

[RSPO logo]	Procedure for the RSPO Complaints System	Code	
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1. PURPOSE AND SCOPE

1.1. The purpose of the Procedure for the RSPO Complaints System is:

- 1.1.1. to provide a framework for RSPO to address complaints against any RSPO Member, the RSPO scheme, or RSPO itself;
- 1.1.2. to ensure that any alleged breaches of RSPO standards and procedures are handled and resolved in a fair, impartial and transparent manner; and
- 1.1.3. to protect RSPO's integrity.

1.2. The scope of this procedure forms the basis of the RSPO Complaints System. It sets out the mechanisms for receiving, evaluating and resolving complaints.

1.3. This procedures shall apply to all complaints first received by RSPO on or after 1 July 2016. Complaints received by RSPO prior to this date shall be dealt with under the RSPO complaints procedure that was previously in effect.

2. VERSION HISTORY

Version number	Date of approval (Effective date)	Description of changes
(1.0)	(Undated)	Previous version of procedure as published on RSPO website (access date Jan 2016)
1.1	First draft revision Mar 2016	Prepared by ASI
2.0	Pending approval	Pending RSPO review & approval

3. TERMS AND DEFINITIONS

- 3.1. **Appeal:** formal request by a party subject to a decision (without extending the scope of investigation) for reconsideration of a Complaints Decision; with regard to the RSPO Complaint System (adapted from ISO 17011:2004). The request may be done by a complainant under the RSPO Complaints System, or the RSPO member involved in the complaint.
- 3.2. **Complainant:** person, organization, or their representative filing a complaint.
- 3.3. **Complaint:** formal expression of dissatisfaction (other than appeal) by any person or organization to RSPO, relating to the activities of RSPO or of its members, where a response is expected (adapted from ISO 17011:2004).
- 3.4. **Complaints Clearinghouse:** an RSPO database for tracking complaints which provides a public interface via the RSPO website (also called 'case tracker').
- 3.5. **Complaints Decision:** a final decision made by the RSPO Complaints Panel in relation to a complaint received under the RSPO Complaints System.

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- 3.6. **Complaints Report:** report from the Complaints Panel to the RSPO Secretariat which summarizes the evaluation of a complaint and specifies the Complaints Decision.
- 3.7. **Complaints Panel:** high-level body that handles complaints against RSPO members and RSPO as an organization and which fall outside other complaint resolution mechanism established in the RSPO Complaints System.
- 3.8. **Conflict of interest (COI):** Situation in which, because of other activities or relationships, impartiality in performing an activity or investigation is or could be compromised (adapted from ISO 14050:2009).
- 3.9. **Consensus:** lack of sustained opposition.
- 3.10. **Dispute Settlement Facility (DSF):** A body within RSPO that facilitates mediation between mutually consenting parties to resolve disputes over RSPO P&C criteria 2.2, 2.3, 6.4, 7.5 and 7.6. The DSF is subordinate to, and is intended to compliment the function of, the RSPO Complaints System.
- 3.11. **Grievance:** Generic claim about a wrong or hardship suffered - whether perceived or actual - which may be legitimate grounds for a complaint. The terms “grievance”, “dispute,” “challenge,” and “conflict” may also be used to express dissatisfaction but they are not synonymous with the term “complaint” as used here.
- 3.12. **Impartiality:** actual and perceived presence of objectivity (ISO 17021:2006). Element made up of several components such as objectivity, independence and identification and management of Conflict of Interest (adapted from ISO 17001:2005)
- 3.13. **Independence:** a component of impartiality referring to the independence of the party reviewing the appeal from either RSPO or any other person having an interest in the result of the process (adapted from ISO-PAS17001:2005). Independence forms the basis for the impartiality of the RSPO Complaints System and the objectivity of conclusions arising from it (adapted from ISO 17011:2011).
- Note: Complaints Panel members should be independent of the activity being challenged and act free from bias and Conflict of Interest (COI).*
- 3.14. **Interim Measure** A temporary instruction issued by the RSPO Secretariat to a member as part of an initial response to an urgent issue raised in a complaint. May include a cease and desist order or a ‘stop work’ order.
- 3.15. **Procedural Impropriety:** existence of substantial and/or serious procedural errors in the way in which a process was conducted or a failure to act with procedural fairness. **The term ‘breach’ may be used as a synonym.**
- 3.16. **Respondent:** the party being named or challenged by the complainant in a complaint (also known as the “complainee”). **[shortened from definition given in Appeals Mech.]**
- 3.17. **Recourse:** the right of a complainant to escalate their case to the Complaints Panel (CP) when the complainant remains dissatisfied with the outcome of their complaint in **one of the other complaint processes of RSPO.**

