate whether, and the extent that, the CP has a role in deciding whether a complaint is officially accepted. RSPO should then internally reinforce adherence to the stipulated procedure and avoid deviation. Any exceptions should also be clearly delineated in procedural documents to avoid confusion of roles and responsibilities.

Internal procedural documents should also outline in writing the specific rubric by which cases should be assessed for acceptance (see further below for details). Assessment for acceptance is a critical gatekeeping function that demands appropriate analysis and judgment. As such, the responsibility should be assigned to an appropriate function and role, and may need to be separate from the current intake function and the CP. Clearly separating these functions improves independence, reduces inefficiencies due to confusion of roles, alleviates workload on the Grievance Unit by allocating clear responsibility for information management and communication with parties to the complaint.¹⁹

3.2 Application of the subsidiarity principle will be validated during the initial diagnosis phase.

During initial diagnosis to determine whether a case should be accepted and whether the complainant has satisfied relevant subsidiarity requirements should be verified by the responsible team (see Section 1.2). Where the complainant raises the exception to directly seek redress from CAP 2017 (thereby circumnavigating the requirement to first undergo the member-level grievance process), they should provide sufficient information and/or evidence that supports her/his claim. When considering whether there is reasonable concern that the mechanism is inaccessible, the reviewer may request additional information from either party, while seeking to preserve anonymity of the complainant (as appropriate).

3.3 Where a representative of the harmed party submits the complaint, the responsible personnel should be expressly empowered to verify with the affected rightsholders regarding the complaint and whether the complainant is their chosen and legitimate representative.

The grievance form should require complainants to provide evidence of their appointment as the rightsholders' representative(s). The party responsible for initial diagnosis should then review the evidence provided, and conduct any additional verification required. The party responsible for initial diagnosis should have at least one instance of communication with the affected rightsholder groups early in the process. Where rightsholders and/or complainants would like their identity to be kept confidential, confidentiality obligations should be strictly observed and the identities and contact information of rightsholders and/or complainants (if known) should only be communicated within the Secretariat and strictly on a need-to-know basis.

¹⁹ In this regard, TRP's proposed RSPO Grievance Mechanism envisions a separate Initial Diagnosis Officer position to perform the case acceptance assessment (see chapter 10 and chapter 12).

3.4 Information flows within the RSPO Secretariat should be formalized.

While various units within the Secretariat are engaged during the initial diagnosis phase, these information flows are not formalized in procedural documents. Such procedures should be specified in internal procedural documents to ensure flows are standardized, appropriate (e.g., do not give rise to potential conflicts of interest), and timely (e.g., the respondent is notified of the complaint at the appropriate time). In particular, procedures should contemplate confidentiality safeguards and limit engagements with parties that risk improper communication of information (e.g., engagement with external parties regarding a complaint should be limited until the respondent is formally informed of complaint). Such procedures and safeguards can be designed into the IT/IS systems and record filing and access protocols, written into policy and procedure documents, and included in internal training to relevant staff members.

The proposed RSPO Grievance Mechanism allocates specific responsibilities for managing these information flows (see Chapter 12).

Clarity should be provided on the timing and extent to which various support units can access complaint/case information and provide support. This is particularly important for regional directors and representatives, who can provide insight into the local context. Similarly, engagement with the Standards Department and Human Rights Social Standards could also support initial case assessments by providing advice on interpreting the relevant standards that form the grounds of the complaint. As such, these relevant departments within RSPO should be provided details of allegations (subject to non-disclosure obligations and sensitive information may need to be redacted) and be permitted to provide information that would be helpful to inform case eligibility decisions, verify the status of the respondent member, or background context on the complainant. Such early engagement could improve efficiencies and frustrations by the parties down the line by ensuring that the right decisions are made early and upfront.

3.5 Respondents should be provided basic information of the allegations made against them after a case is accepted.

Subject to and after an assessment of the risk of reprisals (see below Section 3.6), the body responsible for initial case diagnosis should inform respondents of the alleged conduct, specific provisions in RSPO Key Documents that the allegations relate to, and the entity (e.g., subsidiary company, certified unit, estate) involved in the grievance. When communicating with respondent companies, particular care should be taken to protect the identity of complainants or where there is risk of retaliation.

The respondent should be given an opportunity to respond to the factual allegations made, in particular the respondent's answer to any parts of the alleged facts (whether any facts are stipulated or disputed). Where appropriate, the body conducting initial case diagnosis may ask the relevant RSPO member to confirm whether they have control or ownership over the entity subject to the grievance to determine if the member would serve as the proper respondent. This is intended to be an initial rebuttal of basic facts, *not* a full presentation of evidence and/or arguments from either party; parties will be invited to do so during the investigation phase (if undergoing Determination process). Similarly, the respondent should not be invited to comment on the merits of the claim at this stage to ensure impartiality. This limitation should be explained to the respondent. The body responsible for initial case diagnosis should gather enough information from the respondent to determine whether there is a basis for the case to move forward; all evidence and information should be provided to the party responsible for overseeing the investigation (see Chapters 5 and 14 for details).

3.6 The case intake process should include a risk assessment to verify any potential risk of reprisals, intimidation, or harassment.

Intake assessment procedures should include a step to assess likelihood of retaliation or reprisal against the complainant or third party as a result of the complaint. Determination needs to be made on a case-by-case basis, but key factors should include whether the complainant has specifically raised concerns about retaliation, the nature and extent of the alleged violation, the relationship between the complainant and other employees or managers implicated in the complaint (e.g., a manager of the complainant or has power to influence the complainant's conditions of employment), prior instances or allegations of retaliation by the respondent, etc. The general criteria and steps for determining the likelihood and seriousness of retaliation or reprisal should be clearly stipulated for the personnel making the determination.

RSPO should also establish protocol and corresponding resources for responding to likely and serious risks of retaliation. The primary objective should be to preserve the anonymity and confidentiality of the complainant and any associated persons.

3.7 A triaging function should be incorporated at the case intake phase to ensure proper referral of cases to external bodies.

In some complaints, the most appropriate body to resolve the complaint is not the grievance system. A procedural function should be established to assess whether an onward referral beyond CAP 2017 is appropriate, can enhance the grievance process, or is necessitated by the specific nature of the complaint, as elaborated in Section 1.5. This includes considerations for complaints against CBs relating to audit and certification processes and the approach towards complaints undergoing court proceedings or other state-based processes. This procedural function will also ensure that conflict of interest and capacity checks are conducted to safeguard complainants during the referral process, and support is provided to complainants requiring assistance in making a referral.

The triaging process will also consider the status of complaints related to court or state-based proceedings, ensuring that the RSPO grievance mechanism complements, rather than duplicates or conflicts with, these processes. This will involve suspending RSPO grievance cases pending the outcome of parallel legal or administrative proceedings, with a focus on maintaining communication with all parties involved and relying on the factual determinations and remedies granted by these proceedings to inform subsequent RSPO actions.

3.8 Early in the initial diagnosis process, complainants should be provided with the 30-business day timeline for case intake assessment process and any decisions on acceptance of the case.

The timeframe between receipt of a complaint case to decision to accept or reject the case is thirty (30) business days. Since stakeholders often expect a quick response and rapid updates, communicating the timeline can help with expectation management and improve the parties' satisfaction with the process.

As envisioned in the proposed RSPO Grievance Mechanism

The proposed RSPO Grievance Mechanism calls for establishing a specialized role under the Grievance Unit—Initial Diagnosis Officers—to review the allegations and initial evidence provided as part of the complaint (received via the Grievance Intake Officers). Initial Diagnosis Officers are responsible for conducting additional verification, coordinating information flows within the RSPO Secretariat (e.g., with regional directors/representatives), assessing risk of reprisal, engaging with the respondent, and gathering information from the complainant. They will also make recommendations regarding the most appropriate channel(s) for resolution—e.g., BE, DSF and/or Determination. See Chapters 11 and 12 for details.

Chapter 4: Bilateral Engagement and Dispute Settlement Facility

As a roundtable founded on dialogue and engagement, RSPO should promote BE and DSF as the modes of resolving grievances. These processes enable amicable resolution and can alleviate the resource demands from the adjudicatory process. While stakeholders saw value in both BE and DSF, in their current form, there is insufficient incentive for parties to participate in these processes. Moreover, stakeholder awareness and understanding of DSF in particular is limited. In this context, TRP has formulated the following recommendations.

4.1 The role of the Grievance Unit and extent of their oversight of BE must be clarified.

The role and parameters of the Grievance Unit's involvement (and limitations on involvement) in overseeing the BE process should be clearly spelt out in the procedural rules. In particular, both parties to a case should agree on the extent of the Grievance Unit's involvement so as to prevent any perception that the Grievance Unit is biased towards a certain party and/or that RSPO is interfering in the BE process in any degree. A perception of bias or unwanted participation by the Grievance Unit is likely to obstruct the likelihood of a mutually acceptable result via the BE process. In case of failure to reach an agreement on Grievance Unit's participation, the case may be referred to Determination.

4.2 The Grievance Unit should redirect cases of significant power or informational asymmetry between the parties directly to Determination.

To address concerns over significant bargaining power and information asymmetries, the Grievance Unit should be granted power to recommend that the case proceed directly to Determination. Where there is significant asymmetry between the parties with regard to information or bargaining power, BE or DSF processes would be negatively impacted by unequal power dynamics. Similarly, if there is any significant risk of the respondent member engaging in reprisals, intimidation or harassment, the BE or DSF process should not be utilized. In addition, where complainants wish to remain fully anonymous (and therefore neither BE nor DSF is practicable), cases would also go straight to Determination.

If there are allegations involving systemic or widespread abuses of human rights or environmental harm, the BE or DSF process may not effectively address the root cause or effect necessary systems-level remedies. However, while the parties to the specific complaint case may opt for BE or DSF to agree on remedy for the complainant, it is important that the Grievance Unit review any continuing and systemic harm and decide whether to raise or redirect the case to Determination to resolve systemic root causes.

4.3 At the outset of the BE or DSF process, both parties (or a properly authorized representative) should be required to participate in an initial mandatory meeting with facilitating grievance mechanism staff ("Facilitator").

At the start of the BE process, it is mandatory for both parties, or their properly authorized representatives, to meet with a Facilitator (a designated RSPO staff). This initial meeting is designed to communicate the advantages (and potential disadvantages) of the BE process, outline the procedural steps of BE, emphasizing the respective roles and responsibilities of each party, expected timelines, outcome expectations, and any potential costs and funding support.

In the context of DSF, the initial mandatory meeting involves both parties and a mediator (subject to the mediator's availability and absence of any conflict of interest). The mediator's role, distinct from the Facilitator in BE, is to provide mediation services, guiding the parties through the DSF process. The key goals of this session in the DSF context is similar to that in the BE process (i.e., communicating the

advantages and (and possible disadvantages) of the DSF process, a detailed explanation of procedural steps not previously introduced, clarifying the respective roles and responsibilities of the parties and the mediator, expected timelines, outcome expectations, as well as discussing the costs and availability of funding support for the process).

The goals of this session are both to provide transparency of the process at the outset, as well as to foster dialogue and trust between the parties. The facilitator or the mediator should aim to guide discussions towards identifying and aligning the parties' mutual interests to facilitate a constructive resolution.

At the same time, to ensure efficiency and integrity of the process, it is important that the parties themselves or their authorized representatives attend the mandatory initial meeting and the subsequent mediation process (e.g., a representative who has proper authority to accept, reject and counter-propose on a mediated resolution). The parties should not have the option of sending an agent who does not have authority to share the required information, respond to a resolution proposal, etc. This requirement is intended to prevent delay for both parties, frustration of the process and inefficient resource drain on CAP 2017.

