

Public Consultation On RSPO Remediation & Compensation Procedures

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PREPARED BY:
Compensation Task Force



RSPO Remediation and Compensation Procedures related to Land Clearance without Prior HCV Assessment



Why are these procedures necessary?

- **RSPO (2007) Criterion 7.3:** New plantings since November 2005, have not replaced primary forest or any area required to maintain or enhance one or more High Conservation Values (HCV)
 - An HCV assessment, including stakeholder consultation, is conducted prior to any conversion
 - Dates of land preparation and commencement are recorded.
- Strictly interpreted, these P&C effectively exclude growers in control of areas cleared for expansion without prior HCV assessment after November 2005 from RSPO certification
- The Remediation and Compensation Procedures have been developed to enable growers to resolve past non-conformances with Criteria 7.3 in some circumstances so that they can still obtain RSPO certification



When do these procedures apply?

Compensation is required for any land clearance after 2005 without prior HCV assessment

This applies to land used to cultivate oil palm which:

- a RSPO member (Grower OR Trader/Processor) has a majority shareholding in or management control of
- Belongs to scheme/associated smallholders linked to a RSPO member
- Is owned/managed by out-growers of FFB exclusively contracted by a palm oil mill which an RSPO member has the majority shareholding/management control of



When do these procedures apply?

- These procedures apply even if the non-compliant land clearing was conducted **BEFORE** the land was acquired or leased by the RSPO member who currently owns it
- In this scenario, a Land Use Change Analysis should be done as part of the HCV assessment, in accordance with the 2013 version of RSPO P&C 7.3. This should be conducted by the new land owner/manager prior to any further land clearing and will determine the HCV compensation liability
- These procedures **DO NOT** apply to Independent smallholders



Key requirements of the procedures

- 1. Disclosure of non-compliant land clearings**
- 2. Development of standard operating procedures (SOPs) designed to avoid any new non-compliant land clearing**
- 3. Land use change analysis**
 - Nov 2005 – date of HCV assessment
- 4. Identification of areas for remediation to comply with the RSPO P&Cs**
 - e.g. riparian zones, steep areas, fragile soils, and peat areas
- 5. Calculation of conservation compensation liability**
- 6. Identification of the need for social compensation liability**



Key requirements of the procedures

- 7. Development of social and environmental remediation and compensation plan**
- 8. The evaluation of each compensation case by a Compensation Panel**
- 9. Remediation of areas to comply with the RSPO P&Cs**
 - e.g. riparian zones, steep areas, fragile soils, and peat areas)
- 10. Remediating/compensating affected stakeholders for loss of social HCVs (HCV 4,5 &6)**
- 11. Implementing conservation projects and monitoring outcomes**



Step 1: Disclosure of non-compliant land clearings

- 1. Existing RSPO members:** shall disclose to the RSPO Secretariat any land clearance for oil palm development after 2005 without prior HCV assessment on land managed and/or under their control (owned, managed, leased, or acquired), or else state in writing that no such clearing exists, and enter into compensation processes for all non-compliant clearance identified.



Step 1: Disclosure of non-compliant land clearings

- 2. Applicants for RSPO membership:** shall disclose to the RSPO Secretariat any land clearance for oil palm development after 2005 without prior HCV assessment on land under their control, or else state in writing that no such clearing exists, prior to the two-week public comment on membership applications period on the RSPO website. To be eligible for RSPO membership, growers must enter into compensation processes for all non-compliant land clearance.



Step 1: Disclosure of non-compliant land clearings

RSPO certified growers or growers entering certification shall disclose to an accredited Certification Body and to the RSPO Secretariat any clearance for expansion after 2005 without prior HCV assessment on land under their control, or else state in writing that no such clearance exists. The Certification Body shall audit conformity with this requirement, and any non-disclosure will be reported to the Complaints Panel, To be eligible for the first certification in any area without compensation liability, growers must enter into the compensation process for all non-compliant clearance. The principle here is that growers shall make full disclosure on all their land at the time they enter first certification.



WARNING!!!!

If the RSPO member themselves discloses it is treated as a compensation case:

- Management units with no remediation or final social or conservation liability can proceed with RSPO certification once the Land Use Change Analysis has been approved by the RSPO Compensation Panel.
- Management units with remediation and/or final social or conservation liability can only proceed with RSPO certification once an HCV compensation project concept plan has been developed and accepted by the RSPO Compensation Panel.

If the non-compliant land clearance is reported to the RSPO by anyone other than the RSPO member then the case will be treated as a complaint rather than a compensation case:

- None of the management units belonging to that grower can proceed with new certification until the Complaints Panel resolves the case.
- The Compensation Panel may require the grower to follow these remediation and compensation procedures as part of their requirements for resolving the complaint.



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Step 2: Development of standard SOPs designed to avoid any further non-compliant land clearing

The organisation with management control of operations with non-compliant land clearance shall submit the relevant SOPs (approved by the company's top management) during disclosure of liability to demonstrate to the Compensation Panel that they have appropriate measures to avoid further non-compliant land clearing.

