

Summary Report of Public Consultation Outcomes



on
**RSPO Remediation and Compensation Procedure
(RaCP)
Related to Land Clearance
Without Prior High Conservation Value (HCV)
Assessment**

November 2015

Submitted by Daemeter Consulting Ltd

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Introduction

This report summarizes the inputs and outcomes from the 60 day public consultation process (physical and online) that was facilitated by Daemeter Consulting in collaboration with the RSPO Secretariat between September 2nd and October 31st 2015.

Four physical consultations took place in Jakarta (JKT), Kuala Lumpur (KL), Accra (A) and Cartagena (CT) to get feedback and inputs from stakeholders during September 2015¹.

¹ Please note that summary reports of all four physical consultations are on the RSPO websites including graphic recordings from two of the four in Kuala Lumpur and Jakarta. Names of those attending can also be found on the RSPO website.

Summary of Overall Comments and CTF response on Document Clarity and Structure

| | Issue /Comment | Comment source | CTF Response |
|---|--|--|--|
| 1 | Need to clarify the expected timeframe for this procedural process from submission of disclosure to approval of full plan and its different stages | | The most important minimum periods have been specified. The CTF was reluctant to specify further as experience has shown during the trial implementation period that timeframes were not adhered to by growers anyway. This can be reviewed after more experience. |
| 2 | Simplification of document using more visual explanations (illustrations/flow charts) and removal of too much explanatory details (others also requested more examples). | 6 online comments and all 4 PC summary reports | The procedure has been restructured and sequenced logically and explanatory detail placed in annex 1. There is now an overall flow chart of the process as part of the core document. |
| 3 | Structure of the documents needs strengthening particularly in relation to the positioning and flow of identification of social impacts (section 12 and 13) placed pre planning. | JKT consultation | See above. The social impact section has been completely revised and sequenced in accordance with the process. |
| 4 | Suggest to list all annexes as table of contents under the Main Procedures for easy reference. Some feedback that there are too many additional documents to read through. | JKT consultation | All annexes are now sequenced as they are referenced in the core text and are in contents table. Number of annexes has not been reduced as they are necessary to guide implementation. |
| 5 | Suggestion to have simplified title and cross reference better with other RSPO documents such as NPP | | Efforts have been made to cross-reference with other documents such as P&C, certification systems document and FPIC guidance. The current title remains to explain the purpose of the procedures. |

Summary of Key Issues from “Difference of Opinion” between Stakeholders based on comments and CTF Response

| | Issue /Comment | Comment source | CTF Response |
|---|---|----------------|---|
| 1 | Overall credibility of RSPO and certified sustainable oil palm by supporting these procedures versus at what point can membership and certification proceed if a compensation case is in process (Growers). Currently strong contradicting views. It is viewed that these procedures undermine those growers who have complied from the start. | | The liability matrix has been streamlined and renegotiated based on this set of conflicting comments taking into account the incentives for growers to enter the process versus making sure growers are committed to compensation once they have entered it. The points at which membership and certification can proceed have been maintained based on consensus of all CTF members that it must be after submission of an approved LUCA for membership to proceed and an approved full compensation plan for certification to proceed. (Table 2 Page 12 Final Version Procedures) |
| 2 | Differentiating between commercial and non-commercial clearance and certified and non-certified members at time of clearance (request all non commercial not liable from growers vs perception all land cleared for whatever purpose should be liable and oil palm for these areas should not be certifiable from NGO). Proposed revised liability matrix (see section 8 comments). | | As with above the matrix was eventually re-negotiated and streamlined. Certified and non certified members are now not differentiated and growers are able to sell their palm oil as certified if compensation is taken care of as per the procedures. This was not the case in the previous matrix. In addition the reference to non-commercial and commercial clearance has been removed and the liability matrix now only refers to corporate clearance. Corporate and non-corporate are clearly explained in the glossary.(table 2 page 12 final version procedures) |
| 3 | Simplification to two categories of co-efficient for LUCA 0 and 1. | | The four coefficient categories have been maintained but the explanations have been strengthened to ensure that forest that was cleared that was coefficient 1 cannot be classified as coefficient 7. This will be further supported by example satellite images. (page 11 final version procedures) |
| 4 | Compensation procedures not yet accounting for loss of wildlife, grasslands | | These have now been referenced under the coefficient descriptions. (page 11 final version procedures). CTF members felt that the loss of forest was a proxy for loss of wildlife so to some extent had been addressed and will be compensated for. |

| | Issue /Comment | Comment source | CTF Response |
|---|---|---|---|
| 5 | Public Transparency of LUCA Summary (particularly maps) contradictory views credibility and transparency versus business confidentiality and legal frameworks | Many comments were made in support of transparency from NGOs and many from growers against (see details in annex) | It was agreed by the CTF that overall the procedures should encourage transparency and that a summary of the LUCA verification report will need to be made public as part of the format of the approved full compensation plan that is required to be submitted and approved before units with liabilities can proceed with certification. (page 11 final version procedures) |
| 6 | New Planting SOP Submission and Public Disclosure - some agreed with submission others with declaration that in place | All physical consultation reports | It was agreed that SOPs could be voluntarily submitted to RSPO for public disclosure or the company could submit a declaration of SOP verification by a third party accredited certification body (page 9 final version procedures). |
| 7 | Basis and adequacy of USD 2500/ha figure including reflection on what costs that figure should cover (see later comments) | All physical consultation reports and some online comments (see details in annex) | As this value has been discussed and unpacked in the CTF on repeated occasions and the basis for the decision clarified in the explanatory notes the consensus of the CTF in their 16th meeting was maintained and the value per hectare compensation USD monetary option will remain at 2500. |
| 8 | Confusion over application to small holders some comments demonstrate that some “readers” understands all small holders to be under this mechanism. | | The restructuring of the procedure document now makes it clearer to whom the procedure applies. It now states clearly that this does not apply to independent smallholders. |