4.4 Funding support should be made available by RSPO to enable parties to engage in BE and DSF in similar capacities and therefore achieve better outcomes.

Any ancillary cost of the initial mandatory meeting with the Facilitator (for BE) or mediator (for DSF), such as cost of additional RSPO staffing costs (including any additional cost for the time of the Facilitator or mediator), meeting space, etc., should be covered by RSPO. In consideration of budget control, the procedure can stipulate for RSPO to cover up to a predetermined number. Additional meetings can be requested and granted, provided that the Facilitator or mediator (as the case may be) determines it would be reasonable and productive, and appropriate available budget allows—.

To avoid confusion, parties should still cover their own costs in the DSF process. If the complainant (or where applicable, the respondent) is unable to cover the costs, they should apply to access a ring-fenced fund administered by the RSPO Secretariat (currently referred to as DSF Financial Assistance).²⁰ RSPO should also consider making this funding available to cover travel and accommodation expenses and other associated expenses that might be incurred by the relevant party to participate in DSF. As part of this, RSPO should ensure sufficient funds and resources are allocated.

Furthermore, RSPO should also increase the number of experts called on to participate in BE and DSF processes. This support is important for addressing the complexities of cases that arise and ensuring that parties have access to the necessary expertise for effective resolution. We understand there are ongoing efforts to establish a pool of experts and mediators, which will serve as an impactful resource for the DSF process.

4.5 Where parties opt for DSF or BE, the case should not be lodged onto the RSPO public tracker unless DSF or BE fails, and the case is transferred to Determination.

Complaint cases undergoing DSF or BE in the first instance (i.e., excluding cases to address a party's non-performance of a previously resolved case via DSF or BE) should not be lodged onto the public

²⁰ In determining eligibility for access to the ring-fenced fund, the RSPO should draw on the DSF Trust Fund Framework's eligibility criteria, as set out in Section 1.4.3 of that document, namely, that beneficiary candidates meet the following criteria: "1.4.3.1: being a party or a potential party to either a facilitation process or a mediation reference within RSPO's Dispute Settlement Facility framework; and 1.4.3.2: is not an unregistered organisation under the laws of the country it mainly operates; and 1.4.3.3: is able to provide sufficient documentary evidence in support of its application for Financial Assistance to the sole and absolute satisfaction of the Trust Fund Committee, both in terms of amount and necessity."

tracker. Such case should only be lodged onto the public tracker only if and once the case has entered the Determination process. This approach is intended to create incentives for respondent companies to participate in DSF and/or BE. It also limits public exposure while complainants and respondents attempt to resolve cases via amicable channels.

However, to avoid undue delay in disclosing cases publicly, for BE, there is a default time limit of sixty (60) business days from start of the process to formal agreement on resolution. If an extension is needed, parties may mutually request one, and the RSPO Secretariat will review the request. If the Secretariat determines that there is both a reasonable need for additional time and prospect for resolution, they will consider granting the extension. However, if the extension request is deemed unreasonable or appears to be a tactic to delay proceedings, the request should be rejected, and the case will be referred to the CP.

For DSF, we agree with the current approach of not setting predetermined and specific time limits, and deferring timelines to the process agreement of each case. The mediator will be tasked with ensuring fair and timely process, and determining appropriate amendments to the agreed process. However, the RSPO Secretariat should monitor the mediator to ensure they are appropriately engaged and intervene only if the mediator has deemed the process unfair or unproductive, or if the mediator is unable to fully perform his/her duties. In that case, the Secretariat may transfer the case to Determination.

To further prevent abuse of BE or DSF to delay a case being lodged onto the public tracker, RSPO should implement the steps outlined in below Section 4.6 to review a party's rescission of consent to BE or DSF.

4.6 BE or DSF cases should be moved to Determination if one party rescinds consent.

One party unilaterally rescinding consent can frustrate the process or cause an unfair advantage against another party. It can also cause inefficiency in the overall CAP 2017 resolution process. To prevent this, a request to terminate the BE or DSF process should be reviewed by the CP. The CP should receive a presentation of circumstances surrounding the request to terminate the process and determine if the request was in good faith—i.e., it is reasonable, is not intended to frustrate the other party or otherwise gain an unfair advantage. Specifically, the following steps should be taken after one or more party's request to terminate BE or DSF before the case is moved to the Determination process:

- **Mandatory Pre-Termination Review Meeting:** Before a party can unilaterally rescind consent, a mandatory meeting with the CP and other involved parties will be convened to discuss the reasons for withdrawal and explore all options to continue the process in good faith.
- **Cooling-Off Period:** A cooling-off period of ten (10) business days will be introduced following the announcement of intent to rescind consent, allowing time for reconsideration and further mediation efforts by the CP.
- **Transparent Documentation of Process:** All stages of the discussion and decision-making process related to the rescission of consent will be documented and made available to both parties, ensuring transparency and accountability.

If the party requesting to terminate the BE or DSF process is determined to be doing so in bad faith—e.g., opting for BE or DSF to stall the case from appearing on the public tracker, delaying the resolution process, increase costs for the other party(ies), making no reasonable effort to engage with the other party(ies) and/or the mediator, etc.—or doing so causes a significant unfair disadvantage to the other party (e.g., key information or witnesses favorable to the other party(ies) will become unavailable),

the CP can determine the appropriate action to allow the case to proceed equitably. For example, the case may still proceed to Determination, but the CP will consider any resulting procedural delays against the party acting in bad faith and/or excuse the other party for requiring additional time, and/or include into the resolution decision any remedies for harm or cost caused by the bad-faith termination of BE/DSF.

In contrast, mutually informed consent by the parties to terminate BE or DSF should trigger an automatic termination and/or a move to Determination.

4.7 Where parties reach a settlement agreement via DSF or BE that contradicts or falls short of RSPO standards or is otherwise impracticable under applicable law, the CP may request the parties to re-negotiate the terms of the settlement agreement.

BE and DSF processes do not have inherent and strong safeguards to prevent resolutions from conflicting with RSPO standards and/or applicable laws. At the same time, resolutions that conflict with RSPO standards will pose challenges in implementation (e.g., difficulty in monitoring performance), cause redundancy (e.g., subsequent challenge or litigation of the resolution by a party) and ultimately delay satisfactory resolution. Hence, BE and DSF resolutions should be subject to review to ensure conformity.

This review should be conducted at the outset of the post-grievance monitoring stage (i.e., all conflicting resolution terms should be resolved before being subject to a monitoring plan). The monitoring body should conduct the review prior to developing the monitoring plan. In exceptional cases in which resolution is non-conforming with RSPO standards and/or applicable laws, the parties should be notified and requested to revise the conflicting terms. Such requests should clearly state the underlying reasons and specific portions of the settlement that are inconsistent with RSPO standards and/or applicable laws. The parties should be given an opportunity to remedy the issue via the opted procedure (BE or DSF). Where the parties cannot agree on revised resolution terms that are conforming, the parties should be permitted an opportunity to opt *out* of BE or DSF, as the case may be, and opt for final resolution via the Determination process instead.

As an additional measure to minimize such instances, basic training should be provided to Facilitators and mediators that provides them with relevant parameters regarding RSPO key documents, national laws, and guidelines. This is meant to ensure that they appropriately guide the parties to a resolution that is consistent with RSPO standards and is unlikely to be subsequently re-litigated or challenged under applicable law. Such training will help minimize occurrences where the parties need to review and revise an already-agreed resolution or otherwise make the resolution moot by subsequently re-litigating the matter through external channels.

Should these issues occur in the course of post-grievance monitoring, it should be handled using the process described in Section 16.3 below.

As envisioned in the proposed RSPO Grievance Mechanism

The Initial Diagnosis Officer will evaluate whether a case can be appropriately resolved via BE or DSF (collectively referred to as the “Conciliation” phase), or alternatively should go straight to Determination. If suitable for Conciliation, the officer will direct the parties to a mandatory “pre-conciliation meeting,” facilitated by the Secretariat or an independent facilitator. The Secretariat or facilitator, as the case may be, will explain the BE, DSF, and Determination processes and the positions of each party. If parties do not agree to Conciliation, the case proceeds to Determination. See Chapter 12 for details.

Chapter 5: Investigation

5.1 The audit process should be decoupled from the investigations process.

RSPO should consider limiting the involvement of CBs in the investigative fact-finding process for CAP 2017 cases. As such, Section 5.9 of the CAP 2017 procedural rules (requiring that cases relating to breaches of the provision of the RSPO Key Documents by a member's certified facility to be referred to the CB and/or the AB (ASI), where appropriate) should be removed.

However, a limited exception should be allowed for the investigative body to request CBs and AB (ASI) for existing information held by the CB or AB (ASI) (e.g., past audit findings, including those related to new planting procedures that are pertinent to a case). This is particularly suitable where existing information is directly probative towards relevant facts and/or facts under dispute. This process should be same for both allegations made against both certified units (acknowledging that certification processes, such as the verification of new planting procedures by CBs, imply potential involvement of CBs even in these contexts) and non-certified units.

In scenarios in which a complaint is made against a member for not complying with RSPO standards, and simultaneously, the CB also fails in its duty to detect or report this non-compliance during its certification processes, it is advisable to clearly set the AB (ASI) as the responsible body for assessing the CB's failure in performance (i.e., a failure of its auditing and/or certification process). In other words, the portion of the complaint regarding a member's violation of Key Documents is to be resolved via CAP 2017; the CB's related failure to perform its audit or certification duty is to be addressed via the AB (ASI)'s process. Such delineation of the distinct functions between the CP and AB (ASI) should be expressly stated within the procedural documents. This distinction ensures that AB (ASI) is responsible for scrutinizing CB performance and imposing sanctions, while the CP focuses on the company's compliance with RSPO standards (see also above Section 1.5.a).

5.2 The limited role of CPs in onsite investigations should be clarified in procedural documents.

We recommend revising the procedural documents to clarify that only external investigators should be engaged to conduct on-site third-party verification; the CPs' role in doing so be accordingly and expressly limited. This will align the policy with current practice and reduce confusion around CP's empowerment under Section 7.1 of CAP 2017 to "conduct site visits" and meet with parties, as these powers are currently and generally not exercised.

5.3 The RSPO should continue to support the establishment of a ring-fenced fund dedicated to financing the engagement of independent or external investigators.

Procedures should clearly and explicitly specify who should fund independent investigations. The current procedure does not specify who pays for independent investigations. However, in practice, respondents have been requested to pay, which may lead to rightsholder perception of conflict of interest. Assuming it is feasible from a budgetary perspective, it would be preferable for RSPO to pay for the external investigation. Procedures should be explicitly clarified to specify that the RSPO finances these external investigations through the ring-fenced fund. Enhancing this approach could reduce perceptions of procedural inequity and bolster the reliability and legitimacy—both perceived and actual—of the investigative process and its findings.

5.4 The Terms of Reference (ToR) for appointing external investigators should set clear guidelines.

The ToR should be clear on the scope of investigations, minimum standards and expectations, procedural process, and designation of management and oversight roles. The ToR should ensure that investigations are conducted with integrity, transparency, and adherence to established standards.

To accommodate varying contexts and the specific requirements of each case, the ToR should provide flexibility in the selection of experts. While the primary source for experts will be a pre-vetted pool (see Section 5.5 below), the engagement of experts outside this pool may be necessary in particular circumstances. This approach ensures that the selection process remains dynamic and tailored to the unique demands of each investigation.