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



Step 3: Land use change analysis

- The results of the Land Use Change Analysis are used to likelihood that HCV 1 -3 were cleared and therefore the scale of 'environmental' compensation required
- Remote Sensing Data from **November 2005 should be used** to classify the vegetation present at that time in the areas cleared without prior HCV assessment into 4 vegetation categories
- Each category is has a multiplication coefficient, which are proxies for their value as habitat for biodiversity

Co-efficient	Vegetation category
1.0	Structurally complex forest (including primary forest), regenerating, selectively logged forests with elements of high canopy.
0.7	Structurally degraded but ecologically functional natural forest.*
0.4	Multi-species agroforestry.
0	Monoculture tree and non-tree plantations; other permanently cultivated, developed or open degraded land

Step 3: Land use change analysis

- Using the all remote sensing data from November 2005 as a baseline, the area of each of the 4 vegetation types which was cleared during the following time periods should be calculated:
 - During the trial period of the RSPO P&C (Nov 2005 – Nov 2007)
 - Before the NPP was introduced (1 Dec 2007 – 31 Dec 2009)
 - Before the staged implementation period (1 Jan 2010 – 9 May 2014)
 - After 9 May 2014
- The growers period of liability ends when an HCV assessment has been completed.



Step 3: Land use change analysis

- The RSPO status of the company in control of the land at the time of clearance also influences the compensation liability
- If the RSPO status of the company changed in the middle of a time period it is necessary to state the area cleared before and after the change
- ***Eg. if the company joined the RSPO in June 2008***

	Dec 2007 – 31 Dec 2009	
	Land clearing by Non Member	Land clearing by RSPO member
	Dec 2007 – May 2008	June 2008 – Dec 2009
Coefficient 1	10 Ha	20 Ha
Coefficient 0.7		
Coefficient 0.4		
Coefficient 0		



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Step 3: Land use change analysis

The land use change analysis should distinguish between land which was:

- ***Commercially cleared:*** any land cleared for plantations or facilities built directly and exclusively to support plantations and their activities (as demonstrated by local master plans and/or other official documentation).
- ***Non-commercially cleared:*** clearance for other than commercial purposes, including for government projects that involve public works or other public interest facilities, or by members of local communities acting individually to support their livelihoods and with no funding by any institution and/or organisation



Step 3: Land use change analysis

- A report on the findings of the LUCA shall be submitted to the to the Secretariat within 60 working days of entering the process
 - **Question: *Should a summary of the findings of the Land Use Change Analysis, once accepted by RSPO, be made public or kept confidential between members and the RSPO? Why?***
- Growers do not have to conduct a LUCA if they are willing to compensate for the total area cleared using a co-efficient of 1



Step 4: Identification of areas for remediation

- Growers are required to remediate areas where planting oil palm is prohibited by the RSPO P&C
 - Riparian zones
 - Steep terrain
- **Remediation** = measures taken to help restore the ecological functions in areas where oil palm has been planted
- Measures should aim to restore the ecological functions that would be provided if the natural vegetation were conserved in these areas
 - Erosion control
 - Watershed protection



Step 5: Calculation of conservation compensation liability

- The results of the Land Use Change Analysis are used to calculate the growers conservation compensation liability (HCV 1-3)
- The final compensation liability is expressed in hectares
- This is then used to determine the scale of the conservation project which must be undertaken for the grower to meet their conservation compensation liability and proceed with RSPO certification



Step 5: Calculation of conservation compensation liability

For land clearing between Nov 2005 – Nov 2007:

Land controlled by a non-member at time of clearance	Land controlled by a RSPO member with no certified management unit(s) at the time of clearance	Land controlled by a grower with RSPO-certified management unit(s) at the time of clearance.
<ul style="list-style-type: none">• Remediation/compensation for Social HCVs (HCV 4, 5& 6) when there is insufficient proof of appropriate negotiation process and/or outcomes.	<ul style="list-style-type: none">• Remediation/compensation for Social HCVs (HCV 4, 5& 6) when there is insufficient proof of appropriate negotiation process and/or outcomes.	<ul style="list-style-type: none">• n.a. [no certified areas in existence yet]

Step 5: Calculation of conservation compensation liability

For land clearing between Dec 2007 – 31 Dec 2009:

Land controlled by a non-member at time of clearance	Land controlled by a RSPO member with no certified management unit(s) at the time of clearance	Land controlled by a grower with RSPO-certified management unit(s) at the time of clearance.
<ul style="list-style-type: none">• Remediation/compensation for Social HCVs (HCV 4, 5& 6) when there is insufficient proof of appropriate negotiation process and/or outcomes.	<ul style="list-style-type: none">• Sum of: all areas cleared commercially without prior HCV assessment X their vegetation coefficient(s) in Nov 2005.	<ul style="list-style-type: none">• Sum of: all areas cleared (commercially & non-commercially) without prior HCV assessment X their vegetation coefficient(s) in Nov 2005.