Four Public Consultation Questions

Four public consultation questions were posed during the 60 day period and specifically during the physical consultation. Below is a summary of how they have been addressed in the final version of the procedures. Detailed summary of the comments from the consultation around these 4 questions is provided in annex 2.

| | Question | CTF Response to Comments² |
|---|---|--|
| 1 | 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? | It was decided that as RSPO principles and procedures should encourage transparency companies will have the choice to submit their new planting SOP's to RSPO to make public or submit a declaration that SOP's have been adequately formulated to be provided by a third party certification body at the cost of the company. |
| 2 | 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? | It was decided that a summary of the verification report of the LUC Analysis would be made part of the Compensation Plan which when it is approved will be made public. |
| 3 | 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? | The monetary option for compensation of USD/Ha was maintained, as was the value 2500. It was also felt that the basis for this decision had been adequately explained in the explanatory notes shared during the public consultation process. |
| 4 | 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? | It was decided that it is the responsibility of the liable company to ensure compensation is delivered under whatever circumstances. |

² See detailed comments in annex 2

Annex One: Detailed comments by section and response by CTF

Section 1-3

| Original Text | Proposed Change or General Comment | CTF Response |
|--|--|--|
| <p>Grower members should also note that HCV assessments carried out under the NPP of 2010 shall use HCV licensed assessors under the HCV Assessor Licensing Scheme (ALS)</p> | <p>“Grower members should also note that HCV assessment carried after 1 Jan 2015 shall use HCV licensed assessors under HCV Assessor Licensing Scheme (ALS)”</p> | <p>Text reference was adjusted as necessary. See page 3 final version procedures.</p> |
| <p>“The Remediation and Compensation Procedure also applies to associated (also referred to as schemed) smallholders and all other exclusively contracted out growers of FFB being supplied to all units of the member whether they are smallholders or not, since these are defined by the RSPO as part of the supply base of a unit of certification”.</p> | <p>Comment: HCV assessment for smallholder has not been crafted until recently, and even now it has not been finalized yet. It will be seen to be an attempt to marginalize the smallholders for not conducting HCV assessment for planting that was carried out years ago. Propose to remove clause NOTE: from overall feedback still seems confusion over smallholder application may need further elaboration</p> | <p>This procedure will apply to schemed smallholders as defined in the certification systems document. It will not apply to independent smallholders this has now been made clearer within the final version of the procedure document. This is consistent with overall principles of RSPO (see page 4 final version procedure document)</p> |
| | <p>More detailed clarification required on term “management control”</p> | <p>This had already been defined clearly and consistently based on other RSPO documents such as P&C</p> |
| <p>None of the management units belonging to that grower can proceed with new certification until the Complaints Panel resolves the case. “</p> | <p>Provide further clarity and what it means when case is “resolved” e.g. after LUCA is approved, after compensation project is approved, or after complainant agrees to close the case?</p> | <p>The types of complaints cases that will be handled by the compensation procedure have now been clarified in a new section of the document. The case will only be closed when the complaints panel has declared it closed - see page 9 final version procedures.</p> |

| Original Text | Proposed Change or General Comment | CTF Response |
|---|--|--|
| <p>Page 5, paragraph 2: “The CTF would like any independent smallholders seeking certification to enter into discussion with the RSPO concerning any cases of non-compliance. As a first step, the CTF would like to see LUCA conducted in such cases in order to understand the issues and to help develop an appropriate procedure for independent smallholders.” –</p> | <p>Comment: Does this mean that they have to come up with a LUCA prior to discussing with RSPO on cases of non-compliance? It could be intimidating/difficult to do for some smallholders and may deter them. Perhaps best for them to be allowed to discuss matters first with RSPO before they do a LUCA (for those unable to do a LUCA in advance for whatever reason they may have).</p> | <p>It has now been clarified this procedure is not applicable to independent smallholders.</p> |
| <p>Page 7: As to any non-compliant clearance in the future, compensation liabilities are designed so as to effectively discourage “clear and pay.”</p> | <p>Comment: Compensation liabilities that discourage clearing may not deter some. What would happen if the area is significantly important in terms of HCV?</p> | <p>The CTF discussed these risks on several occasions and the final procedures reflect as far as they think they can go to minimise such risks. Some language has been changed in the procedures to make this clearer.</p> |
| | <p>All cases of land clearance that has knowingly led to the displacement of RTE species must be treated as complaints under the RSPO and not eligible for compensation.</p> | <p>The types of complaints cases that will be relevant for these procedures has now been clarified (see page 5)</p> |
| | <p>It must be clear that these proposals are not establishing a precedent for how to deal with cases of HCV loss or damage or other related complaints. The document needs to be clear that compensation as proposed is only available to cases where there was no HCV assessment before land clearance.</p> | <p>See response above</p> |