5.5 A pool of experts should be established to support efficiency and effectiveness of external investigations.

To mitigate against delays in finding and engaging external investigators, and to ensure consistent quality of work, RSPO should establish a pre-vetted pool of experts (including, but not limited to, investigators) for each relevant jurisdiction. This pool should consist of individuals with verified qualifications and experience relevant to RSPO's needs, organized by jurisdiction and area of expertise.

The development of this pool of experts should be an organizational effort. The power to select experts, set selection criteria, and operate and maintain the expert pool should rest with the RSPO. Once determined, the selection criteria should be applied consistently and objectively. Where an investigation is required, the parties to the grievance can state their preference from the pre-vetted pool (if any), though the CP ultimately retains discretion in the selection of the expert.

While experts will largely be drawn from the pool, it is important for the RSPO to maintain the ability to engage experts outside of this roster to allow flexibility in case the pre-vetted experts are unavailable or unsuitable for a particular need. This approach ensures that the selection process remains dynamic and tailored to the unique demands of each investigation, and also mitigates the risk of creating a perception of reliance on pre-selected experts. We understand that the current draft ToR aims to develop such guidelines and should reflect the balanced approach noted here.

5.6 Formal Determination procedures should include opportunity for parties to introduce facts and evidence, and to review and respond to investigators' findings.

The formal Determination procedures should include opportunities for all parties to present and contest evidence. Macdonald et al. highlight that measures to balance power asymmetries in the capacity of parties to bring their own version of facts to the negotiation table remain critical, even in the context of external investigations.²¹ Once the factfinding steps are completed, parties should be given an opportunity to comment on the factual findings in the report. To facilitate this, investigation reports should be made available in a format and language understood by the parties. The parties should be allowed reasonable time to review the report and respond. Ensuring the parties opportunity to do so will also ensure fairness and legitimacy of the process.

However, to also preserve the confidentiality and safety of the independent experts, ToRs should acknowledge that Non-Disclosure Agreements (**NDAs**) may be required by the independent experts and need to be signed by all parties involved. This stipulation is intended to safeguard the integrity of the investigative process and protect the information and individuals involved from potential legal risks

²¹ Kate Macdonald and Dr. Samantha Balaton-Chrimes, [‘The Complaints System of the Roundtable on Sustainable Palm Oil \(RSPO\)’](#), 2016, pages 56–57.

or exposures. The ToR should provide a clear framework for introducing NDAs at the request of the independent experts, ensuring all parties understand their importance and the role they play in maintaining the confidentiality of the investigation findings.

5.7 RSPO should build internal capacity to effectively manage investigations.

TRP notes that members and Board discussions have already emphasized the pressing and overarching goal of increasing RSPO's investigative capacity to create a better grievance mechanism. We agree in our recommendations that internal capacity building for the investigations step is crucial. In particular, it would be beneficial to focus on resources and capacity of the personnel responsible for managing and administering investigations. This helps to ensure that current cases are handled efficiently, consistently and in accordance with designed procedures. The RSPO should consider updating training processes and modules to help communicate revised roles, responsibilities and procedures.

We also understand that RSPO is currently considering a draft "Terms of Reference" that is making its way through discussions at RSPO, the purpose of which is to "commission the formation of a 'pool of experts' in service of RSPO CAP and related fields." This will also include roles with investigations and factfinding responsibilities, and our recommendations agree with an effort to establish such pre-vetted pool of experts. Experts added to the pool should meet clear criteria on qualifications and relevant experience. They should also receive proper and standardized training on the RSPO Key Documents and relevant CAP 2017 procedures.

5.8 The Grievance Unit should be empowered to refer a complaint case where it has reason to suspect continued or unresolved violations even after a complaint case is closed.

If the Grievance Unit notes or has reason to suspect the presence of continued or unresolved Key Document violations by a respondent after a related complaint case is closed, it should refer such cases to the CP. The CP would independently assess the case on its merits and decide whether to accept the case for further action. Such referrals should occur particularly in instances of systemic violations, where the harm continues and extends to rightsholders beyond the specific complainant.

Upon receiving a referral, the CP can assess the concern and determine whether it is necessary to perform additional factfinding. If needed, the CP can instruct additional investigative steps accordingly. Based on the referred information (e.g., from the related case) and additional investigative findings (if any), the CP will render a decision on whether any additional systems-level remedial action are required or recommended. The CP's assessment and decision-making procedure can mirror that for Determination decisions.

This referral mechanism maintains the integrity of the grievance process under CAP 2017, ensuring that all parties involved are held to the same standards of accountability and that the Grievance Unit can facilitate the identification of potential issues via an expedited process.

As envisioned in the proposed RSPO Grievance Mechanism

Investigation responsibilities will be handled by a specialized sub-unit of the Grievance Unit: Case Management and Investigation. The position of Case Officers under this department will manage investigations. Case Officers' responsibilities include developing a Case Management and Investigation Plan, overseeing the engagement of external investigators, and coordinating fact-finding efforts. Case Officers will engage with all parties to ensure they have adequate opportunity to present their evidence and respond to findings. Case Officers will also compile all information into a briefing note for the CP to review the case and render decisions. See Chapter 13 for details.

Chapter 6: Determination Process

6.1 CP members should follow guidelines for remedial actions and incorporate stakeholder input in the Determination process.

As CP members exercise significant discretion in determining the appropriate remedy and corrective actions in response to a complaint, procedural guidance should be implemented on the remedy and corrective action for different types and levels of seriousness of infringement, as well as when urgent action or interim measures are appropriate.

One such procedure is to have CP members aided by precedents when making decisions through the Determination process. To balance the necessary freedom of discretion, CP members should *not* be strictly bound by precedent—it should only serve as a resource to facilitate and guide decision-making. To facilitate this, RSPO can consider establishing a databank as part of document management protocol tracking prior case types and their resulting sanctions/remedies to allow for easy access and analysis of past cases.²² Referring to precedents as guidance improve fairness and consistency of results, as well as efficiency in rendering decisions.

Next, CP members should be expressly granted the authority to consult rightsholders and respondents on proposed corrective action, urgent interim action, and sanctions, to the extent helpful and appropriate. The centrality of rightsholders is integral to ensure that remedial outcomes and actions taken by the CP are consistent with the RSPO Key Documents, as well as the UNGPs. CP members should be expressly granted the authority to consult rightsholders and respondents on proposed corrective action, urgent interim action, and sanctions, to the extent helpful and appropriate. To maintain anonymity, engagement with rightsholders and respondents could be facilitated by a designated member from the grievance team or otherwise through a proxy to ensure unbiased and secure consultation. Such designated member or proxy should receive appropriate training and written guidelines on engaging with rightsholders to ensure consistent and appropriate outreach on behalf of the CP. The CP should exercise caution where the complainant is not the affected rightsholder, and endeavour for the designated member or proxy to communicate with the rightsholders directly where decisions are likely to impact the rightsholders. To be clear, rightsholders' and respondents' desired remedial outcomes should be considered by CP members, but those inputs should *not* bind or fetter the CP members' independent decision-making.

6.2 Where corrective action is required, a Remediation Plan should be developed, in which full consideration of all remedies available should be given to ensure rightsholder harm are fully addressed.

In developing the Remediation Plan, the CP should consider the full range of remedies available under RSPO policies and procedures, including RSPO Key Documents.²³ Subject to those policies and procedures, remedy may include apologies, restitution, rehabilitation, sanctions, and prevention of further harm through, for example, deterrent measures or guarantees of non-repetition.²⁴ Consistent with the preceding recommendation, parties to the case should be allowed opportunity to comment during the process of developing the Remediation Plan.

²² Since precedent prior to the enactment of the proposed RSPO Grievance Mechanism may conflict with the proposed changes thereunder, this general guidance on considering precedent can commence once the proposed RSPO Grievance Mechanism is operational to create consistency across results.

²³ This recommendation assumes that RSPO Key Documents, policies and procedures are in alignment with the UNGPs. This report does not include specific recommendations on revising the Key Documents, policies, and procedures as it is outside the scope of this review.

²⁴ UNGPs Principle 25 and commentary.

To help promote understanding and set expectations, RSPO should consider communicating the remedial process and available remedies in relevant procedural documents and informational material distributed to rightsholders and stakeholders. Such clarification should articulate the decision-making authority and the specific roles and limitations of entities like the CP in determining remediation, and correspondingly, the rightsholders' and stakeholders' roles and avenues to engage in the remediation process.

6.3 Introduce independent external experts who can offer additional technical and/or regional expertise as a resource.

Building on above Section 5.4's framework, we recommend drawing on the same pre-established pool of external experts to participate in or support the Determination process and in advising on the appropriate remedy. This approach would be beneficial as a resource to offer additional technical expertise, particularly as the case pertains to a specific region and/or subject matter. Utilizing the roster established under Section 5.4, the RSPO can draw upon a diverse pool of technical, legal, human rights, social sustainability, certification and assurance, and regional expertise, thus ensuring a comprehensive and nuanced approach to grievance resolution.

In particular, we recommend continuing the inclusion of diverse national/regional expertise, such as the recent inclusion of representatives from LATAM and Asia.²⁵ Experts can be engaged based on the specific circumstances of each case and the area of expertise required, whether for navigating the complexities of national law, customary law, cultural context, or for communicating between indigenous communities and corporate entities.

6.4 Minor amendments and clarifications should be made to the definition of conflicts of interest in the procedural rules and to the Conflicts of Interest Declaration Form.

Circumstances which give rise to an actual or potential "conflict of interest" should be specified in the conflicts of interest procedural rules and declaration forms. Further, specifying examples of "matters of caution" that may give rise to a perception of conflict could also improve clarity in how conflicts are addressed. For instance, a conflict may be deemed to exist if a CP member has a personal or financial interest in the outcome of the Determination process. Circumstances that create perception of conflict include previous professional association between an CP member and any of the parties involved in a complaint. These examples should be detailed in the procedural rules and forms to provide a comprehensive understanding of what constitutes a conflict of interest, serving as a guideline for identifying and mitigating potential biases within the RSPO framework.

As envisioned in the proposed RSPO Grievance Mechanism

The CP would be restructured, and the proposed RSPO Grievance Mechanism envisions a hybrid model for improved independence, where the panel is made up of a mix of RSPO member personnel and independent members who are neither employed by nor report to RSPO members. This structure better facilitates impartial decision-making and addresses timeliness concerns. See Chapter 14 for details.

²⁵ See Section 9.5 of the Key Findings Report. We understand that, since the Key Findings Report, representatives from Latin America and Asia have been added to the CP.

Chapter 7: Appeals

7.1 The right and limitations to appeal an adjudicated decision should be expressly recognized and stated under the procedural rules.

A unified appeals process shall be established, limiting the right to appeals only on the grounds of procedural violations. A party should *not* be offered a general or unconditional right to appeal a decision on the sole basis that they disagree with the outcome. An unconditional right to appeal could lead to repetitive adjudicatory efforts and also “devalue” the legitimacy and effectiveness of the adjudicatory process. Specifically, the party wishing to appeal a Determination decision must show, on the face of the appeal request, that (i) there were procedural improprieties and (ii) the improprieties unfairly affected the outcome of the decision. In other words, the alleged procedural fault must have had a material impact on the decision's outcome. The right and criteria to appeal an adjudicated decision should be formally and expressly set forth in the grievance procedures.

In hearing the appeals, we recommend that decisions made by the CP be heard on appeal by a special Appeals Panel. The Appeals Panel will be constituted to include members who have not participated in the first instance review to maintain impartiality. The required number of Appeals Panel members can vary, depending on the availability of qualifying CP members, but should be three (3) at a minimum.