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- 3.18. **RSPO Code of Conduct:** a document affirmed by each supply chain associate of the RSPO that they will act in good faith towards the objectives of RSPO and adhere to the principles enumerated therein (full document title: Code of Conduct for Supply Chain Associates of The Roundtable on Sustainable Palm Oil).
- 3.19. **Sanction:** A punitive measure issued by the RSPO Secretariat against an RSPO member, which may include suspension or termination of RSPO membership.

4. ASSOCIATED DOCUMENTATION

- RSPO Complaint Form
- RSPO Complaint Submission Checklist
- Code of Conduct for Parties to a Complaint [delete – unnecessary?]
- Code of Conduct for Supply Chain Associates of The Roundtable on Sustainable Palm Oil
- Terms of Reference for RSPO Complaints Panel [Need this - where is it?]
- Appeals Mechanism for the RSPO Complaints System
- RSPO Dispute Settlement Facility (DSF) - Framework, Terms of Reference, and Protocol

5. INSTITUTIONAL FRAMEWORK

- 5.1. The RSPO Secretariat is responsible for coordination, administration, and communications of all aspects of the RSPO scheme. With respect to the RSPO Complaints System, the Secretariat's responsibilities are to:
- 5.1.1. Receive, acknowledge, and initiate the resolution of complaints;
 - 5.1.2. Provide for suitable expertise and capacity to address and resolve complaints;
 - 5.1.3. Monitor progress towards complaint resolution according to established procedures;
 - 5.1.4. Ensure timely and appropriate communications about complaint handling; and
 - 5.1.5. Regularly review and evaluate the efficacy of the RSPO Complaints System.
- 5.2. The RSPO Complaints System is not intended to be a replacement for legal requirements and mechanisms in force by any regional, national, or international governmental body.
- 5.3. RSPO requirements mandate adherence to official governmental requirements and RSPO ensures that its activities respect national and international law, policies, standards and recognized human rights.

6. GUIDING PRINCIPLES

- 6.1. The RSPO Complaints System provides a formal, transparent and efficient way to address stakeholder concerns relating to the performance of any element of the RSPO scheme including RSPO members and operation of the RSPO itself.
- 6.2. The RSPO Complaints System aims to address the effectiveness criteria for non-judicial grievance mechanisms in "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework".

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- 6.3. The RSPO Complaints System is based on the guiding principles of clarity, accessibility, efficiency, impartiality, appropriate disclosure, accountability, flexibility, quality outcomes and rights-compatible.
- 6.4. Adherence to these guiding principles ensures that the RSPO Complaints System is:
- 6.4.1. Clear and accessible;
 - 6.4.2. Efficient in responding in a timely manner;
 - 6.4.3. Impartial and independent;
 - 6.4.4. Transparent and accountable in its operations and outcomes but respectful of confidentiality when required;
 - 6.4.5. Objective and fair;
 - 6.4.6. Evaluated periodically to identify trends and lessons learned from the outcomes of the process; and
 - 6.4.7. Rights-compatible in accordance with the law and with internationally recognized human rights.
- 6.5. **Accessibility**
- 6.5.1. The RSPO Complaints System is accessible to any stakeholder with an interest in sustainable palm oil production.
- 6.5.2. RSPO ensures that all stakeholders have fair and reasonable access to information about the RSPO Complaints System and guidance on how to submit complaints.
- 6.5.2.1. Note: RSPO makes its procedures for handling complaints publicly accessible via the RSPO website.
- 6.5.3. Should any stakeholders encounter an access barrier to the RSPO Complaints System (e.g. due to language or literacy), they may contact the Secretariat for further assistance.
- 6.6. **Communications**
- 6.6.1. The Secretariat periodically makes public announcements about complaints on RSPO's website and the current status of complaints is regularly updated.
- 6.6.2. RSPO strives to ensure that information relating to complaints is always presented in a neutral way, without prejudice towards any of the parties involved.
- 6.6.3. In all communications, RSPO will be respectful about the need to maintain some information as confidential (e.g. in order to protect a complainant who is fearful of repercussions). However transparency is the rule, confidentiality the exception.