| Original Text | Proposed Change or General Comment | CTF Response |
|--|--|--|
| <p>Current text: 3.2 iv. "... Companies cannot be held responsible for all clearance of land since 2005 prior to coming under their management."</p> | <p>To only distinguish commercial and non-commercial clearances in cases when the company was not an RSPO member. If the principle is that liability for non-commercial clearance before land is owned or managed by a company is lower than that of commercial clearance then the difference should only be 'available' in cases of land clearance by non-members. The liability matrix allows such a distinction in cases of clearance by members between 2007 and 2009. This contradicts the principle established in Section 3 and should be dropped</p> | <p>Please see revised matrix and comments in summary.</p> |
| <p>Current text: 3.2 ii. "Non-compliant clearing by RSPO members at the time of clearing, and especially RSPO certified growers carries a higher compensation liability than such clearing by non-RSPO members."</p> | <p>Remove distinction between certified and non-certified members Although we understand that non-RSPO members should be treated differently from RSPO members (since there could be an expectation that they may not be aware of the full requirements of the P&Cs) we do not support the proposal to treat RSPO members differently based on whether they were certified or not at the time of clearance. By signing the Code of Conduct all RSPO members have formally committed to RSPO requirements. The proposal to treat non-certified members more leniently creates a perverse situation where RSPO members that have not delivered their commitment to certify are 'rewarded' more than those that have. All members should be treated the same.</p> | <p>This has distinction has now been removed please see comments in summary.</p> |

Section 4

| Original Text | Proposed Change or General Comment | CTF Response |
|---|--|---|
| <p>"Growers applying for RSPO membership shall disclose 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 clearing exists, prior to the two-week public comment on membership applications period on the</p> | <p>Proposed change: "Growers applying for RSPO membership shall disclose 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 clearing exists, prior to the two-week public comment on membership applications period on the RSPO website. Upon declaration for any remediation and compensation liability, applicant growers are eligible for RSPO membership."</p> | <p>CTF decided against this suggestion and full consensus was reached among members that membership application can only proceed once a LUC Analysis has been submitted and approved in the case of any liability (page 9 final version procedures)</p> |

| Original Text | Proposed Change or General Comment | CTF Response |
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| <p>RSPO website. To be eligible for RSPO membership, growers must enter into compensation processes for all non-compliant land clearance”</p> | | |
| <p>“If a grower submits their non-compliant land clearance disclosure to the RSPO Secretariat themselves, it is treated as a compensation case. As a consequence:</p> <ul style="list-style-type: none"> • 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.” | <p>“If a grower submits their non-compliant land clearance disclosure to the RSPO Secretariat themselves, it is treated as a compensation case. As a consequence: - Management units with no remediation or final social or conservation liability can proceed with RSPO certification once disclosure of compensation liability has been submitted to the RSPO Secretariat. - For management unit with compensation and remediation liability, areas with remediation and/or final social or conservation liability must be excluded from certification process and can only be re-instated in the RSPO certification once an Remediation and Compensation project concept plan has been developed and accepted by the RSPO Compensation Panel.</p> | <p>The proposed change was not accepted by the CTF and it remains that it is only after the approval of LUC Analysis that those units with no liability can proceed with certification.</p> |
| <p>Grower members who are responsible and committed with their liability data and zero liability submitted to RSPO should be allowed to proceed with their certification of their units. They should not be penalised with the delay of the certification process where the Compensation Procedure (CP) Concept Note has to be approved by RSPO prior to certification.</p> | <p>One suggestion is upon submission of the LUCA on the unit’s liability, certification can proceed. The CP Concept Note is then required via a time bound period to be submitted by the expiry of the first year certification date.</p> | <p>This was not accepted by full consensus by the CTF. It is only after a full plan is approved that the units with liability can proceed with certification.</p> |

| Original Text | Proposed Change or General Comment | CTF Response |
|---|---|---|
| <p>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.</p> | <p>A longer suspension of certification until the compensation project has been running and successfully monitored and reported for 5 years;</p> <ul style="list-style-type: none"> • Or at least only allow progress on certification after the first annual monitoring report has been accepted by the RSPO. <p>A producer undertaking compensation must be deemed to be ineligible for certification within the unit of production affected for a period that is sufficient to demonstrate progress to full implementation of the proposed compensation activities. The point at which a plan is accepted by the RSPO is too soon to judge whether compensation is likely to be delivered successfully. Such progress must be verified by a credible, independent party rather than left to the Compensation panel alone.</p> | <p>See above response. The monitoring section of the procedures has now been strengthened and clarifies how monitoring will be rigorous.</p> |
| | <p>Rare, endangered and threatened species are not covered by the proposed mechanism; also grasslands etc. are not included</p> | <p>See summary comments. Changes to coefficient descriptions have been made.</p> |
| | <p>Therefore we propose text – as an overall guiding principle for the RACP that The RACP applies for all areas which were converted between 2005 and 2014. However, land which is addressed by RACP, has to be managed according to the P&C incl. audits, but cannot be claimed as a RSPO-certified unit and the palmoil and palmkernels from those lands cannot be sold as RSPO certified (Buyers could still communicate that - as a minimum – for certified palm oil no HCV areas have been converted since 2005.)</p> | <p>CTF considered the comment during the revision of the matrix. The proposed change would not have been acceptable to some members of the CTF.</p> |
| <p>Text, 3.2 i.: “However it does allow for new members to join the RSPO in the future and existing RSPO members to acquire holdings from non-members and still progress towards certification. “</p> | <p>Propose to make language clearer that RSPO does not allow any clearings post May 2014</p> | <p>This has now been made clearer throughout the document by change of language and tone where possible.</p> |
| <p>“Non-compliant clearing by RSPO members at the time of clearing, and especially RSPO certified growers, carries a higher compensation liability than such clearing by non-RSPO members.”</p> | <p>RSPO members with none certified units should not get incentives for the fact that they didn’t start certification yet. They should carry the same compensation liability than members with certified units.</p> | <p>The distinction between certified and non certified members has now been removed from the liability matrix.</p> |