As it is of a different nature from appeals, where a party has general feedback regarding the CAP 2017 process (in contrast to appealing against a procedural violation; e.g., the designed process has been followed and the complaint is about the design itself), such feedback should be directed to a separate channel operated by the Grievance Unit. Such feedback should be summarized and reported as part of the Continuous Improvement process (see Chapter 9 for further details). Diverting such feedback into a separate process ensures that they are adequately captured and addressed without burdening the appeals process.

These processes should be clearly articulated in the procedural rules, proactively communicated to the parties at the outset of an accepted complaint case, and generally disseminated to rightsholders and stakeholders as part of communications and training efforts.

As envisioned in the proposed RSPO Grievance Mechanism

The RSPO Grievance Mechanism envisions that appeals are still heard by an Appeals Panel that is made up of members from the hybrid CP model. See Chapter 14 for more details on the hybrid CP. In addition, the procedures should provide for a party to raise a higher appeal if they have reason to believe that a procedural fault has occurred in an underlying appeals process (See Chapter 15).

Chapter 8: Post-Grievance Monitoring

8.1 To improve transparency and predictability, the responsible unit and procedural steps involved in post-grievance monitoring should be expressly set out in the procedural rules.

Upon closure of each case (via BE, DSF, or Determination), the case should be reviewed by the corresponding body (see below) to determine whether a post-grievance monitoring plan is required. For cases in which post-grievance monitoring is appropriate (e.g., one or more parties have obligations that have not yet been performed, the circumstances are not yet ripe for collecting the parties' respective satisfaction with the implemented outcomes, etc.), a tailored post-grievance monitoring plan should be developed. Conversely, where it is determined that no post-grievance monitoring is required (e.g., no breach is found, performance of the Remedy Plan has already been completed, the remedy is simply declarative—there is no further performance required—or the case is closed with no directive, etc.), the Determination decision should be recorded and the post-grievance monitoring phase can be considered complete.

The procedural steps governing post-grievance monitoring should cover the duties of the Grievance Unit and the role of the CP (in cases where the Determination process has been followed). For cases that have undergone the Determination process that require post-grievance monitoring, the CP should determine the need and details of the post-grievance monitoring plan. The CP's involvement in preparing the post-grievance monitoring plan is crucial to ensure that the monitoring process aligns with the corrective action plans and the specifics of the Determination decision.

For cases resolved through BE and DSF, a designated role within the Grievance Unit should conduct the necessity and appropriate steps for post-grievance monitoring plans to ensure that the agreements reached in settlement or mediation are implemented. This approach recognizes the varied nature of different case outcomes and emphasizes the need for a monitoring framework that can adapt to the unique requirements of each resolution.

The active management of the monitoring process will be the responsibility of a designated role within the Grievance Unit, which will provide periodic updates to the CP. The procedural steps will include standardized parameters for the monitoring process, emphasizing the clear delegation of monitoring responsibilities within the Grievance Unit. This role will ensure the CP is informed of monitoring outcomes without requiring the CP to manage the process directly. In addition, the timeframe of monitoring should be considered and clearly set forth in the monitoring plan. The timeframe should be tailored to the nature and extent of the agreed or adjudicated remedy and aligned with their corresponding performance deadlines.

In cases where non-performance by a party is alleged or found and further investigation or inquiry into of a party's performance is required, an impartial review by the CP is first required to avoid any potential conflict of interest and ensure impartiality. Alternatively, the parties may opt to resolve disputes regarding performance of the Remedy Plan via BE or DSF. In such case, relevant BE or DSF procedures should apply. These processes will thus be guided by clearly defined procedural safeguards and the overarching principle of maintaining the RSPO system's integrity.

Finally, the remedy performed and completed by the party(ies) should be reflected in the public case tracker.

8.2 Where the monitoring applies to a certified site and the certified unit is directed to take corrective action or deliver remediation, the relevant CB may be involved to verify implementation in limited circumstances.

CBs should be considered for involvement in post-grievance monitoring where (i) the corrective action involves procedures and systems that are subject to periodic certification review, and (ii) such review is adequate to properly assess implementation of the agreed corrective action. Conversely, CBs should *not* be involved in any monitoring plan where the certification process and/or review schedule are not suitable for, or do not align with, the necessary post-grievance monitoring. This would enable learnings from the grievance resolution process to be fed back into the audit and certification cycle, enhancing the overall effectiveness and responsiveness of the certification and grievance system.

The post-grievance monitoring process should be clearly demarcated from the audit process to prevent confusion about the CB's role and to distinguish monitoring responsibilities between the Grievance Unit and CBs. However, oversight by the Grievance Unit remains essential to ensure the monitoring is consistent with the agreed Monitoring Plan and that the CB is appropriately guided on conducting verification aligned with the remedy or corrective action plan.

To maintain impartiality and clarity, the Grievance Unit should retain overall responsibility for monitoring performance of the agreed-upon remedy. As such, the Grievance Unit should have discretion to decide where the CB is not suitable for post-grievance monitoring. In such cases, the Grievance Unit may decide an alternative plan for monitoring the certified site, for example, by engaging an independent investigator.

In any case, the monitoring body should be free from potential conflicts of interest and reasonably able to perform the monitoring. Accordingly, costs for post-grievance monitoring should also be borne by RSPO, and not undertaken by any party. This approach bolsters accountability on the parties to perform the agreed or rendered remedy, while also creating efficiencies in conducting monitoring.

8.3 RSPO should be more proactive in engaging with rightsholders during post-grievance monitoring.

A rights-based and proactive approach to post-grievance monitoring is critical, as the effectiveness of CAP 2017 hinges on the ability of the system to deliver meaningful and lasting solutions for the affected rightsholders. Rightsholders should not be left with the burden of enforcing any corrective actions directed by the CP, as they are often in a vulnerable position (they may face risk of retaliation) and have access to relatively fewer resources or information, compared to the respondent. Proactive monitoring is therefore necessary to address these asymmetries of power and information and ensure that rights-compatible outcomes following a CP decision.

A rights-based approach would help RSPO identify risk of reprisals, as well as any gaps in the implementation of corrective actions. Feedback provided by rightsholders and stakeholders on the ground should be triangulated with documentation and submissions provided by respondents. The expanded information and visibility from different sources will also help with final decisions on closing cases.

As envisioned in the proposed RSPO Grievance Mechanism

The proposed Grievance Mechanism places post-grievance monitoring in the hands of Monitoring Officers (a sub-function of a restructured Grievance Unit). Monitoring Officers create a tailored Monitoring Plan for each resolved case. The Monitoring Officers also conduct any site visits, follow up with affected rightsholders and respondents, and collection of other verification information to confirm proper implementation of corrective action or remediation. See Chapter 16 for further details.

Chapter 9: Continuous Learning, Monitoring and Evaluation

9.1 A feedback loop that examines system-level complaint causes and remedies should be embedded in the grievance mechanism.

As suggested by stakeholders, a compliance-focused root cause analysis could be conducted in cases where provisions of the RSPO Key Documents are not upheld. The goal is to make system-level enhancements to address the root cause and reduce likelihood of repeat harm going forward and reduce caseloads (for example, whether certain standards or indicators could be further clarified).²⁶ This includes consideration of whether certain standards or indicators might require further clarification for better compliance.

For example, the root cause analysis should be conducted by the CP as part of the Determination process. The CP should note any information from the investigation process that suggest systemic root causes to harm. Irrespective of the remedy granted to the complainant (if any), the CP retains the discretion to address the root cause of the harm in question as part of its Determination decision. Alternatively, the CP may also set further root cause observation and analysis as part of the post-complaint monitoring process. For consideration of efficiency, the CP should have the power to assess, based on the facts and circumstances, the best way to address the root cause and mitigate the likelihood of repeat or continuing harm in question.

The Facilitator or observing Grievance Unit personnel in the BE context, and the mediator in the DSF context, may refer observed root cause to the CP for consideration. If the CP finds credible concern that the root cause of the harm is likely to continue and cause further or repeat harm, the CP has the discretion to take further action to analyze and/or address the root cause.

The discretionary power recommended in this section is intended to be limited. It does not grant CP the power to reopen closed cases. Furthermore, the CP should take action to conduct root cause analysis only upon credible evidence that there is unaddressed root cause, and that such root cause is likely to cause continued or repeat harm. Such credible evidence must also have been brought to the CP's attention per the processes described above. In consideration of root cause analysis, the CP should avoid, to the extent possible, extending ongoing cases or incurring cost overruns. Guidelines on limitations for the CP exercising this discretion should be outlined in the procedural documents.

9.2 Upon case closure, the parties to the complaint should be asked to complete a feedback survey.

Soliciting feedback from past users of the grievance system can help improve the effectiveness and functioning of the mechanism. This survey should be fully anonymized to ensure there are no pitfalls to providing real and honest feedback. The survey should ask parties to assess their satisfaction and feedback regarding the RSPO's management of the case, the procedural design, and results. The survey should seek specific feedback to assess the perceived efficiency, transparency, fairness, and accessibility (which are key principles in accordance with the UNGPs) regarding these phases.

9.3 KPIs should be developed to measure CAP 2017's impact and effectiveness.

In addition to post-closure survey results, well-formulated KPIs that capture both qualitative and quantitative metrics will enable RSPO to communicate more effectively with internal and external stakeholders on the performance of CAP 2017. These KPIs should be designed to track how well CAP

²⁶ While outside the scope of this review, we note that such root cause findings can also feed into audit guidance and be valuable toward the quality of certification audits.

2017 processes are aligned with the UNGPs effectiveness criteria for non-judicial mechanisms. These KPIs should aim to capture both CAP 2017's procedural effectiveness and the outcomes.

Communicating KPI metrics can also provide transparency to different audiences and foster the spirit of continuous improvement and promote shared learning to stakeholder groups. As an option, RSPO can consider how and which of these KPIs can be published to externally communicate the CAP 2017's effectiveness, challenges, and learning opportunities. The developed KPIs and their results can also be cascaded through the RSPO membership to foster a culture of continuous improvement and shared learning among all stakeholders. By disseminating insights and performance metrics, including challenges and achievements, the RSPO can enhance collective understanding and commitment to upholding the principles of sustainable palm oil production.

This approach to KPIs aims to balance the sensitivity of such metrics while emphasizing their role in fostering an environment of accountability and continuous improvement. The following are suggested KPIs for the RSPO's consideration:

1. **Time to Resolution:** This KPI would measure the duration from the filing of a grievance to its resolution, allowing for the analysis of efficiency within the grievance process and highlighting potential delays in complex cases such as those involving land rights.
2. **Rate of Remedial Success:** A quantitative assessment of the percentage of cases where agreed-upon remedies were fully implemented within the stipulated timeline. This would directly indicate the effectiveness of the grievance mechanism in enforcing and achieving remediation.
3. **Stakeholder Feedback Scores:** Gathering qualitative data through post-resolution surveys that assess the satisfaction levels of all parties involved with the resolution process. This measure would provide insights into the perceived fairness of the process.
4. **Reoccurrence Rate:** Monitoring cases where issues reoccur despite previous resolutions can indicate potential systemic failures or the need for more sustainable solutions, thereby measuring the long-term effectiveness of remedies provided.

9.4 A regular review cycle for the grievance mechanism should be introduced.

This may include an interim "light touch" internal review and evaluation in three years, followed by a comprehensive review by external consultants in five years that examines whether the system needs to be revamped. Rightsholder views should be a key part of such a review.