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6.6.4. RSPO shall make an announcement on the website within five working days of any significant development or change in the status of a complaint. Some examples of significant developments or status changes are:

- 6.6.4.1. resolution of a complaint mediated by the DSF (in line with the DSF Protocol);
- 6.6.4.2. release of a Complaints Decisions by the Complaints Panel;
- 6.6.4.3. release of an Appeals Decisions by the Appeals Panel;
- 6.6.4.4. a change in the status of an RSPO member as a result of a complaint;
- 6.6.4.5. a change in the status of a certification body (CB) as a result of a complaint; and
- 6.6.4.6. a call for information pursuant to an ongoing complaint investigation.

7. GENERAL OVERVIEW

- 7.1. The party raising the complaint is referred to here as the “Complainant”. The other party, against whom the complaint is being raised, is the “Respondent”.
- 7.2. The Complainant and the Respondent constitute the “parties to a complaint.”
- 7.3. The RSPO Secretariat (hereafter “the Secretariat”) is responsible for coordination, administration and communications of the RSPO Complaints System.

8. GROUNDS FOR COMPLAINT

- 8.1. The grounds for a complaint rests upon an assertion that a party was in breach of an RSPO scheme requirement (i.e. that a procedural impropriety has occurred).
- 8.2. RSPO has set forth its requirements in RSPO scheme documents and they shall serve as the grounds for all complaints – whether those documents be normative, elective or informational in their application.
- 8.3. The grounds for all complaints raised to RSPO shall be based on one or more RSPO scheme document, which may include but is not limited to:
 - 8.3.1. RSPO Statutes and By-laws;
 - 8.3.2. RSPO Principles & Criteria for Sustainable Palm Oil Production (P&C), including all guidance, indicators associated with the adoption and implementation of the P&C;
 - 8.3.3. RSPO accepted or endorsed National Interpretation of the P&C (where applicable);
 - 8.3.4. RSPO Code of Conduct;
 - 8.3.5. RSPO New Plantings Procedure;
 - 8.3.6. RSPO Certification Systems; or

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8.3.7. RSPO Rules established for Trade and Traceability and for Communication and Claims.

8.4. Note that at the outset of a complaint, the onus of demonstrating reasonable grounds rests with the Complainant.

8.5. Complaints which are to be resolved through a second party process in the national context (e.g. court, human rights commission), the financial chain (e.g. IFC Ombudsman), or in the trade chain (e.g. supply chain audits) fall outside the scope of this procedure.

9. COMPLAINT SUBMISSION, RECEIPT AND ACCEPTANCE

9.1. Submission

9.1.1. Complaints shall be submitted to the Secretariat using the RSPO complaints submission form. Submissions shall be accompanied by the following information:

9.1.1.1. Name and contact details of the party submitting the complaint. Note: parties may request confidentiality at this stage (whistle-blower protection/confidentiality);

9.1.1.2. Party against whom the complaint is being raised;

9.1.1.3. Nature of the complaint and the grounds on which it is based (see Section 8);

9.1.1.4. Supporting evidence including documentation, communications, photos and other relevant material; and

9.1.1.5. Detailed information about previous efforts (if any) to resolve the issue through bilateral engagement or otherwise.

9.1.2. Complainants are also encouraged to propose or suggest specific corrective actions that may resolve the issues detailed in the complaint.

9.2. Receipt

9.2.1. The Secretariat serves as the entry point for all complaints to be handled by the RSPO Complaints System. Complaints entering via other points shall not be accepted.

9.2.2. The Secretariat shall acknowledge receipt of complaints within ten (10) working days.

9.3. Preliminary Review

9.3.1. The Secretariat shall perform a preliminary review of each submission within 10 days of receipt. The preliminary review shall be used to determine:

9.3.1.1. if the nature of the grievance falls within the scope of this procedure; and

9.3.1.2. if the submission is complete as outlined below in Section 9.3.2.