Step 5: Calculation of conservation compensation liability

For land clearing between Jan 2010 – 9 May 2014:

Land controlled by a non-member at time of clearance	Land controlled by a RSPO member with no certified management unit(s) at the time of clearance	Land controlled by a grower with RSPO-certified management unit(s) at the time of clearance.
<ul style="list-style-type: none">Sum of: all areas cleared commercially without prior HCV assessment X their vegetation coefficient(s) in Nov 2005.	<ul style="list-style-type: none">Sum of: all areas cleared (commercially & non-commercially) without prior HCV assessment X their vegetation coefficient(s) in Nov 2005.	<ul style="list-style-type: none">Twice the sum of: all areas cleared (commercially & non-commercially) without prior HCV assessment X their vegetation coefficient(s) in Nov 2005.



Step 5: Calculation of conservation compensation liability

For land clearing after 9 May 2014:

RSPO members, with or without a certified management unit will be **EXPULLED** from the RSPO

Land controlled by non-members at the time of clearance will be required to:

- Sum of all areas cleared without prior HCV assessment X their Nov 2005 vegetation coefficient(s).
- All cleared land owned by members shall be managed in full accordance with the RSPO standard and certified as soon as possible.
- When land cleared is certified, palm products from areas with a vegetation coefficient < 0.4 in Nov 2005 may be sold as certified.
- Palm products from land cleared with vegetation coefficients > 0.4 in Nov 2005 may not be claimed as RSPO-certified even though the management unit is certified (must be either part of mass balance or kept out by physical segregation).
- RSPO members acquiring new areas of land after 9 May 2014 shall commit in writing not to instigate, encourage or support, directly or indirectly, any land clearing without prior HCV assessment.

Expulsion* of member or application of membership rejected if all requirements above are not met.



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Steps 9 to 16

Kuala Lumpur – 10 September 2015



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Step 9 : Options for meeting conservation liability (1)

- Two options are available for *compensation* :
"hectare for hectare" and "dollar for hectare"

They can be used in combination.

- "Hectare for hectare" : conserve an area equal to the final liability.
- "Dollar for hectare" : fund conservation, with a budget equal to the number of hectares of final liability multiplied by 2'500 USD/ha.

Funds are not managed by the RSPO.



Step 9 : Options for meeting conservation liability (2)

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



Step 10 : Environmental Remediation Plan

- Remediation might be necessary for areas that should not have been developed according to the RSPO P&C (eg.: riparian areas, steep slopes, fragile soils/peat).
- Remediations plans must be drafted, to bring back the areas to compliance with the P&C.

No question.



Step 11 : Designing compensatory biodiversity projects (1)

- Compensation projects can be in situ and/or ex situ.
- Compensation projects can address the liability of a single management unit, of multiple management units owned by the same RSPO member, or of management units owned by various RSPO members.
- Cooperation between RSPO members in the design of compensation projects, in particular to increase positive impacts in a single landscape, are encouraged.



Step 11 : Designing compensatory biodiversity projects (2)

- Compensation projects should be adequately resourced, have clearly defined goals, timeframes and responsibilities to deliver outcomes that are :
 1. Additional
 2. Long lasting (≥ 25 years)
 3. Equitable
 4. Knowledge-based.



Step 11 : Designing compensatory biodiversity projects (3)

- "Priority guidance" for the selection of compensation projects :
 1. First (highest priority) : off-site, avoided deforestation/degradation projects
 2. Second : off-site, restoration of degraded forest
 3. Third : off-site, species-based conservation
 4. Fourth (least desirable) : on-site forest/habitat re-establishment [must be distinct from remediation]



Step 11 : Designing compensatory biodiversity projects (4)

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



Step 12 : Identifying social impacts of the loss of HCV 4, 5, 6

- Identify both impacts and impacted parties.
- Use participatory mapping.

No question.



Step 13 : Negotiation and agreement of a social remediation and/or social compensation plan

- In a "social liability" has been identified, options to address the liability are discussed with the affected parties (restoration, substitution, financial compensation for the provision of and/or access to natural resources).

No question.



Step 14 : Remediation and compensation project note

- Submitted to the RSPO Compensation Panel to allow drafting of the Remediation and Compensation Plan.
- Synthetic description of the causes for the liability, remediation and compensation activities (as relevant).

No question.



Step 15 : Remediation and compensation plans

- *(Template still under review by RSPO CTF).*
- Full details on how environmental and social liabilities are addressed, in compliance with this RSPO Procedure.
- Review is carried out by an independent evaluator.
- Endorsement of a plan enables the RSPO member to access to membership, to resume certification, or to progress in the resolution of a complaint.

No question.



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Step 16 : Monitoring of implementation

- *(Work still under way by RSPO CTF).*
- Implementation is to be reported yearly.
- Failure to report, or incorrect reports are escalated to a grievance and reported to the RPSO Complaints Panel.

No question.



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