9.5 Learnings should be fed back to RSPO members.

RSPO has a unique role as a shared learning platform. The learnings and experiences by both the RSPO and its members can provide a two-way growth opportunity to improve their respective grievance mechanisms, as well as opportunities where the mechanisms dovetail or complement each other. RSPO may consider hosting dialogues on best practices for avoiding, mitigating, and resolving conflicts; members, in turn, may have innovative ideas to share with RSPO. Such engagement should be regularly scheduled.

As envisioned in the proposed RSPO Grievance Mechanism

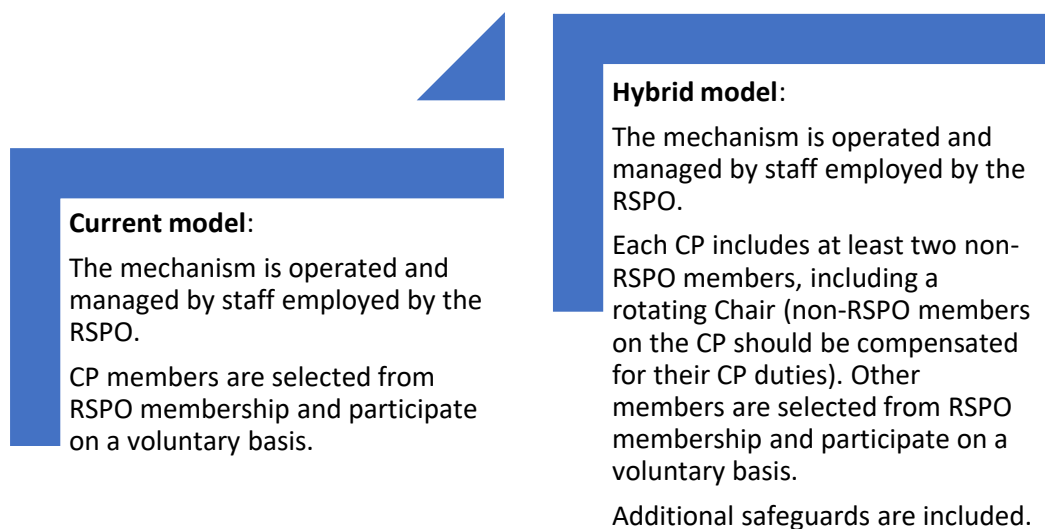
The RSPO Grievance Mechanism embeds a feedback loop and institutional learning, in line with the above recommendations. Upon issuing a Determination decision, the CP should analyse the frequency, patterns, and causes of grievances and share this data within the RSPO. Each year, the CP Chair (in consultation with the Grievance Unit) will conduct a review and disseminate key learnings both internally and externally. See Chapter 17 for details.

Part B: Proposed RSPO Grievance Mechanism

Part B, spanning Chapters 10 through 17, provides a detailed framework for a restructured, hybrid system, which emphasizes the transition towards a more independent accountability model. The model aims to strengthen procedural independence, institutional legitimacy, and enhanced efficiency. The proposed structural changes are to be taken in conjunction with the above recommendations in Part A. See below Figure 1 for a comparison of the current model and the recommended hybrid model.

The proposed restructure delineates the segmentation of the Grievance Unit into specialized functional blocks, each with distinct responsibilities, which allows for specialization of personnel (Chapter 10). Recommendations include the empowerment of Initial Diagnosis Officers and the introduction of a facilitated and mandatory dialogue and de-escalation phase (Chapters 11 and 12), and the streamlining of investigation processes to bolster procedural clarity and efficiency (Chapter 13). Further, the recommendations provide for the incorporation of stakeholder input in the Determination process and the enhancement of the independence of the CP and the establishment of a transparent appeals process (Chapter 14). The appeals procedure can be improved by providing for steps to address procedural faults in the appeals process itself (Chapter 15). The restructured system also provides for robust post-grievance monitoring (Chapter 16) and continuous improvement through a feedback loop (Chapter 17), ensuring the system's adaptability and responsiveness to evolving challenges. This comprehensive approach aims to foster a grievance mechanism that is not only responsive and fair but also trusted by all RSPO stakeholders and rightsholders, thereby contributing to the sustainable development goals of the RSPO's grievance mechanism. For a visual representation of the revised case process flow, please refer to Annex II.

Figure 1 – Transition towards a Hybrid Model



Source: TRP

Chapter 10: Restructured Grievance Unit

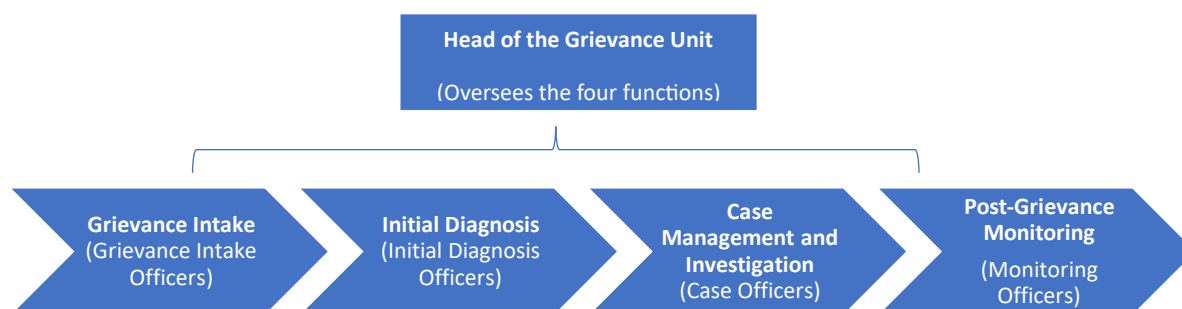
10.1 The overall grievance mechanism should transition to a hybrid model that includes added accountability safeguards to improve independent decision-making and bolster legitimacy from an external perspective.

The operational portion of the mechanism should shift towards a hybrid model, which introduces certain mechanisms that improve independence of operations and legitimacy of decisions. Specifically, certain operations of the RSPO Grievance Mechanism will be carried out or involve personnel who do not have reporting lines to, or employment relationships with, RSPO members. This moves the Grievance Mechanism towards independent grievance structures established by comparable MSIs.²⁷ Particular independent mechanisms contemplated in this hybrid model are outlined in this Part B.

10.2 The Grievance Unit should be re-structured into functional blocks.

To optimize specialization and resource allocation, we recommend restructuring the Grievance Unit into four functions: (i) Grievance Intake; (ii) Initial Diagnosis; (iii) Case Management and Investigation; and (iv) Post-Grievance Monitoring. These functions would be overseen by the Head of the Grievance Unit. See below Figure 2 – Proposed Grievance Unit Structure.

Figure 2 – Proposed Grievance Unit Structure



Source: TRP

Each function would have the following roles and positions:

- **Grievance Intake**

The Grievance Mechanism is ideally implemented to maximize capture of in-scope complaints while minimizing out-of-scope complaints from being submitted. This helps optimize the use of available resources. As such, RSPO should enhance support for navigating the submission process. Grievance Intake Officers are envisioned to provide such support and improve the accessibility and information dissemination of the RSPO Grievance Mechanism to affected rightsholders.

These officers should have the following mandates: (i) cover assignments intended to improve presence and accessibility, including to rightsholders in remote areas; (ii) take a rights-based approach and engage with rightsholder groups and their credible representatives to socialize the RSPO Grievance Mechanism and its scope, purpose, and procedures; (iii) and provide support to potential complainants in navigating the complaint initiation process.

At the same time, their role in facilitating complaint initiation should be limited to providing informational and procedural support; they should not provide any advice on the substance of the

²⁷ We note the CAO as an example which has an independently managed and operated grievance mechanism.

grievance. For example, Grievance Intake Officers should be responsible for helping prospective complainants: (i) understand the scope of complaints intended for the Grievance Mechanism; (ii) complete the grievance form; and (iii) provide information and answering questions regarding the RSPO and the RSPO Grievance Mechanism procedures. We note in particular that, while complainants can describe the underlying facts, they might not necessarily be able to specify how their situation constitutes a case under the RSPO Key Documents. To address this potential information gap, at the complainant's request, the Grievance Intake Officers could assist in articulating the details of the alleged breach of the RSPO Key Documents clearly enough to establish a prima facie case. This involves ensuring that the facts of the case are presented clearly and sufficiently for the Initial Diagnosis Officer to accurately assess the grievance's validity and scope.

On socializing the RSPO Grievance Mechanism with rightsholders and stakeholders, Grievance Intake Officers could work closely with RSPO Stakeholder Engagement & Communications. These socialization activities would exist outside the operation of the grievance mechanism itself.

- [Initial Diagnosis](#)

Initial Diagnosis Officers will primarily have a “gatekeeping” function. They verify: (i) proper standing by the parties (e.g., verify whether the respondent is a current RSPO member, whether the complainant representing rightsholder(s) in question has a valid mandate); (ii) that the nature of the complaint is within the covered scope of the RSPO Grievance Mechanism; and (iii) conduct an initial risk assessment to determine the risk of potential reprisals, intimidation, and harassment. If needed, the Initial Diagnosis Officer should request supplemental information for conducting the initial complaint diagnosis. Through the assessment, Initial Diagnosis Officers will decide whether a complaint should be accepted. If the Initial Diagnosis Officer rejects a case, the officer should provide clear reasoning and, where appropriate, also redirect the complainant to a more suitable channel for resolution.

The Initial Diagnosis Officers are also responsible for providing administrative support to the parties where BE or DSF is chosen (see more details below in Chapter 13). Initial Diagnosis Officers should have general familiarity with RSPO Key Documents and Grievance Mechanism standards and procedures.

As the Initial Diagnosis Officer is responsible for key gatekeeping and funneling decisions at the intake stage, it is recommended that initial complaint diagnosis is conducted independently by personnel that have reporting obligations to the RSPO Grievance Mechanism, and not directly to the RSPO. This helps ensure independent assessment and avoid potential optics of bias or conflict of interest (even if unsupported). Their role also requires exercising appropriate analysis and judgment. Thus, it is important that they are sufficiently experienced and able to handle important areas of discretion with adequate sensitivity. To help ensure this, sufficient resources for training and capacity building should be directed for Initial Diagnosis Officers to successfully operationalize their function in the system. Further, to avoid delays caused by resource constraints, Initial Diagnosis Officers' responsibilities should be exclusive to the abovementioned tasks.

- [Case Management and Investigation](#)

Case Officers develop the Case Management and Investigation Plan to ensure proper scoping and timeliness of fact-finding investigations. They are responsible for administering the investigation process and coordinating with the CP throughout the Determination process. They communicate with the parties on the collection of evidence and case status, arrange for external investigations (where required) and co-ordinate with other members of the Secretariat to collect information (where appropriate). Following the closure of the investigation, the Case Officers should compile and

synthesize the information collected into a briefing note for the CP, in close co-ordination with the CP Chair (see Chapter 14 for details regarding the chair position).

The re-envisioned appeals process will also involve members of the CP. Specifically, Appeals Panels will be constituted from qualified CP members to review appeals (see also Chapter 15 regarding appeals recommendations).

- [Post-Grievance Monitoring](#)

Monitoring Officers specialize in verifying implementation of corrective action plans and remediation. The Monitoring Officers develop a Monitoring Plan and are responsible for verifying implementation (except in the case of a certified unit, where such verification is primarily conducted by the CB).