9.3.2. To be considered complete, a complaint submission must meet all of the following criteria:

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- 9.3.2.1. It must be submitted in writing - RSPO will not consider other non-written expressions of grievance as a valid means for filing a complaint;
- 9.3.2.2. It must be prepared using the RSPO complaint submission form (available on the RSPO website);
- 9.3.2.3. It must be submitted in English or another agreed working language as established by prior arrangement with the Secretariat;
- 9.3.2.4. It must provide a description of the complaint;
- 9.3.2.5. It must include an agreement by the Complainant to pay a portion of the cost of the process, as specified by the RSPO in its current Schedule of Complaints Fees and as recommended by the Complaints Panel (Section 15.4);
- 9.3.2.6. It must include an agreement by the Complainant to adhere to all terms and provisions of this procedure; and
- 9.3.2.7. As applicable, it must summarize the outcomes from previous attempts to resolve the grievance (e.g. evaluations according to a CB's complaint procedure).

9.3.3. Incomplete submissions will be rejected. RSPO will send written notice of rejection to the party within 5 days of receipt with a brief explanation as to why the grievance was rejected.

9.3.4. Note: aggrieved parties may re-submit at their own discretion.

9.4. Initial Diagnosis

9.4.1. There shall be enough information for the Secretariat to make an initial diagnosis. Specifically, the submission must clearly identify:

- 9.4.1.1. the grounds for the complaint as per Section 9.3.2; and
- 9.4.1.2. the party against which the complaint is filed (i.e. the Respondent).

9.4.2. Information provided by the Complainant in the complaint submission should be sufficient for the Secretariat to unambiguously diagnose the category of complaint (Section 10.11).

9.4.3. If the complaint does not clearly specify the party(ies) and/or relevant RSPO scheme requirements, the Secretariat may request clarification from the Complainant in writing.

9.4.4. The Secretariat may make a second clarification request. However, if the Complainant is unable to provide grounds and/or name the Respondent then the Secretariat shall reject the submission.

- 9.4.4.1. Note: when RSPO rejects a submission because it is incomplete or fails to identify the grounds and party for the complaint, the Secretariat may recommend to the aggrieved party that they contact a qualified representative to assist them with their complaint submission.

9.5. Acceptance

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- 9.5.1. Once it has been determined that a submission fulfills the criteria set forth above (Sections 9.3 and 9.4), the Secretariat shall proceed to formally accept the complaint.
- 9.5.2. Within 5 days of making a positive initial diagnosis, the Secretariat shall:
- 9.5.2.1. notify the party named in the complaint (i.e. the Respondent) that a complaint has been lodged against their organization.
 - 9.5.2.1.1. The notification shall include a request from RSPO for an initial response from the Respondent within 10 working days.
 - 9.5.2.2. notify the Complainant of formal acceptance by RSPO and re-confirm the party's agreement to comply with the conditions set out in the RSPO Code of Conduct for Parties to a Complaint [necessary? or delete?];
 - 9.5.2.3. provide both Complainant and Respondent with information about this Procedure for the RSPO Complaints System and outline the next steps in the process; and
 - 9.5.2.4. log the complaint in the Complaint Clearinghouse.
- 9.5.3. Acceptance of a complaint by the Secretariat is not binding upon Complainants. The Complainant may withdraw their complaint at any time at their own discretion. When a complaint is withdrawn, the Secretariat shall notify the Respondent of complaint withdrawal, record the case as 'closed' and update public databases accordingly.

10. URGENT ACTION, CATEGORIZATION AND ROUTING OF COMPLAINTS

10.1. Urgent Action and Interim Measures

- 10.2. The Secretariat shall evaluate the seriousness of the assertions raised in the complaint and the evidence presented by the Complainant, weigh this information against any counter-argument(s) from the Respondent in their initial letter of response, and then determine whether 'urgent action' should be taken by RSPO.
- 10.3. Urgent action should be taken by RSPO in the following circumstances:
- 10.3.1. cases of reported violence or human rights abuse;
 - 10.3.2. clearance of HCV areas or peatlands; and
 - 10.3.3. any other issue which represents a clear threat to RSPO's credibility.
- 10.4. Where RSPO has determined that urgent action should be taken, the Secretariat may issue an interim measure.
- 10.5. Interim measures represent a temporary solution to be implemented while the complaint is being evaluated according to RSPO procedures. Interim measures remain valid until such time as those measures are either rescinded by the Secretariat or superseded (e.g. by a Complaints Decision).