| Original Text | Proposed Change or General Comment | CTF Response |
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| Third bullet – “RSPO certified growers or growers entering certification ... shall make full disclosure on all their land at the time they enter first certification.” | Proposed text to be added: In case a grower has not yet disclosed the land which has been cleared after 2005, the RSPO should open a Complaints case, which may end up in expelling the member from the RSPO | The CTF has considered this and within the first few pages of the document this is now made clear at different points. |
| “Management units with remediation and/or final social or conservation liability can only proceed with RSPO certification once an HCV compensation project note is developed and accepted by the RSPO Panel Comment: We recommend a much longer suspension of certification until the compensation project is running and evaluated for the first time after 1 year and delivering the first set of planned benefits. | We propose the following text: “Management units with remediation and/or final social or conservation liability can only proceed with RSPO certification once the compensation project accepted by the RSPO Compensation Panel has been running and evaluated for the first time after one year and delivering the first set of planned benefits. There shall be an independent and peer reviewed monitoring and evaluation of compensation plans (independent meaning independent of the company). Sites must be maintained and managed at least for 25 years” | This proposed change was considered but not accepted by consensus however the monitoring of the plan implementation has a clear requirement to engage a third party evaluator after year one of the project. There is already a clear specification that the projects must be maintained for 25 years. |
| “If the non-compliant land clearance is reported to the RSPO by anyone other than the RSPO member (e.g. a complaint is made to the complaints panel or it is brought to light by a certification body) then the case will be treated as a complaint rather than a compensation case. | For clarity we proposed to add the following text: - third bullet: The complaints panel has the right to expel the member from the RSPO | A new section of how the compensation procedures links to the complaints panel has been added into the procedures |

Section Five

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| Currently the procedures only asking for the Compensation Panel members who are non-RSPO to sign Non-Disclosure Agreement (NDA) and RSPO code of conduct. | Propose to also include all members of Compensation Panel have to sign Non-Disclosure Agreement (NDA). | This has now been included see page 6 final version procedures. |
| “Compensation Panel made up of four members of the RSPO, preferably members of the BHCV WG with balanced representation of different stakeholder categories”. • The sentence should specify that ‘balanced representation’ means NGO and grower participation in each Compensation Panel. | Compensation Panel made up of four members of the RSPO, preferably members of the BHCV WG with balanced representation of different stakeholder categories (balanced representation means NGO and grower participation in each Panel). The participation of at least two NGO members shall be obligatory”. | It was considered by the CTF that it is enough to state “with balanced representation of different stakeholder categories” (see page 6 final version procedures). The current composition involves 2 NGOs and 2 Growers. |

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| <ul style="list-style-type: none"> It needs to be ensured that the Compensation Panel has the experience and capacity to adequately judge the quality of proposals. | | |
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Section Seven

| Original Text | Proposed Change or General Comment | CTF Response |
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| | Table 1: The coefficient need not be quantified technically as that will complicate the definition and would be too technical for interpretation and implementation. | This has now been trialled through implementation phase and will be kept as it is except for improved definitions |
| | To provide clarity on ways to determine vegetation / coefficient category by providing detailed images (satellite) for the different classifications of vegetation. | This will be included in the LUC guidance annex. |
| | Change date in table from 9 May 2014 to January 1st 2016 as this is still consultation doc | This was not accepted as trial implementation started from these dates. |
| | <p>Vegetation coefficients: Combine vegetation classes 1 and 0.7 into class 1: That the procedure only uses 2 vegetation classes in order to make it simpler, cheaper and easier to verify – not least so that the majority of effort can be put into designing and delivering conservation projects rather than estimating losses:</p> <ul style="list-style-type: none"> 0 for already open, cleared, permanent annual cultivation and severely degraded land; and 1 for everything else <p>All ecosystem types impacted by the conversion have to be taken into account. Grasslands, savannas, wetlands must also be included into coefficient 1.</p> | The existing coefficients have been maintained based on consensus and improved definitions (see earlier comments in summary) |
| | The definition of vegetation types must incorporate non-forest habitat types: | See improved coefficient definitions |
| | It is neither robust nor acceptable to define degraded forest without some minimum ground truthing. Also possibly HCV grasslands cannot be detected by satellite images. We recommend limiting it to fewer categories that can be reliably seen with satellite imagery. In particular the difference between intact and degraded forest has not been formally defined anywhere in the document and is difficult to quantify and delineate in remote imagery. | This was not accepted due to the retrospective nature of the assessment. |