It should be noted that, while this is the ideal structure of the Grievance Unit, it is designed to function with reduced or minimal staffing as required due to potential constraints of personnel availability. The following are suggested adaptations to maintain operational effectiveness under such conditions:

1. Integration of Roles: Combining Grievance Intake and Initial Diagnosis functions into a single role, handled by Grievance Intake Officers who are cross trained to provide support in navigating the submission process and conducting initial risk assessments.
2. Cross-Training: Personnel across all roles should receive targeted training that equips them with skills beyond their primary responsibilities. This includes training in investigation techniques, legal compliance, and familiarity with RSPO standards. Such cross-training ensures that staff can competently perform various functions within the grievance process, thereby maintaining operational continuity despite reduced staffing levels.
3. Implementation of a Rotational Training Program: Establishing a rotational training program where staff periodically switch roles within the Grievance Unit can build a comprehensive understanding of all functions. This rotation fosters a versatile workforce capable of filling in for absent colleagues, thus mitigating productivity losses due to staffing shortages.

These measures are merely suggestions, and the Grievance Unit should have the autonomy to make decisions as necessary and adapt to circumstances as they arise, ensuring that the unit remains robust and capable of fulfilling its mission even with limited personnel.

10.3 Phases of a complaint case lifecycle will mirror the restructured Grievance Unit blocks.

In summary, the lifecycle of a case under the RSPO Grievance Mechanism would reflect the blocks; it will also bear resemblance to the current CAP 2017 process. Below is a simplified summary of the basic process; see also Annex II for a visual representation of this process.

1. Cases begin with Grievance Intake, whereby the details of the complaint and any requested remedy, along with any supporting evidence of the complaint, are recorded and collected by the Grievance Intake Officer.
2. Next, is the Initial Diagnosis phase, in which the case file is provided to the Initial Diagnosis Officer. The Initial Diagnosis Officer assesses case eligibility (and other aspects of the case warranting attention). If the case is eligible, the Initial Diagnosis Officer outlines the appropriate channel(s) for resolution (BE, DSF and/or Determination). In the case of BE and DSF, the parties undergo Facilitated Dialogue and De-Escalation process with Facilitators (see Chapter 12 for additional details).

3. Where parties select to undergo Determination, or the case is only appropriate for Determination, the Case Management and Investigation is initiated. The case is transferred to a Case Officer, who will develop a Case Management and Investigation Plan with the parties. The Case Officer initiates execution of the plan, which may include requesting additional information and records, engagement of external investigators and experts, conducting on-site verifications, and any other appropriate fact verification and evidence gathering. The Case Officer summarizes the results of the findings in a report. The parties are availed opportunity to review the findings and respond accordingly. The Case Officer delivers the final report to the CP for review and rendering a decision. After a decision is made, the parties can appeal (if meeting appeal criteria). An Appeals Panel is formed to review the appeal and render an appeal decision.
4. After an agreement is reached under BE or DSF, or a decision is rendered via Determination or after appeal, the Post-Grievance Monitoring phase begins. Monitoring Officers perform follow-up surveys and verification to ensure that the remedy—whether mutually agreed via BE or DSF or decided via Determination—is sufficiently and timely performed by the parties. Upon satisfaction of performance of remedy, the case is closed.

As recommended, each phase should have clear guidelines and SOPs to ensure standardized and streamlined operations. Such guidelines and SOPs can be built upon current CAP 2017 procedures.

10.4 A specialized case management system should be implemented to support administrative functions.

Such a case management system, e.g., Clio, Ulula, Salesforce, should ideally be able to send automatic reminders of deadlines to all parties and stakeholders involved in case so that this does not need to be manually done by the Grievance Unit, thereby providing assurance on proper case management, and alleviating human resource pressure. In addition, the case management system should be a one-stop-shop for sending, storing, and recording communications with all parties as well as retention of documentation and other evidence relevant to each case.

Chapter 11: Initial Diagnosis in the Proposed RSPO Grievance Mechanism

11.1 Initial Diagnosis is ideally designated a separate function from Grievance Intake, and personnel tasked with Initial Diagnosis decisions ideally possess the requisite expertise to decide on case eligibility.

The Initial Diagnosis Officer conducts an initial diagnosis of each complaint. This involves reviewing the completed grievance form and assessing the appropriate next step, most notably: opening or rejecting a case, contacting the complainant or third party for more information, referring the case to another channel, and the optimal resolution channel. Based on this information, the Initial Diagnosis Officer tasked with this function may conduct additional verification and seek advice from the RSPO regional directors/representatives (see Section 3.4). The Initial Diagnosis Officer then decides on whether the case is eligible based on the criteria set out in the procedural rules.

It is important that the Initial Diagnosis Officers are selected based on appropriate expertise and experience. They need to possess a comprehensive understanding of RSPO standards, familiarity with relevant national legislations, and general knowledge of work-related dispute and grievances required for this stage of the intake process. The allocation of decision-making power on case eligibility solely with the Initial Diagnosis Officer is intended to provide: (i) procedural clarity to improve decision-making efficiency; and (ii) ensures independence in case assessment. A potential concern with the CP's involvement is that its role in the investigations and outcome process may prejudice its decision (or at least has such perception). Instead, the CP should be involved after a case is officially accepted, and it should focus on managing the investigation (where required) and deciding on the outcomes of a case. However, it must be noted that this system contemplates for Initial Diagnosis Officers to have appropriate independence in terms of its reporting line to ensure impartial eligibility assessments.

By frontloading the process of gathering preliminary information from the complainant at the Grievance Intake stage, it is hoped that it will improve the opportunity for affected rightsholders to access the system and improve the quality of information available at Initial Diagnosis. The Initial Diagnosis Officers should be expressly empowered to consult with other members of the Secretariat based on the specific needs of the case to inform Initial Diagnosis. They may also seek clarification from the Standards Department on the interpretation of the relevant provisions of the RSPO Key Documents that form the basis of the grievance. These personnel should also request the regional representatives to provide any background on the complainant or respondent that would be helpful to inform decisions on case eligibility. Other members of the Secretariat must provide their feedback within stated timeframes to prevent delays.

Chapter 12: Facilitated Dialogue and De-Escalation (i.e., BE and DSF) in the Proposed RSPO Grievance Mechanism

12.1 A “Conciliation” phase should be introduced, where DSF and BE serve as potential pathways for grievance resolution under the RSPO grievance mechanism.

Upon completion of Initial Diagnosis and case acceptance, the Initial Diagnosis Officer should assess whether BE and DSF are appropriate resolution processes (collectively, the “**Conciliation**” phase). The Initial Diagnosis Officer makes this assessment by considering factors such as: the risk of reprisals; whether there have been previous failed attempts at engagement; whether there are any significant asymmetries of information and/or bargaining power; and whether the issues engaged could be resolved efficiently and effectively through Conciliation. This should be a case-by-case assessment, although the procedural rules should provide formal guidance on categories of cases that should bypass Conciliation and be resolved via Determination (e.g., environmental claims where there is verified proof of deforestation, such as those confirmed through remote sensing, satellite imagery, and/or field verification) or cases with significant risk of reprisals or systemic violations (see above Sections 3.6 and 4.2).

If the Initial Diagnosis Officer assesses that a case could benefit from, and/or could reasonably be resolved through Conciliation, the officer will direct the parties to collectively participate in a mandatory “pre-conciliation meeting.” This meeting is facilitated by the Secretariat or an independent facilitator (“**Facilitator**”) selected based on geographical, expertise, and case-specific needs. If engaged, Facilitators should be selected from a roster of pre-vetted independent personnel; the parties do not choose the Facilitator. The Secretariat or the Facilitator helps each party understand the three different processes (BE, DSF and Determination), the advantages and disadvantages of each, and the positions of each party. The Facilitator should be trained in mediation and conflict resolution skills to properly socialize the parties with the particular benefits of BE and DSF processes. Following this pre-conciliation meeting, parties either agree to undergo the conciliation process (i.e., DSF or BE, where available); if either party does not agree to undergo conciliation, the case is transferred to Determination.

To be clear, the parties’ participation in the pre-conciliation meeting does not preclude either party from refusing to undergo Conciliation. If either party refuses Conciliation, the case moves to Determination. We recognize that a party may believe that Conciliation will not effectively resolve the issue or might unduly prolong resolution for the case in question. The Secretariat or Facilitator should manage these processes to prevent unnecessary delays and ensure that both complainant and respondent have appropriate choices of resolution process, thus allowing the parties to take ownership of the resolution process.

12.2 The Initial Diagnosis Officers should be responsible for providing administrative support to the parties during the Conciliation phase.

Where DSF is elected by the parties, the Initial Diagnosis Officers can provide support to the parties and the mediator to arrange meetings and keep a record of communications. Where BE is chosen and the parties agree, the Initial Diagnosis Officer may attend meetings between the parties as an observer.

Where the Initial Diagnosis Officer finds that either party is acting in bad faith or abusing the BE or DSF processes (see above Section 4.5 and 4.6 regarding determination of bad faith), or that BE or DSF (as

the case may be) is no longer an appropriate means for arriving at a resolution, the Initial Diagnosis Officer has the power to recommend instead to transfer the case to Determination.

As noted in the preceding Section, it is essential that all parties fully understand that continuing with Conciliation is contingent upon the parties' continued mutual agreement. If either party or both parties decide against proceeding with Conciliation, they retain the option to request to move the case to Determination. This is designed to ensure that parties are fully informed and consent to the pathways available to them, promoting transparency and buy-in for the process. At the same time, however, a review process should be implemented to safeguard against a party abusing or intentionally frustrating the resolution process by rescinding consent for Conciliation (see above Section 4.6 for details).

Chapter 13: Investigation in the Proposed RSPO Grievance Mechanism

13.1 Designated Case Officers within the Grievance Unit should be responsible for managing investigations.

In the proposed RSPO Grievance Mechanism, a specialized unit (Case Management and Investigation) will manage and/or conduct the overall investigation process. The proposed separation of case management, from the Grievance Intake and Initial Diagnosis functions, is designed to alleviate the burden on the Secretariat. The Case Officers should be dedicated, full-time personnel to ensure the timeliness and quality of investigations. Case Officers' responsibilities include developing the Case Management and Investigation Plan (see Section 13.3 for details), engaging, instructing and overseeing of external investigators (if engaged), Assurance Division (if applicable), and communicating with parties to the case for requesting documentary evidence from the parties, updating them on the case status and next steps, etc.

Given concerns about RSPO's limited investigative capacity, it will be important to ensure Case Officers receive adequate training and resources, potentially through external trainers.

13.2 The Complaints Panel, CBs, and AB (ASI) should have limited involvement in the investigation phase, except where information is directly requested by the Grievance Unit.

Specifically, the CBs and AB (ASI) should have no involvement in developing the investigations plan, and any involvement should be limited to providing relevant information during the fact investigations process. The CP should be excluded from conducting and managing investigative steps, so that it can focus on its designated responsibilities. The CP's involvement in the broader investigation phase should be narrowly limited to where recommended (see e.g., Section 13.3 below). These limitations aim to improve procedural clarity, independence, transparency, and timeliness, as well as reduce confusion about each body's role.

13.3 The Case Officer should, at the start of the investigation process, develop a Case Management and Investigation Plan.

In the Case Management and Investigation Plan, the Case Officer should identify the investigation needs for the case, e.g., whether a legal opinion or other expert investigation is required, and whether other teams within the Secretariat need to be consulted. Clear and time-bound processes should be established for each step to enhance transparency and efficiency.

The Case Officer should consult the parties when developing the plan (however, the ultimate decision-making power for the Case Management and Investigation Plan rests with the Case Officer). The period for consultation should be limited to fifteen (15) business days, and the Case Officer may, in exceptional circumstances and upon confirmation by the CP Chair, extend the time allotted; but in no circumstances should the consultation period extend beyond twenty (20) business days. Upon agreement by the parties or expiration of allotted time, the Case Management and Investigation Plan should be presented to the relevant CP. The relevant CP should review to ensure appropriateness. This aims to prevent the parties from subsequently challenging the process, thereby causing delay, and reducing the procedural efficiencies in the investigation phase.

