


Roundtable on Sustainable Palm Oil

ROUNDTABLE MEETING ON SUSTAINABLE PALM OIL

Preparatory cluster, 17 November 2015
Proposed Independent Appeals Mechanism



Global Vision | Regional Action

2015 to 2020



Independent Appeals Mechanism

Speaker background

- Representing Accreditation Services International GmbH (ASI)
- Accreditation body for environmental standards systems, e.g.,
 - Aquaculture Stewardship Council
 - Forest Stewardship Council
 - Marine Stewardship Council
 - Roundtable on Sustainable Biomaterials
 - Roundtable on Sustainable Palm Oil
- Offices in Bonn, Germany and Kuala Lumpur
- Assisted RSPO developing Independent Appeals Mechanism

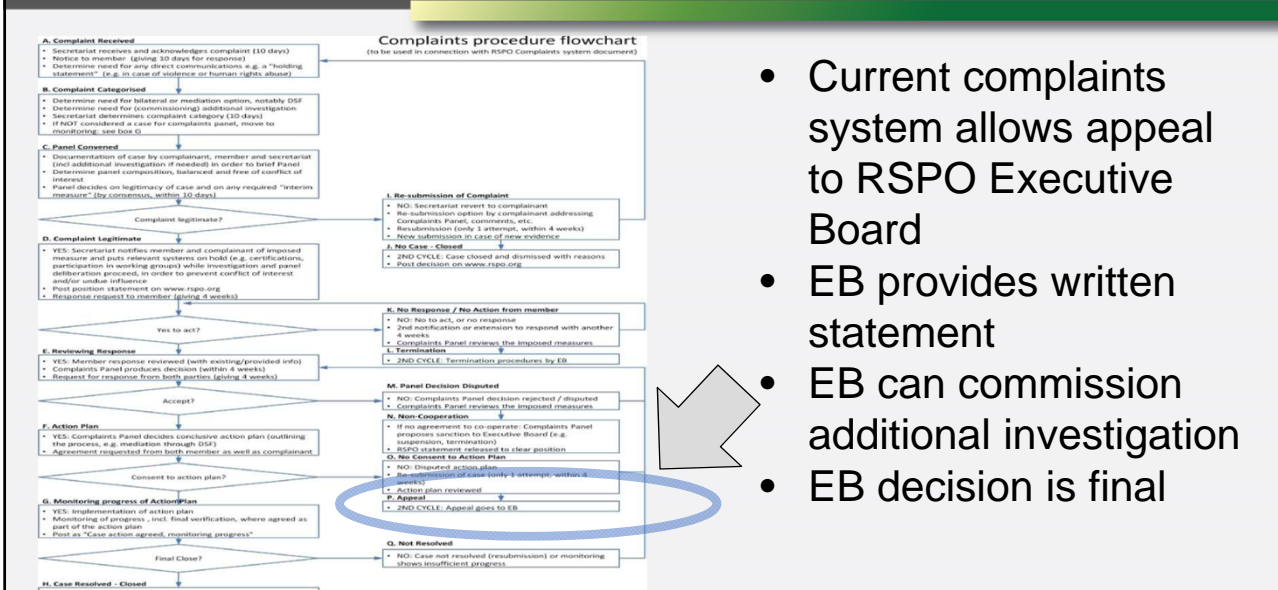


Independent Appeals Mechanism

Agenda

1. Background to RSPO's existing appeals mechanism
2. Process of developing a new appeal mechanism
 1. Proposed appeals system components, including key issues

Independent Appeals Mechanism



- Current complaints system allows appeal to RSPO Executive Board
- EB provides written statement
- EB can commission additional investigation
- EB decision is final

Independent Appeals Mechanism

Complaints background

RSPO website shows around 50 complaints

- 80% against growers
 - mostly land-use related: HCV, FPIC, NPP
- Two thirds Indonesia
 - Kalimantan 50%, Sumatra 15%

- Malaysia & Africa: around 10% each
- Few non-land use complaints
 - Some CB complaints in past
 - Retailers