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- 10.6. The Secretariat shall issue interim measures in a written notification to the Respondent which shall include a detailed description of:
- 10.6.1. the specific actions to be taken by the Respondent;
 - 10.6.2. timeframe for implementation;
 - 10.6.3. duration or period of validity of interim measures;
 - 10.6.4. instructions for the Respondent regarding any mandatory notifications to be made (e.g. to certification body and supply chain participants) as applicable; and
 - 10.6.5. any requirements for reporting back to RSPO.
- 10.7. Interim measures may include cease and desist orders, stop work orders, or other actions deemed necessary by the Secretariat. They may also include information requests.
- 10.8. Interim measures are mandatory and binding upon all RSPO members. Failure to comply with an interim measure is grounds for immediate suspension of membership.
- 10.9. Interim measures shall be implemented by the Respondent in the shortest practical timeframe.
- 10.10. The Secretariat may determine at its own discretion that the urgency of the situation requires public communication from RSPO. In such cases, RSPO may release a "holding statement" explaining that RSPO has received a complaint, is taking the issue seriously and will be looking into it as a matter of urgency in accordance with the RSPO Complaints System.
- 10.11. **Categorization**
- 10.12. The Secretariat shall use information from the complaint submission and the initial response from the Respondent to categorize the complaint into one of five types as per Table 1.

Table 1. Categories of RSPO complaints

Complaint Category	Type of Respondent Named in Complaint
Category 1	Certified Organization
Category 2	Certification Body (CB)
Category 3	Accreditation Body (AB)
Category 4	RSPO Member (other than a certified facility)
Category 5	RSPO (as an organization or in relation to the content of RSPO standards)

- 10.12.1. Note that Complaint Category 4 refers to complaints wherein the Respondent is an RSPO member. That member may operate one or more certified facilities, but the facility or locale which is under dispute is not itself a certified facility (nor is it under

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assessment) and hence it falls outside the auspices of routine audit by certification bodies. Such an arrangement is called a ‘partial certification’ in the RSPO Certifications Systems document. To date, most Category 4 complaints were based on assertions about a breach of the RSPO Code of Conduct in relation to partial certifications.

- 10.12.2. Where a complaint centers on the actions taken by certified facility before it was certified (e.g. historic clearing of HCV areas), and as a consequence those actions fall outside the auspices of routine audit by certification bodies, RSPO shall categorize the complaint as a Category 4 complaint. [the ‘pre-existing condition’ clause]

10.13. Routing

- 10.14. The Secretariat shall ensure that, in the first instance, each complaint is evaluated at the lowest level of complaint resolution which is appropriate for that category of complaint.

- 10.15. The Secretariat shall “rout” complaints to the appropriate complaint resolution mechanism as follows:

- 10.15.1. For category 1 complaints (against a certified facility), the Secretariat shall forward the complaint directly to the certificate holder for immediate resolution. RSPO shall inform the Complainant and the relevant CB of the action.

- 10.15.1.1. If the Complainant has previously attempted without success to resolve the complaint through direct bilateral engagement with the organization, RSPO shall apply Section 10.16.

- 10.15.2. For Category 2 complaints (against the performance of a CB), the Secretariat shall forward the complaint directly to the CB for immediate resolution. RSPO shall inform the Complainant, Respondent and the AB of the action taken.

- 10.15.3. For Category 3 complaints (against the accreditation body), the Secretariat shall forward the complaint directly to the accreditation body for immediate resolution. RSPO shall inform the Complainant, Respondent and the CB of the action taken.

- 10.15.4. For Category 4 complaints, see Section 11.

- 10.15.5. For Category 5 complaints, see Section 11.