The Case Officer should update the parties on the progress status of the investigative process at appropriate junctures.

13.4 External investigators should be considered for conducting on-site verifications.

Case Officers should consider engaging, and be responsible for managing, external investigators where on-site and/or in-person verification is required. To facilitate the process and reduce delays, investigators may be engaged from a pre-vetted and pre-selected pool.²⁸ At the same time, Case Officers should neither conduct her/his own factfinding in parallel with the external investigator's work scope, nor should the Case Officer reinterpret or edit the results of an external investigator's report.

13.5 The Grievance Unit may request information or technical assistance from other teams within the Secretariat.

The responsibilities of other units/departments within the Secretariat to support investigations should be clarified in procedural documents to improve procedural clarity, ensure independence, and safeguard against information leaks. Timelines for responses should also be included, to improve timeliness of the mechanism.

13.6 Case Officers should document and file the evidentiary findings in writing with the Complaints Panel.

Following the closure of the investigation steps, the Case Officers should compile and synthesize the information collected into a briefing note for the CP. This briefing note is to be developed in close coordination with the chair of the relevant CP and should provide the CP with all necessary information required to proceed with their deliberations and decisions. To ensure timeliness, Case Officers should submit the completed briefing note within ten (10) business days from completion of the investigations phase.

The briefing note should include, at a minimum, a detailed summary of the evidentiary findings, any relevant legal or policy considerations, and a synthesis of the key issues and facts discovered during the investigation. This document aims to equip the CP with a clear and comprehensive understanding of the case, enabling them to make informed decisions based on the evidence presented.

²⁸ The draft ToR "to commission the formation of a 'pool of experts' in service of RSPO CAP and related fields" is largely in line with this recommendation and should be concurrently with that document.

Chapter 14: Complaints Panels in the Proposed RSPO Grievance Mechanism

14.1 To ensure independence, the Complaints Panel should be composed of a mix of RSPO member representatives and at least two fully independent, non-RSPO members.

With the goal of moving towards a hybrid model, the two non-RSPO CP members should have neither employment relationship nor reporting duties to any RSPO member. These members should be able to devote sufficient time to ensure that they can discharge their CP duties (with longer-term goal to engage more members who perform their duties full-time). These members should also be reasonably remunerated for performing their CP member duties, in order to assure basic incentive for engagement. The remuneration should be paid by the RSPO, not directly by any of the RSPO members to ensure independence and prevent financial conflicts of interest.

A CP Chair position should be created. The duty of the Chair includes serving as the primary channel of communication with the Secretariat and making simple process-based decisions. The chair position will rotate amongst all CP members and have strictly managed term limits to prevent conflicts of interest during ongoing cases. This structure would better facilitate impartial decision-making, maintain optics on independence and legitimacy, and address timeliness concerns.

This hybrid model signals RSPO's commitment to enhancing the effectiveness of the complaints process while recognizing the significant structural change needed. A structured evaluation and reflection period should be established to assess the cost effectiveness of these changes. This period will involve regular reviews and feedback mechanisms to determine if the adjustments adequately address recruitment challenges and support the future needs of the CP. The hybrid model also presents an opportunity to learn and gain insight into what works best for CP operations more broadly, beyond just the membership structure. As part of this process, RSPO should establish milestones and regular reviews to assess the model's readiness for further improvements towards independence. These assessments will be based on predefined criteria of effectiveness, fairness, and reduced conflicts of interest, as well as practical criteria of cost effectiveness, optimality of resource allocation, expeditiousness and satisfaction of outcomes by RSPO and stakeholders. TRP recognizes that such a restructuring presents complexities, and thus recommends conducting a separate workflow to comprehensively assess the design and allocation of the detailed structure, processes, procedural documents, and resources for transitioning to the hybrid model.

Chapter 15: Appeals in the Proposed RSPO Grievance Mechanism

15.1 Appeals process should provide for opportunity to appeal against procedural faults in the appeal process itself.

In addition to the appeals process improvements noted in Part A (see Section 7), the appeals process should offer opportunities to address any procedural faults in the appeals process itself. Specifically, if a party believes that a procedural fault in an appeal review affected the outcome of the appeal decision (e.g., an Appeals Panel member having a conflict of interest or is unqualified), that party may request a “higher appeal.” In such a case, a special appeals panel should be convened (as per above Section 7.1, and such panel should also exclude any members of the prior Appeals Panel that rendered the decision being challenged) to hear the appeal. The procedure for hearing the “higher appeal” is otherwise consistent with the normal appeals procedures.

Also consistent with the recommended general appeals procedure (see Section 7.1), a party does not have an unconditional right to make a “higher appeal.” Such appeals should be limited to address specific instances of procedural faults; higher appeals solely due to dissatisfaction of an underlying appeals decision should not be accepted. In addition, the reported procedural fault should be shown to be sufficiently significant to have affected the outcome of the underlying appeal decision to warrant the underlying appeal decision being revised or overturned. Accordingly, when requesting a “higher appeal,” the appealing party should be required to cite: (i) the specific instance of procedural fault in the underlying appeals process; and (ii) how it unfairly affected the outcome of the underlying appeal decision. The “higher appeal” review is narrowly limited to the procedural violation in question and the impacted outcome; it should not review any issues outside this scope. These limitations are designed to balance preventing redundancy in review and preserving the legitimacy of each step in the Determination process.

Chapter 16: Post-Grievance Monitoring in the Proposed RSPO Grievance Mechanism

16.1 Case closure marks the end of formal dispute resolution proceedings and transitions to the post-grievance monitoring phase to ensure appropriate performance of remedy.

When a case closes, it signifies the conclusion of formal case proceedings, but does not imply that all aspects of resolution are fully achieved. Specifically, a case is considered "closed" upon issuance of the final decision (for Determination) or formal resolution agreement (for Conciliation), regardless of pending implementation actions or post-grievance monitoring. Once "closed," cases can transition to the post-grievance monitoring phase.

16.2 Specialized Monitoring Officers are tasked with overseeing post-grievance monitoring.

The Monitoring Officers operate under the Post-Grievance Monitoring unit. The Monitoring Officers are responsible for assessing the resolution (Determination process decision or resolution agreement) and determining, as an initial threshold question, whether the resolution requires a Monitoring Plan. Generally, Monitoring Plans are required where a resolution calls for some form of performance by either or both parties. Conversely, the resolution might not require a Monitoring Plan if, for example, the complaint is determined to be without merit or is withdrawn, the granted remedy has already been completed to the satisfaction of the parties, etc. The Monitoring Officer assesses each resolution on a case-by-case basis.

If the resolution requires a Monitoring Plan, the Monitoring Officer will formulate details of the plan. Each Monitoring Plan should be tailored to the resolution in question. The Monitoring Officer determines the appropriate data points and methods to monitor the parties' performance in each case. In addition, Monitoring Officers should assess the risk of post-grievance retaliation as part of the Monitoring Plan and verify any retaliatory conduct throughout the monitoring process. The Monitoring Officers should also be empowered to seek clarification from the CP (for Determination decisions) or the parties (for agreements via Conciliation), as the case may be, to ensure they have all necessary information to formulate an effective Monitoring Plan.

The Monitoring Officer should be empowered to take monitoring action according to the Monitoring Plan. In particular, Monitoring Officers should have the express authority to seek feedback from complainants about their level of satisfaction with the respondent's performance, which serves as an important data point on remediation results and indicator of the grievance mechanism's performance. Monitoring Officers should also be expressly empowered to seek feedback from the respondent and to conduct site visits and request updates and documentation from the respondent. Where the complainant is not the affected rightsholder(s), the Monitoring Officer should use their best efforts to directly confirm with the rightsholder whether they are satisfied with the remedial outcomes and/or implementation efforts of the respondent. Consent for post-grievance monitoring should be sought from the relevant parties at case initiation.

The abovementioned complainant feedback should be considered a crucial data point to assess the sufficiency of the respondent's performance of remedy. At the same time, the Monitoring Officer should not rely solely on the complainant's subjective feedback on satisfaction. Instead, Monitoring Officers should aim to access multiple sources of data to objectively triangulate and assess the sufficiency of performance on remedy both from a procedural and a substantive perspective. Accordingly, the Monitoring Officers' assessment should be standardized by written guidelines.

16.3 The relevant Complaints Panel receives periodic updates from the Monitoring Officer regarding the implementation of the corrective action plan, with direct involvement in limited circumstances.

To balance the CP's visibility of the parties' performance of the remedy against optimizing efficient resource allocation, the CP should receive reports from the Monitoring Officer, but it is not the CP's responsibility to manage the monitoring process. The CP should be only actively engaged during the monitoring stage where the Monitoring Officer has observed the following exceptional circumstances:

- The settlement agreement reached via BE or DSF is determined to contradict or falls short of RSPO standards, or it otherwise conflicts with or is impracticable under applicable law. In such cases, the CP may assess and request that the parties re-negotiate revisions to resolve the issue. In doing so, the CP neither initiates its own investigation nor instructs the parties on the appropriate resolution (see also Sec. 4.7 above for details).
- Respondents engage in retaliatory action against rightsholders and/or the complainant, and this is detected in post-grievance monitoring or after the case has been closed. Such incidents should be referred to the CP for consideration of follow-up action.
- The Monitoring Officer identifies a party having violated the agreed or determined remedy, and the violating party refuses to co-operate in taking corrective action after being notified by the Monitoring Officer.
- The complainant has concerns regarding the implementation of the agreed-upon corrective action plan and has attempted to seek the Monitoring Officer's assistance to resolve these concerns. However, the Monitoring Officer is unable to effectively resolve the issue by engaging the parties.
- Where the complainants or respondents have concerns regarding the conduct of the post-grievance monitoring undertaken by the Monitoring Officer.

In any of the foregoing cases, the Monitoring Officer (or in the last instance, the complainant or respondent having the concern) should notify the CP that rendered the underlying Determined decision. The CP reviews the Monitoring Officer's (or the complainant's or respondent's) report and decides on further action for resolution of the aforementioned exceptional circumstances. In this regard, the CP has broad discretion to determine appropriate action to resolve the exceptional situation. It is crucial to note that this process is *distinct* from the appeal review process, which reviews the Determined decision for remedy or settlement agreement. Rather, this envisions an expedited review by the original CP to ensure timely and appropriate resolution of the abovementioned issues identified during post-grievance monitoring. The decision, if acceptable to the Parties and/or resolves the matter, is fed back to the Monitoring Officer to determine whether a Monitoring Plan is appropriate (according to the process in Sections 16.1 and 16.2 above).

If the decisions thus issued by the CP are still unable to grant relief to the satisfaction of a party or the party is dissatisfied with the CP's post-grievance decision, the matter is passed to review by an ad hoc panel of CP members (**Ad Hoc Panel**). The review process will be as follows:

- The Ad Hoc Panel constituted of at least three (3) members, none of whom participated in the underlying case's CP, should be convened.
- The Ad Hoc Panel will first conduct a preliminary assessment for any immediate risk or report of retaliation or reprisal.

- Once any immediate risk retaliation or reprisal issues have been addressed, the Ad Hoc Panel reviews the matter and renders a resolution decision. We emphasize that the scope of the review should be *strictly* and *narrowly* focused on resolving the aforementioned exceptional circumstances; the review scope should *not* include assessing the underlying decision or agreement on remedy.

