

# Public Consultation On RSPO Remediation & Compensation Procedures Summary

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Cartagena, Colombia

Summary Report prepared  
By Proforest



**RSPO**

Roundtable on Sustainable Palm Oil

## General comments

1. The document is well structured and explanatory.
2. Is it feasible to apply the rule in cases where the terminology does not have exactly the same meaning under the domestic legislation of each country and could be interpreted as violating the internal rules or serve as evidence of such violation? In the particular case of Colombia, the term "compensation" implies the prior conduct of activities which are contrary to the rules relating to compliance with the ecological function of the property and could therefore create grounds for the forfeiture of the property. That no processes of prevention or mitigation have been carried out, in respect of which there is an applicable law on compensation. We therefore suggest an alternative: Remediation and/or environmental investment. Accordingly, whenever the term "compensation" is used anywhere in the rest of the document in Spanish, a reference should also be made to the alternatives suggested above.
3. The criteria set out in the RSPO should be made more flexible and adapted to Latin America, given the need to encourage the conservation of its megadiversity, which is plausibly estimated at more than 60% of the continent's territory. For that reason, the conversion of agricultural uses must be driven by more than just sanctions and incentives and the compensation criteria should therefore be much more flexible, given that many properties are underused, but that in most countries, as they are private properties, their owners are in any event allowed to use them for whatever purpose they choose. We therefore believe that the RSPO should be an opportunity for Latin America to achieve these objectives.



## General comments

4. The documents confirming previous interventions carried out on the site must be validated as specific examples and, although natural regeneration processes have taken place, specific biological and legal conditions may be observed which, provided these sites lie within the designated agricultural boundaries, permit their economic operation as cropland without any penalty or compensation, in particular where permits and/or authorizations have already been granted by the authorities, for their agricultural use.
5. Disagreement with the implementation dates. The dates are out of step with the realities of Latin America. It may be impractical to apply them, given the low level of participation by Latin America in the RSPO system until recently.
6. Low level of participation in the public consultation of other members on these certification procedures (other countries, smallholders, Central America).
7. This procedure is to accept the damage, and does not take into account the environmental law of each country, as there are state policies and the procedure itself deals with issues that may run counter to national laws. There are state projects involving changes of land cover that focus on the development of the country concerned, and the development of areas is based on rules for the protection of conservation areas.
8. This procedure provides negative compensation (when the damage has already been done) and is not positive for the agencies that maintain protected areas. It will be conducive to the sale of forest areas and the purchase instead of disturbed areas, to be able to maintain the production system.



### Specific comments or proposed changes to text

1. The term compensation has legal definition and implication in many countries. It is recommended to use another term
2. Page 5 para 6 it is not clear the date when this requirement enters into force
3. Page 6 para 1 the sentence is confusing as to what it is explaining “los procedimientos aplican a la organización que controla la gestión”
4. Page 6 para 2 not clear it is not clear when it will be determined how small independent oil palm growers have to submit their remediation and compensation programmes.
5. Page 7, the word “proxy” on page 7 does not exist in Spanish. The word should be clarified or defined in the glossary; the word relates to use as a substitute where one affects the other.
6. The language is clear, but use of the term “compensation” in Colombian legislation should be taken into consideration.
7. The substance of the requirements should be set forth in an instructive manner.
8. The issue of dates should be considered in accordance with the conditions in each country.
9. Paragraph 6 on page 5, stipulating the need to take into account that the HCVs must be carried out by licensed HCV assessors, is unclear about the date from which this requirement would apply.



### Specific comments or proposed changes to text

10. In paragraph 3 on page 9, stipulating that the certification body should verify conformity with this requirement and report any non-disclosure to the Complaints Panel, it is not clear how this verification is to be effected. Where? In writing? How is the report to be sent to RSPO? Is it an additional document to that verifying certification? If so, no company in Latin America this year will be able to submit a request for verification since no plan has been approved.
11. Page 10 para 1 is it implying that without a Compensation Panel approved conceptual plan the Company cannot start a certification audit? So at the moment it is not possible for anybody to be certified? Also there has been indication that it can take 9 months to approve a compensation plan, so a certification audit could not be commissioned until then?
12. What are the time frames for response, between the moment when the plan is submitted and the moment when it is approved or authorized? Who does it? It is important to stipulate time frames for the revision of these plans, bearing in mind that growers may have an entire list to be verified, but if no plan has been approved, it cannot be submitted for verification of certification.
13. It is also important that the time frames should take into account the grower's coefficient, so that for those with the coefficient 0, the time frame can be very short.