Appeals

- Three received to date

Independent Appeals Mechanism

Background

RSPO General Assembly Resolution 6f (2013)

- Directs RSPO Executive Board to ensure that there is strict separation of executive powers in handling complaints & grievances
- Refers to lack of independent appeal mechanism

Independent Appeals Mechanism

Process of developing independent appeals mechanism

With ASI's support:

1. Comparative review of other schemes, identification of best practice elements and drafting of proposed appeal procedures
2. Expert group meeting held in Jakarta, 8 July 2015
3. Public consultation meeting in Kuala Lumpur, 8 Sept 2015
4. Draft documents posted on RSPO website

Independent Appeals Mechanism

- Draft appeals documents comprise:
 1. Appeals procedure
 2. Terms of reference for the appeals panel
 3. Appeals submission form
- Comment deadline 30 November 2015

<http://www.rspo.org/news-and-events/announcements/independent-appeals-mechanism-within-rspo-complaints-system>

Independent Appeals Mechanism

Main changes from existing system:

- Longer, more structured, procedural elements
- Independent panel (1 to 3 panel members)
- Transparency: external reporting
- Increased costs: both internal & external costs.

Independent Appeals Mechanism

- Appeals apply to **RSPO Complaints Panel decisions**



Independent Appeals Mechanism

Parties involved

- Appellant
- Respondent
- RSPO Secretariat
- Appeals Panel members

Independent Appeals Mechanism

Process

1. Appellant submits to RSPO Secretariat using appeals submission form
2. Preliminary review
3. Respondent invited to participate
4. Panel members identified
5. Panel members confirm terms of reference, independence

(continued)

Independent Appeals Mechanism

Process (continued)

6. Secretariat submits information to panel
7. Panel reviews evidence, prepares report
8. Draft report circulated to parties
9. Final resolution
10. Secretariat keeps records, publishes summary, identifies improvements

Target timeline: 90 days after receipt of appeals

Independent Appeals Mechanism

KEY ISSUES

- Grounds for appeal
- Independence framework
- Management of costs and distribution of costs between the parties

Independent Appeals Mechanism

KEY ISSUE 1: Grounds for appeal?

- i) "Procedural impropriety" in the complaints handling process
- ii) Reasoning of Complaints Panel not disclosed
- iii) Substantial and manifest error in reasoning
- iv) Complaints panel member/s had a conflict of interest
- v) Substantial evidence was not taken into consideration

Stakeholder comments on other approaches?

Independent Appeals Mechanism

KEY ISSUE 2: Independence framework for Appeals Panel

- Set out in Terms of Reference document
- Self-declaration by Panel members:
 - (i) No current or prior involvement with the complaint
 - (ii) No current involvement in RSPO complaints system
 - (iii) Not been a member of the complaints panel in the last 2 years
 - (iv) No commercial or other relationship with parties to the appeal

(continued)

Independent Appeals Mechanism

KEY ISSUE 2: Independence framework for Appeals Panel (continued)

- Appellant and respondent have opportunity to object to proposed panel members
- Secretariat considers whether objections are valid

Stakeholder comments on other approaches?

Independent Appeals Mechanism

KEY ISSUE 3: Costs

- RSPO's costs will include:
 - Panel members fees/honorarium/expenses
 - Fees of experts requested by panel members
 - Other costs: translators fees, accommodation/travel costs, appellant/respondent expenses
- Possibility of standing panel if appeals are frequent
(continued)

Independent Appeals Mechanism

KEY ISSUE 3: Costs (continued)

- To recover some of its costs, RSPO may charge appeal fees to appellants:
 - Administration fee
 - If the appellant loses: costs of the appeal process
- Panel will give specific recommendation on costs
- RSPO to publish schedule of appeal fees
- Financial support for certain categories of appellant

Stakeholder comments on other approaches?

Independent Appeals Mechanism

Stakeholders are encouraged to give specific comments on the appeal documents, including suggested wording changes

Questions?