Section Eight

| Original Text | Proposed Change or General Comment | CTF Response |
|---|---|---|
| <p>a. Table 2, for land clearing after 9 May 2014 on land controlled by non-member at time of clearance, point no. 3 and 4.</p> <p>Current text:</p> <p>3. When land cleared is certified, palm products from areas with a vegetation coefficient < 0.4 in Nov 2005 may be sold as certified.</p> <p>4. 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).</p> | <p>Proposed change:</p> <p>Remove point 3 and 4 of table 2, for land clearing after 9 May 2014 on land controlled by non-member at time of clearance. Under land controlled by non-members at time of clearance after 9 May 2014 column as long as the member who acquire this land has complied with Remediation and Compensation requirement, all areas should be eligible for RSPO certifications. The reason is that RSPO members who have acquired non-members' land would have already invested a lot of money and efforts to rehabilitate and convert unsustainable plantations to sustainable plantations following RSPO P&C. Allowing all areas to be certified should be the incentive for RSPO members instead of penalizing RSPO members for rehabilitating and converting unsustainable plantations to sustainable plantations. This should help in the long run to achieve RSPO's vision of making sustainable palm oil a norm.</p> | <p>This was considered in the revised liability table and has now been removed.</p> |
| <p>Table 2</p> | <p>Suggestion to change point 3 to less than equals 0.4 and raising limit to >0.7</p> | <p>This has been done accordingly in final version.</p> |
| | <p>a. Currently the proposed Remediation and Compensation procedure has not considered acquisition from non-RSPO members who have no knowledge of RSPO requirements. There should be matrix developed for Remediation and Compensation procedure where required for new acquisition in this section. There will be a lot of acquisition cases from now on which require guidance to handle.</p> | <p>This has now been addressed through the revision of the liability matrix. (see page 15 final revised procedures)</p> |
| | <p>The procedure should only distinguish between commercial and non-commercial clearance for non-members in the period after 2010.</p> | <p>This has been addressed through the revision of the liability matrix</p> |
| | <p>The method of calculating conservation liability does not distinguish between RSPO member and certified member categories and that all members should be treated in the way currently proposed for certified members.</p> | <p>This was accepted and is addressed through the revision of the liability matrix</p> |
| | <p>Whilst we can accept in principle that there might be accidental and minor infringements of the clear requirement to conduct an HCV assessment before land clearing and we do not support the approach that 'exceptional cases of accidental and limited land clearing</p> | <p>The reference to accidental land clearing has now been removed</p> |

| Original Text | Proposed Change or General Comment | CTF Response |
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| | without prior HCV assessment' by current members in the future are possibly open to compensation until further clarification is provided on the criteria and safeguards to be used in deciding such cases. | |

Section Nine

| Original Text | Proposed Change or General Comment | CTF Response |
|---------------|--|--|
| | Suggestion that options should be prioritised (currently says no order of priority) and that 2500 USD/ha is minimum amount that should be invested (see specific text suggestion) | The value of USD 2500/ha has been maintained. The options have not been prioritised as the CTF feels that the procedures need to be flexible to ensure global implementation is feasible |
| | The Company shall demonstrate that, funding to the party for projects or programmes are “additional” and delivers additional conservation objectives. <u>[Additional here means conservation liability funding does not replace, substitute or top-up for existing conservation funding and shall aimed at conservation objectives additional to existing objectives and targets]</u> | The term “additional” is already well explained in the annex that explains the criteria for project selection. (Annex 6 final version procedures) |
| | Request for clarification whether there will be a list of RSPO approved 3rd party projects | This issue was not considered relevant to the procedures and is an option that the BHCV WG will further consider. |
| | Need more project examples to illustrate the two options (Page 13, Item 6 in chart: 6. Expulsion* of member or application of membership rejected if all requirements above are not met. – Comment: While this is necessary, what will the mechanism or solution be for jurisdictional scale certification such as in the case of Sabah (which made an announcement to this effect in May 2015)? Will applications not be entertained and what would happen in the case of growers with very small amount of land? | It is not possible to have examples until implementation moves to the project design and implementation level. Examples of real projects can be incorporated at a later stage. |

Section Ten

| Original Text | Proposed Change or General Comment | CTF Response |
|---------------|---|---|
| | What about planted areas with low productivity (25-50%) due to floods or other reasons? Could growers be asked to rehabilitate these lands, or to offer them back to the government to be turned into protected areas? However for the latter, there has to be guarantee that governments do not excise out these lands for other purposes. | This was not considered directly relevant to these procedures by CTF. |

| Original Text | Proposed Change or General Comment | CTF Response |
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| | All areas affected by the remediation and compensation procedure must be managed to according to the P&Cs (even if not sold as certified). The most straightforward way for a member to assure compliance is to conduct a full P&C audit and certification of the unit in question. The RSPO must require all members with known remediation and/or compensation liabilities to seek certification of those units as quickly as possible. | The corresponding section now makes it clear that certification of those units quicker is preferable. |
| | Need to clarify the relationship between area for compensation and area for remediation to avoid overlap | This has now been clarified. "In line with the principle of additionality, fulfilling the remediation requirements in this section is not part of meeting the conservation liability". If there is overlap the company must both remediate and compensate. (page 14 final version procedures) |