### Specific comments or proposed changes to text

14. In the absence of remote sensing information, RSPO could consider for Colombia:
  - If by 1997 the land was abandoned agriculture by 2005 it would be fallow
  - If by 1986 the land was agriculture or grazing by 2005 it would be a secondary forests (these dates will depend on the type of ecosystem + 0–5 years for the different ecosystem types);
  - If before 1986 the land was secondary forests by 2005 it would be primary forests
15. Item 7: LUC analysis. Give more detail on the different coefficients using dates/periods of development from November 2005.
16. Page 12: LUC will be publically available. If this information is made available to other entities (such as legal entities) they could be used to kick start other – national – compensation processes. The information should be kept between the RSPO and the companies.
17. Timeframes are too long – if to get compensation plans approved it takes 7 months, how can a company plan for such timeframes especially when buyers worldwide are giving cutoff dates by when all production needs to be certified.
18. Table 1 on coefficients: Wetlands and Savannahs are not taken into account in the procedure, they could be identified using satellite images too.
19. Table 1 on coefficients: What are the necessary studies that need to be carried out in order to identify the different areas – and corresponding coefficients?
20. In table 1 on page 12 we do not understand what is meant by the phrase, in coefficient 0.7, “ecologically functional”

### Specific comments or proposed changes to text

21. It is of paramount importance to include specific examples showing how the values or formulae used to determine the due compensation are obtained; the values are unclear, as are the amounts which have to be paid or provided in compensation.
22. Account should be taken of the areas owned by each grower which have been designated for conservation and/or compensation or remediation.
23. A percentage of compensation should be stipulated for each type of impact or ecosystem level or cleared forest.
24. If the company has already paid an amount of compensation to the national government, this should be taken into account by the RSPO and it could be exempted from a percentage of the stipulated compensation or have it reduced.
25. Account should be taken of the need to determine the amount of compensation if the damage was caused by the current owner or by previous owners.
26. The investment options suggested by participants include the following:
  - (a) Funding of management and conservation plans
  - (b) Funding a payment for ecosystem services scheme
  - (c) Funding the increase in the extent of protected areas
  - (d) Implementing new protected areas
  - (e) Funding reforestation and restoration processes
  - (f) Funding research projects



## Specific comments or proposed changes to text

27. It should be established who is to oversee disbursement of the compensation or how the overseer is appointed.
28. Can it be stipulated that compensation is paid for sites in another country? Or if the compensation to be paid not only in Colombia but also in another country?

# Responses to questions

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

- There was no alternative source of evidence suggested among the groups, it was mentioned that auditing the performance should be part of the certification bodies' responsibility



# Responses to questions

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

1. The group suggested that this information not be made public, in view of its nature and the potential legal and business implications.



# Responses to questions

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

1. We believe that the compensation should comprise the costs that a company incurs in establishing a compensation measure and meeting its objectives from the design stage to implementation. This amount money can vary and could be combined with other existing compensation options in the various areas, but with a view to ensuring:
  - (a) Equivalence in goods and services, cover and biodiversity
  - (b) Setting of priorities in watershed management plans
  - (c) Priority areas, by compensation factor (if these exist in the countries)
  - (d) Promoting ecosystem connectivity (corridors)
  - (e) Land-related and socioeconomic viability of the site for which compensation is to be paid
2. Compensation costs can be highly variable, since, where Colombia is concerned, values can range from \$2,000 per hectare for active compensation to \$8,000 per hectare for degraded systems.
3. It is extremely important that specific examples of how the values or formulae determining the compensation are provided; it is not at all clear what the values should be and how much is to be paid or provided in compensation.



# Responses to questions

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

1. The purchasing company should clearly understand that, when it is negotiating a planting, this should be taken into account in the negotiations and that it is the new person or company which must thereafter submit the results and be responsible.