If this review resolves the issue and the parties accept the decision, the case is returned to the Monitoring Officer to assess the need for a Monitoring Plan (according to the process in Sections 16.1 and 16.2 above). If the review is still unable to resolve the issue or either Party rejects the decision, the grievance is considered closed to the dissatisfaction of one or both parties. While the grievance process ends, the failure to resolve the matter to the dissatisfaction of the parties should be noted as part of the continuous learning process. Non-performance of resolutions and dissatisfaction of results are important data points for learning purposes and informing future reviews.

This streamlined review approach is designed to ensure that the process is more expedient than reinitiating a new complaint, reflecting the urgent nature of the concerns raised during the post-grievance monitoring stage and avoiding duplicative efforts. It also ensures that performance and satisfaction issues are reviewed to determine any appropriate procedural improvements and follow-up with RSPO members and stakeholders.

Chapter 17: Continuous Learning, Monitoring and Evaluation in the Proposed RSPO Grievance Mechanism

17.1 Upon issuance of the Complaints Panel decision (and prior to the transfer of the case to post-grievance monitoring), the CP should also analyze the frequency, patterns, and causes of grievances.

The Case Officer should make a record of this analysis and make this information accessible (subject to confidentiality obligations) to build institutional knowledge within the RSPO and its membership. The Grievance Unit should assist with aggregating, sorting and processing the data to facilitate analysis.

This information should be leveraged by the leaders of each relevant unit/department within the Secretariat and/or the relevant standing committees and working groups in their work. If necessary, a secondary and supplementary analysis can be conducted at grievance closure, i.e., upon completion of post-grievance monitoring. It is also hoped that this feedback process would enable the CP members to consider precedent cases in the Determination process. This would help ensure greater consistency in decision-making, as it provides a source of guidance to CPs when reviewing cases. It also promotes efficiency, as the CP does not need to reexamine the merits and appropriate remedies with every new case.

On an annual basis, the chairs of each of the CPs (in consultation with Grievance Unit) should also conduct a review of cases heard, disseminate any good practices and key learnings. Such reviews can be made publicly available on RSPO's website and presented at the annual roundtable meeting.

Factsheets and bulletins could also be developed around case studies that highlight how the RSPO Grievance Mechanism supported members in improving compliance and facilitated delivery of effective remedy to rightsholders; or how mediation enabled parties to amicably resolve disputes.

17.2 Case statistics and the performance of the RSPO Grievance Mechanism should be reported on a quarterly basis to the Board of Governors.

In addition to the current reporting, which focuses on case statistics only, both quantitative and qualitative data on the functioning of the RSPO Grievance Mechanism should also be provided to the Board of Governors, together with the KPI results. The CP Chair should oversee this reporting process. For the avoidance of doubt, the CP Chair does not derive her/his powers from the Board of Governors and is independent from the Board of Governors. They only inform the Board of Governors over how the RSPO Grievance Mechanism is being operated and communicate learnings from past cases. This reporting process is intended to create accountability by ensuring that the Board of Governors has good visibility over the overall performance of the RSPO Grievance Mechanism.

17.3 RSPO recognizes the value of sharing insights, patterns, and lessons learned from the grievance mechanism with members and stakeholders.

RSPO will disseminate this knowledge through detailed case studies, bulletins, and workshops to provide actionable guidance that can enhance company-level grievance mechanisms and support other stakeholders in managing conflicts. By sharing the information described in this section and drawing from practical examples and successful mediation practices, RSPO aims to strengthen local grievance management capacity, promote compliance, and facilitate collaborative problem-solving. In particular, the members strengthening their internal grievance processes will create a more effective grievance resolution ecosystem more broadly within the RSPO. At the same time, by sharing critical information, the RSPO provides practical support to its member companies to enhance their capacity to resolve conflicts at the local level and through internal channels (and as noted above under Section

1.2, we recommend that grievances are only escalated to the RSPO Grievance Mechanism after resolution has failed at the member level).

To foster learning and improve the resolution of future grievances, RSPO will use anonymize data from precedent cases to highlight emerging jurisprudence, systemic causes of conflicts, breaches of the Key Documents, and effective remediation processes.

Conclusion

The recommendations set forth in this report aim to address the key findings from our review of RSPO's CAP 2017 and present broader restructuring recommendations. Both aims serve to improve the fairness, effectiveness, and resilience of the RSPO grievance handling system, especially in light of forthcoming regulatory changes. The report underscores the importance of fostering a rights-holder-centric system that thrives on stakeholder engagement and is underpinned by expertise and knowledge.

With this backdrop, Part A of this report delineates immediate enhancements to the existing CAP 2017 framework, targeting accessibility, efficiency, transparency, and fairness improvements to better align with international human rights standards. Part B proposes a restructuring towards a hybrid Grievance Mechanism for improved independence. This reimagined structure, segmented into specialized functional blocks—Grievance Intake, Initial Diagnosis, Case Management and Investigation, and Post-Grievance Monitoring—aims to strengthen procedural independence, increase legitimacy, and improve efficiency. These blocks are designed to ensure that the grievance handling process is not only more streamlined but also grounded in robust, independent decision-making that fosters trust in the system.

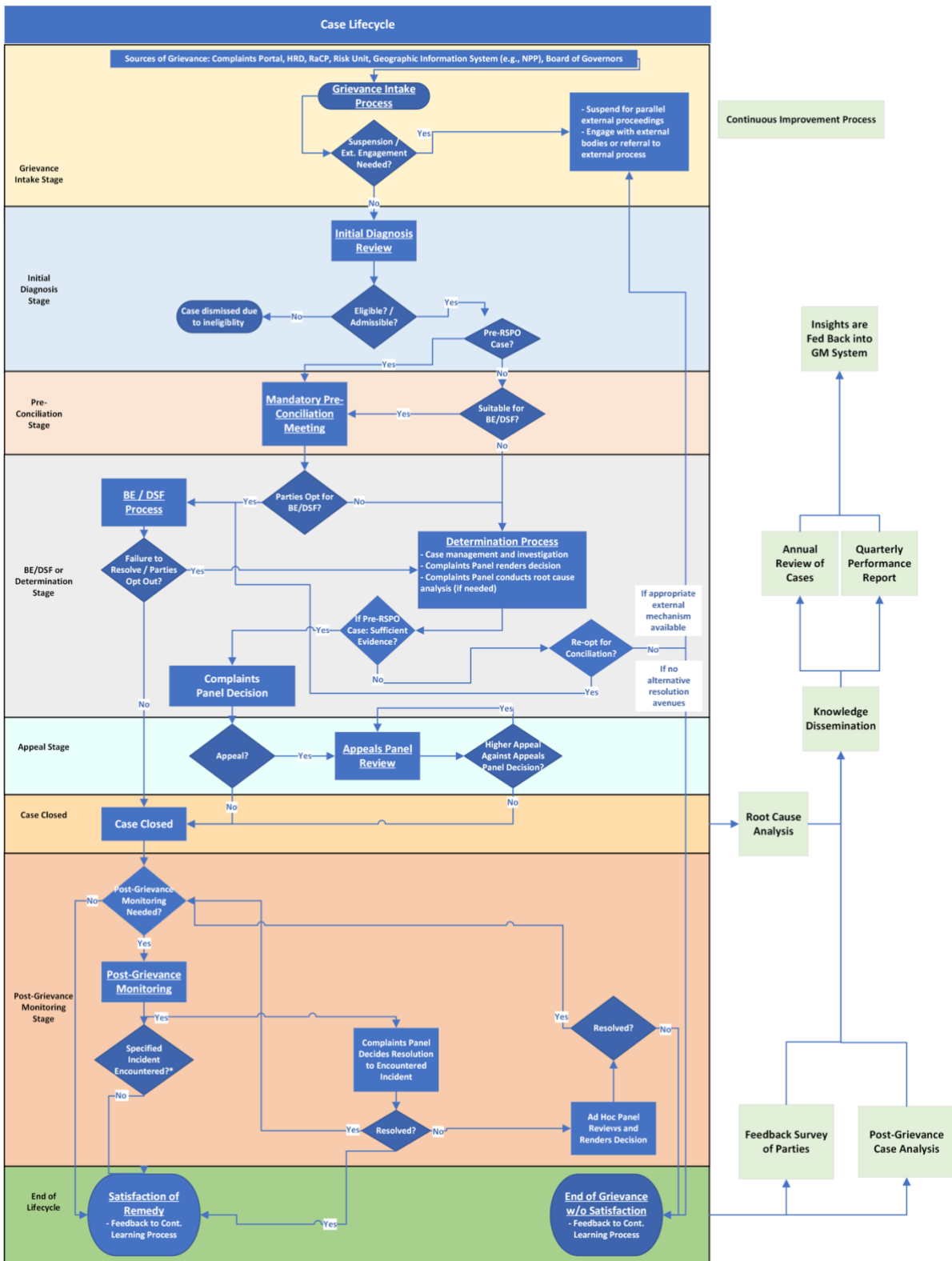
Key recommendations for the restructured system include empowering Initial Diagnosis Officers to conduct comprehensive assessments at the outset of the grievance process, ensuring that cases are directed towards the most appropriate resolution pathway. The introduction of a Facilitated Dialogue and Mandatory De-Escalation phase aims to encourage non-adjudicatory resolutions wherever feasible, promoting early dialogue and understanding between parties. Streamlining the investigation process enhances procedural clarity and investigative efficiency, ensuring findings are robust, timely, and accurately reflect the issues at hand. The proposed changes extend to the Determination process itself, advocating for increased stakeholder input and the enhancement of the CP's independence to ensure decisions are made impartially and with due consideration of all relevant factors. Furthermore, the establishment of a transparent appeals process and comprehensive post-grievance monitoring mechanisms underscore the RSPO's commitment to accountability and continuous improvement. Through these measures, the envisaged Grievance Mechanism prioritizes fairness, responsiveness, and the amicable resolution of complaints.

By adopting these suggested measures, structures, and policies, RSPO can ensure its grievance mechanism not only addresses the immediate procedural and substantive improvements identified in Part A but also embraces a forward-looking approach that aligns with international human rights standards. This twofold strategy—enhancing the current CAP 2017 while also transitioning to a more hybrid-independent model—offers a path forward in RSPO's continued commitment to upholding the rights and interests of all stakeholders involved.

Annex I: Corresponding Chapters in the Key Findings Report

Recommendations Report Chapter	Key Findings Report Chapter
1. Improved Clarity of Purpose and Scope	4. Cross-cutting Areas of Consideration
2. Submitting a Complaint 10. Restructured Grievance Unit	5. Submitting a Complaint
3. Initial Diagnosis 11. Initial Diagnosis in the Proposed RSPO Grievance Mechanism	6. Initial Diagnosis
4. Bilateral Engagement and Dispute Settlement Facility 12. Facilitated dialogue and De-escalation (i.e., BE & DSF)	7. BE & DSF
5. Investigation 13. Investigation in the Proposed RSPO Grievance Mechanism	8. Investigation
6. Determination Process 14. Complaints Panels	9. CP Determination
7. Appeals 15. Appeals	10. Appeals
8. Post-Grievance Monitoring 16. Post-Grievance Monitoring in the Proposed RSPO Grievance Mechanism	11. Post-complaints monitoring
9. Continuous Learning, Monitoring and Evaluation 17. Continuous Learning, Monitoring and Evaluation in the Proposed RSPO Grievance Mechanism	12. Continuous Learning, Monitoring & Evaluation

Annex II: Proposed Grievance Mechanism Flow Chart



*See Section 16.3 of the main body of the report for details.