- 10.16. Where complaints about the performance of a certified facility (Category 1 complaint) or about the performance, decisions, or audits of a CB (Category 2 complaint), are not successfully resolved at the lower level, they shall then be addressed through RSPO’s accreditation mechanism.

- 10.17. The Secretariat shall promptly forward unresolved Category 1 & 2 complaints directly to ASI.

- 10.17.1. Note: RSPO, as the scheme owner, is responsible for setting “the rules of the game” under which CBs operate, and which are overseen and enforced by its accreditation body. The RSPO Secretariat defines and assigns the pertinent responsibilities that its accreditation body (Accreditation Services International) needs to execute. It is within the Secretariat’s authority to require that it receive, at

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its discretion and/or on a schedule of its choosing, information relating to any complaints received by its approved CBs or by the accreditation body.

- 10.18. The Secretariat shall update the complaints clearinghouse each time a complaint is routed.
- 10.19. The Secretariat shall notify the parties to the complaint each time a complaint is routed.
- 10.20. Where a complaint is routed to an external entity such as a CB or ASI, the Secretariat shall request regular status updates from that body (e.g. bi-weekly reports) on progress towards complaint resolution and the Secretariat shall ask to be promptly and fully informed of all outcomes.
- 10.21. Where one of the aforementioned mechanisms has successfully resolved a complaint, the Secretariat shall record the case as 'closed' and update public databases accordingly.
- 10.22. Where the aforementioned mechanisms are unsuccessful in resolving Category 1, 2 or 3 complaints, the complaint shall be escalated to the Complaints Panel mechanism (Section 12).

11. ALTERNATIVE PATHWAYS FOR COMPLAINT RESOLUTION

- 11.1. RSPO aims to resolve each complaint through dialog at the lowest level practicable. When efforts to resolve the complaint at a lower level are unsuccessful, RSPO shall 'escalate' the complaint to the next higher level of complaint resolution.
- 11.2. For Category 1, 2 and 3 complaints, the concept of escalation dictates that complaints are first addressed at lower levels through external processes as described previously (Section 10).
- 11.3. For category 4 and 5 complaints, the lowest level is bilateral engagement (Section 11.6).
- 11.4. Where bilateral engagement is unsuccessful in resolving a Category 4 complaint, the complaint is considered for mediation through the DSF (Section 11.12).
- 11.5. Where bilateral engagement is unsuccessful in resolving a Category 5 complaint, the complaint is moved directly to the Complaints Panel mechanism (Sections 12-14).
- 11.6. Bilateral Engagement**
- 11.7. Bilateral engagement is a general descriptor for any process by which the parties to a complaint attempt to resolve their differences through direct discussions (i.e. without involving a third-party as mediator).
- 11.8. Bilateral engagement may involve, but is not limited to, accessing a company's own complaints handling procedures as a means of attempting to resolve the complaint.
- 11.9. The Secretariat requires that all complainants who have filed Category 4 complaints (e.g. complaints against RSPO members regarding non-certified facilities or operations) shall either:

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11.9.1. demonstrate that they have attempted to resolve their issues through bilateral engagement with the member in question; or

11.9.2. provide RSPO with a satisfactory justification for why bilateral engagement was not appropriate (e.g. the Complainant fears retribution from the organization).

11.10. The Secretariat will not process a complaint further if the Complainant cannot provide a detailed written account (i.e. the actions taken, dates and persons involved) of a failed attempt at bilateral engagement with the Respondent, or an adequate justification for not attempting to do so.

11.11. Where bilateral engagement has demonstrably failed to resolve a complaint, the Secretariat shall consider moving the complaint for mediation through the DSF (Section 11.14).

11.12. Where bilateral engagement is justifiably inappropriate for handling a Category 4 complaint, the Secretariat shall move the complaint directly to the Complaints Panel mechanism (Section 12).

11.13. Where bilateral engagement has successfully resolved a complaint, the Secretariat shall record the case as 'closed' and update public databases accordingly.

11.14. **Mediation through the DSF**

11.15. Mediation through the DSF is the next level of complaint resolution. The DSF focuses on preventative actions (i.e. resolution prior to certification) and remedial approaches.