Section Eleven

| Original Text | Proposed Change or General Comment | CTF Response |
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| "As avoided deforestation will not always be possible", the next best option... | I think this gives a bad impression and a tone of permissiveness. I would rather it say "As deforestation is not always avoided, especially with regards to past procedures," the next best option... | Table 4 (Page 19 final version procedures) has been revised in terms of both language and content to be clearer |
| Section 11, page 17-18 (last priority in the table): This wording does not seem to be in the spirit of the remediation and compensation concept: "Destroying planted palms and spending money and long periods on re-creating forest rarely makes economic sense..." | Instead maybe it could say: "Conversion from planted palms in order to re-create forest is often a less effective use of funds when considering the environmental impact per dollar, however it may be a good option in some cases." | Table 4 (Page 19 final version procedures) has been revised in terms of both language and content to be clearer |
| Stepping stones encourage and require animals to enter the actual planted area and sets the animals up for conflict situations. Stepping stones are better than nothing, however corridors would be much more viable for more species. Below is the verbiage in the table: | "Re-establishment of landscape connectivity. Establishment of "stepping stone" habitat patches as food sources and refuging sites for orang-utans and other species moving through plantations between protected forests." | Table 4 (Page 19 final version procedures) has been revised in terms of both language and content to be clearer |
| | Reference Priority Table (page 16). Option 4 must remain in table as often | Option 4 remains in the table and it was not |

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| | <p>may be “best’ option. Pre-determined projects can be listed but should not be restricted to those options. Suggest a year from submission of plan to allow “tweaking” of in house project designs between CP and company. The company has to revert to pre-determined list if CP not satisfied.</p> | <p>suggested it was removed.</p> |
| | <p>Who decides what are the pre-determined projects? Besides working to ensure that they are successful, accredited, projects on the ground (and NOT just on paper), a group/panel needs to select and justify the choices of projects. This group can be NGO led but they must be some representation from all member types of the RSPO present to ensure practicability of the projects and better/quicker buy-in.</p> | <p>This comment assumed that there will be an “approved” list of projects. This was not on the agenda for inclusion into the procedures and is being followed up further by the BHCV WG.</p> |
| <p>The most straightforward way for a member to assure compliance is to conduct a full P&C audit and certification of the unit in question. The RSPO must require all members with known remediation and/or compensation liabilities to seek certification of those units as quickly as possible.</p> | <p>Suggested addition to original text Instead in cases where immediate certification is not possible the member must demonstrate via an audit by an accredited CB that the unit is in compliance with the <u>full P&Cs 2013</u>, relevant guidance and RSPO endorsed BMPs</p> | <p>This has been clarified that for those units that are on site a certification body to ensure compliance will be used for those offsite an independent evaluator in year one and then every five years thereafter.</p> |
| <p>Comment on annex 2 text on additionality Conservation and/or restoration activities that are already required in order to comply with the law or existing policy cannot be considered as part of the RSPO’s own compensation mechanism.</p> | <p>We therefore cannot accept the proposal in the guidance on additionally for actions to address weaknesses or failures in protection or management of protected areas (as described in the IUCN Protected Areas Categories System, including such areas designated by government), to be considered to be additional. The same is valid for conservation and/or restoration activities that are required for compliance with the RSPO P&Cs. In the current P&C 2013 both under 5.2 for existing operations and 7.3 for new plantings the basic requirement is already to ‘maintain and/or enhance’ HCVs. Therefore contrary to the guidance on additionally enhancement of HCVs DOES NOT go over and beyond minimum requirements and must not therefore be considered additional.</p> | <p>Adjustments have been made to Table 4 on Prioritisation of actions for biodiversity projects. It was also clarified that a strong case for additionality would need to be made in the case that the project would be in a national park. The reference to the IUCN PA system was therefore left as part of the explanation.</p> |
| | <p>Compensation Plan needs to be made public</p> | <p>This has now been included as a requirement and will include a summary of</p> |

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| | | the LUCA verification report. |
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Section Twelve and Thirteen

| Original Text | Proposed Change or General Comment | CTF Response |
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| | <p>a. Remediation for HCV 4 should be discussed separately from HCV 5 and HCV 6. Generally HCV 4 is technical and do not require participative mapping.</p> <p>b. In addition to the current social remediation plan, CSR also to be considered as a form of social compensation / remediation .</p> | <p>The CTF considers that elements of HCV 4 are socially related and it is for this reason they have been included here. Not all social values can be mapped. CSR evidence that demonstrably maintain, enhance or remediate for Social HCVs has now been included as part of a check list for assessing adequacy of social remediation.</p> |
| | Status of FPIC guide needs to be checked | The RSPO FPIC Guidance has now been approved for use in the last RT. November 2015 |
| | Need to be clear that consultation time is ample to ensure FPIC adequately conducted | The social section and associated guidance has been strengthened by the CTF accordingly and reference made to the newly approved RSPO FPIC Guidance. |

Section Fourteen

| Original Text | Proposed Change or General Comment | CTF Response |
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| | <p>One suggestion when providing examples would be to be more specific with proposed timelines in those examples. "Investment over a 25 year period" is great but does not say when this will start. Also, I believe timelines should be challenging so instead of saying "5 years from 2016" it would be great to state "2 years from 2016" (if this is feasible). Or 2 years from notification of approval (since the RSPO end of the process may affect timelines). Here is the current verbiage I'm referring to: Please indicate a proposed timeline for delivery of a) remediation and b) compensation activities</p> <p>1. Proposed remediation for PT Turutan and Syarikat Contoh Berhad will be completed within 5 years from 2016; and</p> | <p>The compensation plan format has been simplified and will be screened accordingly. If the timelines are not clear and implementation not satisfactory the case will be returned as a complaint if corrective action is not taken. This has now been made very clear in the procedures at several points in the document including the flow diagram.</p> |

| Original Text | Proposed Change or General Comment | CTF Response |
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| | <p>2. Proposed compensation project will involve active restoration over a 5+ year period, with monitoring over a 25 year period Please indicate a proposed timeline for delivery of a) remediation and b) compensation activities</p> <p>1. The investment from our company would be over a 25 year period.</p> | |

