

Annex 1: History and Rationale of the Remediation and Compensation Procedure (RaCP)

Rationale

In accordance with the RSPO Principles & Criteria (P&C), RSPO growers¹ are required to have completed HCV assessments of their land holdings for new plantings from November 2005. The intention is that areas of land under the control of RSPO growers that contain or support HCVs is not cleared for planting after this date. Some tolerance was initially given for RSPO producer members for plantings done from end November 2005 to end November 2007, due to an array of factors (notably the initial field trial period for the P&C, which lasted until 2007, the requirements to develop national Interpretations of the P&C, the rudimentary nature of HCV assessment guidance at that time, the near-absence of qualified HCV assessors, purchase of plantations from non-members, and communication problems). Even after 2007, for various reasons including those outlined above, some RSPO members growers continued to clear land for planting in the absence of any HCV assessment. To help ensure that RSPO growers would not continue land clearance without prior HCV assessment, the New Planting Procedure (NPP) was implemented starting 1 January 2010, prior to any further expansion of oil palm planting.

There are three main options to deal with this form of breach of RSPO member requirements: either (a) expel the member, or (b) suspend their RSPO membership pending some form of ad hoc remedial or compensatory action, or (c) provide an agreed clear, formal and transparent procedure to remediate and compensate. Given that RSPO wishes to improve environmental and social standards in the palm oil industry globally, and is committed to continuous improvement, and does not want to divide the palm oil world into “us and them”, option (a) is the least beneficial. Option (b) suffers from being ad hoc, and not addressing the issue for the longer term. Option (c) is considered to be the best option. The Remediation and Compensation Procedure (RaCP) aims to outline the details of the proposed option (c).

The procedure has drawn on experience from two initial grievance cases and staged implementation (see history below). These cases conclusively demonstrated that attempts to assess real loss of HCV through retrospective, historical HCV analysis were difficult, time-consuming and yielded far from acceptable results. The Compensation Task Force (CTF), who developed the RaCP, also concluded that restoring extensive areas of natural ecosystems on lands already planted with oil palm may often be less effective than conservation measures implemented outside plantations. The RaCP takes account of these lessons learned, setting out a proxy-based approach for calculating compensation liability based on satellite imagery analysis of past vegetation cover on areas which have since been cleared, with implementation of acceptable conservation measures on- or off-site.

History

The Compensation Task Force (CTF) was established in August 2011 under the Biodiversity and High Conservation Value working group (BHCV WG). The objectives of CTF are to develop a guidance document that will help guide members and the RSPO in determining how to proceed with cases of land clearance without HCV assessment, how to develop acceptable compensation packages for individual cases, and to pilot the proposed

¹ Grower is defined by the RSPO as the person or entity that owns and/or manages a palm oil development, irrespective of their membership category.

mechanism. CTF includes all BHCV WG members with additional invited experts and meets quarterly. It started developing the mechanism based on earlier work by the RSPO Board of Governors (BoG), ideas developed by the HCV RSPO Indonesian Working Group (HCV RIWG), and the outcomes of a workshop held with members at the 8th RSPO Roundtable (RT8) in Jakarta in November 2010.

The CTF routinely invites experts and other key stakeholders to share their knowledge and experience on issues related to the compensation procedure. To support CTF's work and based on its recommendations, the RSPO has also commissioned studies including on restoration cost and returns from palm oil industry, and vegetation coefficients in Africa and Latin America.

To gather feedback and constructive recommendations from stakeholders for the draft procedure, the CTF has held several rounds of public consultations, including online consultation and public meetings. The first round started on 1 August 2013, with public meetings held in Jakarta, Kuala Lumpur, and Yaoundé. The second round was held in June and July 2014, with public meetings in Jakarta, Kuala Lumpur, and Bogota. The 2014 public consultation in Accra was cancelled due to the Ebola outbreak.

After the CTF presented an advanced draft of the RaCP, on 6 March 2014 the BoG accepted the CTF's recommendations to start a staged implementation of the procedures. All RSPO members who own and/or manage land for oil palm production were required to disclose any non-compliant land clearing and complete a land use change (LUC) analysis. The members had one year from 9 May 2014 to meet this requirement.

By August 2015, the CTF had further revised the draft of the procedure and completed supporting documents such as guidance for land use change, criteria for conservation projects, and social HCVs, and various reporting templates that were used in the first stage of implementation. Further public consultation took place in August and September 2015 in Kuala Lumpur, Jakarta, Accra and Cartagena. A 60-day period for online public comment was also provided. After being endorsed by the BoG in November 2015, the next phase of implementation of the RaCP, which in principle has been agreed through consensus of the CTF members, will begin.

Whilst elements of the procedure document may be revised as more experience accumulates, compensation plans are assumed to be based on the version of the document valid at the time of opening a formal compensation process, subject to subsequent change only if mutually consented to by the grower and RSPO.