11.16. Complaints are eligible for mediation through the DSF if they meet two criteria:

11.16.1. Both of the parties to the complaint agree to participate in mediation through the DSF; and

11.16.2. The dispute centers on one or more of the following RSPO P&C criteria: 2.2, 2.3, 6.4, 7.3, 7.5, and/or 7.6.

11.17. When it is determined that a complaint is ineligible for mediation by the DSF, the Secretariat shall move the complaint directly to the Complaints Panel mechanism (Section 12).

11.18. Note: it is beyond the scope of this procedure to give a full account of the DSF process. A detailed description appears in "RSPO Dispute Settlement Facility Framework, Terms of Reference, and Protocol." [\[attach as an Annex\]](#)

11.19. Where mediation through the DSF has not resolved the complaint, the Secretariat shall move the complaint to the Complaints Panel mechanism (Section 12).

11.20. Where mediation through the DSF has successfully resolved the complaint, the Secretariat shall record the case as 'closed' and update public databases accordingly.

12. **APPOINTMENT OF COMPLAINTS PANEL**

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- 12.1. The Secretariat shall convene a Complaints Panel in accordance with the Terms of Reference and this procedure within 30 days of complaint escalation to the mechanism.
- 12.2. The Complaints Panel membership criteria and responsibilities are defined in the document **Terms of Reference for the RSPO Complaints Panel**.
- 12.3. Complaints Panel membership shall, collectively, have demonstrated experience or expertise in each of the following subject are:
 - 12.3.1. adjudication;
 - 12.3.2. international law;
 - 12.3.3. natural resource management and environmental issues;
 - 12.3.4. human rights and labor issues;
 - 12.3.5. environmental auditing and eco-labelling schemes;
 - 12.3.6. the RSPO scheme; and
 - 12.3.7. the working language to be used for the complaint evaluation (English or another language as may be applicable; Section **13.1**).
- 12.4. No panel member shall be a member of RSPO or be employed by an organization which is a member of RSPO. **[for the attention of reviewers]**
- 12.5. Prior to accepting appointment, each prospective panel member shall review their current and previous relationship, if any, with the parties to the complaint, and they shall prepare a statement attesting to such facts. **[declaration of no potential Col]**
- 12.6. Prior to accepting appointment, each prospective Panel member shall enter into a non-disclosure agreement with RSPO.
- 12.7. Membership of the Complaints Panel may consist of a single person if that member is suitably qualified, but membership would normally be 2-3 members and in any event it shall not exceed five members.
- 12.8. The Complaints Panel shall appoint a chair from among its members.
- 12.9. The Complainant and Respondent shall be informed of the proposed number of Complaints Panel members and the names and summary of experience and background of each Complaints Panel member.
- 12.10. The Complainant and Respondent shall be requested to confirm in writing his/her agreement with the individuals proposed within 5 working days. If the Complainant and Respondent do not reply within this time frame, it shall be deemed that the composition of the Panel has been accepted.
- 12.11. The Complainant and the Respondent have the right to object to the appointment of Complaints Panel members based on existing or potential conflict of interest, or based on evidence that the expertise of any member for the particular case is not relevant or sufficient.

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- 12.12. The Secretariat shall evaluate any objections to appointees including the evidence provided and, if deemed appropriate, shall nominate alternative members within 5 working days of receiving the objection.
- 12.13. The Secretariat shall keep the Complainant and Respondent informed of the progress of the Complaints process and about the timeframes expected. If a complaint evaluation is delayed, the parties shall be informed about this delay and the reasons for it. Nonetheless, the parties may contact the Secretariat at any time during the process to inquire about the progress of the evaluation.
- 12.14. If the Complainant does not comply with reasonable requests from the Complaints Panel or Secretariat during the complaint evaluation (e.g. does not attend meetings when required, does not provide responses by stipulated deadlines), the Complaints Panel may decide that the complaint should be withdrawn.

13. EVALUATION BY THE COMPLAINTS PANEL

13.1. Language

- 13.2. Because the Secretariat may accept complaints in a working language other than English (see Section 9.3.2.3), it is important to establish at an early stage the working language for evaluation by the Complaints Panel.
- 13.3. The Secretariat shall consult with the parties to the complaint and confirm the working language before appointing the Complaints Panel.
- 13.3.1. All information presented to the panel by the Secretariat shall be submitted in English and/or the working language.
- 13.3.2. All official responses from the Complaints Panel, including the Complaints Decision and Complaints Report, shall be made in English with, if applicable, a translation in the previously agreed working language.