Section Sixteen

| Original Text | Proposed Change or General Comment | CTF Response |
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| | <p>For initial reporting suggest we do either half yearly for the year 1, followed by yearly progress report for year 2 to 5. Subsequent reporting can be done every 2 years once, till completion of the 25 years period. Can be done every 2 years once, till completion of the 25 years period.</p> | <p>The monitoring section now details the reporting and evaluation requirements. Annual reports are required with external evaluations required in year one and then five yearly intervals.</p> |
| | <p>Growers implementing the Remediation and Compensation Procedures shall provide an annual report on progress, validated by an independent third party, for approval by the BHCV WG. To be credible there must be independent and peer reviewed monitoring and evaluation of compensation plans (independent meaning independent of the company) rather than just independently 'validated' reports.</p> | <p>This has now been addressed (see comments above and monitoring section of final version of procedures)</p> |
| | <p>Specify that monitoring and reporting is required for the full time of the compensation plan – being at least 25 years. Specify that failure to implement compensation measures as approved by the Compensation Panel will be considered as a grievance and reported to the Complaints Panel and as a result members may be expelled from the RSPO</p> | <p>This has now been clarified at several points in the document. First reference page 3.</p> |
| | <p>Summary reports should be made public</p> | <p>This is now addressed in the monitoring section</p> |
| | <p>Proposed text: "Failure to implement compensation measures as approved by the Compensation Panel will be considered as a grievance and reported</p> | <p>This has now been clarified at several points in the document. First reference page 3.</p> |

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| | to the Complaints Panel and members may be expelled from the RSPO.” | |
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Annex Two: Detailed Comments provided on public consultation questions

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

Considered appropriate by several online comment contributions and PC groups. Evidence of commitment of top management, can get feedback, others can learn from SOPs of other.

Concerns mainly related to “Inability to verify” some suggestions for independent verification/requirement for member to employ an accredited CB to verify that SOP are relevant to P&C and NPP others suggested that dated maps of the concession showing real imagery (i.e. drone or satellite imagery) be submitted every 6 months or every year.

Suggested alternative was letter of declaration (3 online plus some groups at PC)

One online objection and JKT PC indicated by one group that SOPs are company’s controlled items and as such will not be able to be submitted.

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?

Reasons and views on keeping LUCA confidential:

- Summary of the findings of the Land Use Change Analysis, once accepted by RSPO, should not be made public as Land Use Change Analysis is to enable growers to estimate Remediation and Compensation liability and for RSPO to cross check. Land Use change Analysis is only a mean of the process to determine outcome of Remediation and Compensation requirement. There is no necessity to explain the process to public.
- It should be kept confidential between member and the RSPO as other stakeholders and potential investors are not aware of the RSPO P&Cs and its peculiarities and may view it negatively. Other concerns included it could be used by some parties to demand growers to offer higher compensation liabilities.
- It should be kept confidential between members and the RSPO. Land Use Change Analysis entails disclosure of coordinates with shape files and other detail information that could be of legal implication especially in Indonesia under Indonesian laws. Disclosure of this would risk infringement of the countries’ legislation and led to non compliance of RSPO P&C Principle 2.
- Overall physical consultation (JKT, CT, KL) most groups suggested that it should be kept confidential for business reasons or only on request with an NDA or voluntarily disclosed publicly by the company - so optional. One suggestion that could be shared without maps.

Reasons and views on making LUCA Public:

- LUCA analysis should be made public. Transparency should be part of this process and enhance credibility.
- Suggestion: the LUC analyses can be updated and linked with updated LUC images where remediation or in situ compensation is implemented.
- Suggestion that Wilmar has already proved it can be done by sharing documents in dashboard and other companies have followed suit.
- While making it public could encourage accountability and transparency, apart from providing examples to others keen to do the same, it could be used by some parties to demand growers to offer higher compensation liabilities.
- A compensation mechanism must include sufficient transparency about which members are in breach of the standard as well as which land is affected. There must also be adequate public disclosure on what compensation actions are planned and the monitoring and evaluation of their implementation

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?

Views on not appropriate:

- Monetary value is not appropriate. It will be good if Compensation Task Force (CTF) can develop additional mechanism such as conservation projects valued based on conservation points determined by CTF / RSPO. There should be a list of potential projects approved by CTF / RSPO readily available to assist growers to select and for inclusion as Remediation and Compensation plan and implementation

Appropriate but value needs review:

- Appropriate but insufficient value 2500USD/ha is insufficient as does not cover costs of land acquisition, long-term monitoring etc
- Appropriate but needs review and explanation (online and KL,JKT, CT)
- USD1500 per hectare is a pragmatic costing as highlighted by MPOA ,climatic conditions in Indonesia and Malaysia are favourable for indigenous trees growths
- USD1000 per hectare refer joint study HCV Indonesia (JKT PC)
- Some references to offsetting value against CSR
- 2500 USD needs to be qualified and or open for review (JKT, KL, Ghana, CT)
- Using a 3 year summary model 2009, 2010 and 2011 is clearly not sufficient, for a more robust model should extend data collection to a longer period for e.g. a 10 year period from 2005 to 2014.
- CT PC gave indicative figures USD 2000-8000/Ha and list of factors to determine (see report)
- The compensation value should also differentiate the non-compliance in different jurisdiction. For eg, the market value of a converted hectare of oil palm in Indonesia differs significantly (lower) from that in Malaysia, and the restoration cost per hectare in Indonesia is also substantially lower than in Malaysia
- Suggestion to add reference date for exchange rates (JKT, KL)

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?

- Overall considered incoming company should bear responsibility
- Contracts need to be developed to ensure that new company will take on liability especially in case of RSPO member to member if feasible
- Need to include various acquisition scenarios here including RSPO member to non-member, RSPO member to member, non-member to RSPO member.
- The worst case scenario is that a RSPO member with significant compensation liabilities sells a concession to a non-RSPO member. Less acute, but likely to be more frequent in future are cases where a compensation plan has been agreed, but the company drags its feet in implementation. In theory this could be ‘sorted’ by the CB, or by a complaint from one of the interested parties. This however is likely to be tedious and time consuming. It is suggested therefore that to preempt the problems outlined in paras 2 & 3 above, thought be given to some form of bank guarantee or escrow system. In essence this would involve estate owners who have agreed compensation liabilities @ US\$2,500 per ha providing a bank guarantee for the total amount, upfront, to RSPO or reliable and approved 3rd party. This amount would be reduced annually upon satisfactory completion of the year’s estimated and agreed programme. Thus if an RSPO member with a significant compensation liability sold to a non-RSPO member, RSPO would call in the guarantee. The remaining funds would then be made available to another organization, preferably an RSPO member, to complete the programme, possibly in discharge of other compensation/remediation liabilities.

Annex Three: CTF Response to other Miscellaneous Detailed Comments

| No | Comment | Response CTF |
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| 1 | Procedures should be fully reviewed within 5 years of implementation to ensure that it has been effective in preventing further clearance of land without prior HCV assessments by members and non-members, has not undermined the credibility of the RSPO and the P&Cs, has enabled the growth in RSPO membership and certification by growers and has delivered social and environmental benefits commensurate with the scale of likely HCV losses from failure to comply. | The procedure is subjected to a two-year review as decided by the RSPO Board of Governors. |
| 2 | In cases where an HCV assessment was conducted and an area was deemed suitable for clearance due to lack of HCVs, however during actual clearance HCVs (i.e. orangutans or orangutan nests) are observed or discovered, conversion/clearance in that area should immediately be halted until a follow-up HCV assessment can be conducted. An unacceptable (“bad”) scenario: If clearance continues after the new information of existing HCVs becomes known by ANY employee or contractor of the grower, the grower will be liable and this is grounds for a complaint to be submitted. Self-reporting is mandatory and will be considered with regards to continued RSPO membership. This may be covered in the P&Cs or a topic for future P&C review. | This would fall into cases of complaint outside the remit of these procedures. There is now a section that explains when a complaint is covered by these procedures. |
| 3 | The New Planting Procedures now propose a definition for New oil palm planting or new oil palm development as Planned or proposed planting on land not previously cultivated with oil palm, for which no work towards that end has commenced as at January 1 2010. This therefore conflicts with the RCP going back before 1 Jan 2010 as there was no definition of New Planting prior to the new consultation document. Which takes precedent? LCP or NPP? | The objectives of the RaCP Procedures are clearly set out now and deal with any incidence of clearance without an HCV assessment and the matrix has been revised. |
| 4 | A “one size fits all” way of thinking could be ineffective or not appropriate as different areas may have different conservation values | The CTF have considered this by using a variety of coefficients as a proxy. |
| 5 | Going forward, what do we do in the case of jurisdictional level certification such as in the case of Sabah as announced in May 2015? The terms of certification have not been spelled out yet, and the assumption is that it could be either RSPO or MSPO certification. Are there ways to ensure most would be eligible for RSPO certification, providing them the option of choosing this platform instead of MSPO? | The CTF was not clear how relevant this was to the procedures? The terms of when a liable unit can be certified if cleared without HCV assessment is now clear in the procedures. Refer to flow diagram in final version. |
| 6 | Whole set of comments on how procedures apply to smallholders. Will need to consider | It was clarified in the section on who do these procedures apply to in final version that it does not apply to independent smallholders. A |

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| | how to address issues raised in separate procedures for small holders | separate Task Force has been formed to address the issue in the context of independent smallholders. |
| 7 | The business case to compensate and remediate may be rather limited and not very attractive to growers. We suggest the working group considers if and how compensation/remediation may be split between urgent issues to address and those that can be part of a more holistic reconsideration of holistic land use and participatory land use planning, including land swaps, at moment of replanting. | The CTF felt that at this stage of finalizing the procedures this was something that may be challenging to integrate. |
| 8 | Relevance and applicability to Latin America and timing out of synch? | The CTF considered the comments from South America and have made changes where they felt appropriate. However the change of the use of the word "compensation" was decided against as these procedures are already well circulated and the legal applicability at national level already qualified in the document. |
| 9 | Page 13, Item 6 in chart: 6. Expulsion* of member or application of membership rejected if all requirements above are not met. –While this is necessary, what will the mechanism or solution be for jurisdictional scale certification such as in the case of Sabah (which made an announcement to this effect in May 2015)? Will applications not be entertained and what would happen in the case of growers with very small amount of land? | This question was not specifically addressed. Specific cases are to be deliberated by the BHCV WG. |
| 10 | Need to have specific capacity within RSPO to screen and monitor these conservation projects | This point was also emphasized by the CTF and made note of by RSPO Secretariat. |