13.4. Assembly and Review of Evidence

- 13.5. The Secretariat shall act as the secretary to the Complaints Panel, abstaining from interfering in any decision-making and limiting its task to providing the Panel in an impartial manner all the evidence and facts of the case.
- 13.6. The Secretariat shall compile all information received relating to the complaint and share it with the Complaints Panel, including, but not limited to:
- 13.6.1. All information contained in the original complaint submission (i.e. complaints form, associated communications) and any additional evidence or clarification that was received from the Complainant;
- 13.6.2. The initial response from the Respondent including any evidence that was submitted to rebut the assertions that were put forward in the complaint;

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13.6.3. Any information arising from processes associated with lower-level complaint resolution mechanisms that may have been utilized during an earlier stage of complaint handling (e.g. DSF, CB evaluation, AB evaluation); and

13.6.4. Relevant RSPO standards, certification requirements, statutes, by-laws, codes of conduct, other normative documents, and any other RSPO scheme documents which pertain to the complaint.

13.7. The mandate of the Complaints Panel shall be to conduct a comprehensive evaluation of the complaint in order to determine whether the Complainant has identified a breach of the RSPO scheme by the Respondent. Where it is decided that the Respondent was in breach of the RSPO scheme, the Complaints Panel is further mandated to review, assess and formulate corrective actions to mitigate or remedy the core issues raised, and, as applicable and appropriate, to propose sanctions as punitive measures against the Respondent **[this mandate is important – should be explicit, not aspirational. worth clarifying]**

13.8. Parties to the complaint will be given equal opportunity to present their arguments to the Complaints Panel.

13.8.1. The Complaints Panel chair shall determine the most suitable way to hear arguments from the parties to the complaint, including but not limited to oral hearings, private meetings, conference calls, or requests for written statements.

13.9. Where the Complaints Panel deems it necessary, the Panel may commission an independent investigation. **(“independent investigation” to replace Holly’s term “Independent Fact Finding & Inquiry”)**

13.10. The Complaints Panel shall determine the scope of their independent investigation. It may include but is not limited to:

13.10.1. contracting experts in the relevant field(s);

13.10.2. making field site visits (which may require interpreters);

13.10.3. conducting interviews with key persons (e.g. members of local communities, labor organizations, environmental groups, and industry groups);

13.10.3.1. Where anonymity is requested, the Complaints Panel shall take steps to ensure that comments remain unattributed and that confidential sources are not revealed.

13.10.4. interviewing relevant authorities; and

13.10.5. compiling relevant literature.

13.11. The Complaints Panel shall have their Independent Investigation completed within 3 months of its initiation.

13.11.1. If the panel needs more time (e.g. because of the complexity of the case), they may request an extension from the Secretariat with a justification for doing so and a proposed timeframe for completion. If the Secretariat agrees to extend the timeframe, the Secretariat will inform the parties accordingly.

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13.12. For any experts contracted to participate in the Independent Investigation, the Secretariat shall ensure that those experts enter into a non-disclosure agreement.

13.13. All evidence reviewed by the panel shall be documented in file notes (i.e. discussions, phone/video calls and interviews should be captured in writing). File notes should be legible, include relevant dates and times, clearly identify the author and contain a file reference.

13.14. **Decision**

13.15. After receiving the complaint information package from the Secretariat, hearing arguments by the parties to the complaint, and compiling results from independent investigation (as applicable), the Panel shall close the information gathering phase and begin deliberation.

13.16. The Complaints Panel shall restrict their deliberations to the facts of the case.

13.17. The Complaints Panel shall strive to reach a decisions by consensus (i.e. lack of sustained opposition) among panel members.

13.17.1. If consensus appears to be unlikely based on deliberations, it shall be incumbent upon those panel members who represent the minority opinion to propose alternative solutions.

13.18. When consensus cannot be reached within a reasonable time frame, but in any event a period not to exceed 90 days from panel formation, the Complaints Panel shall reach a decision by simple majority vote. Dissenting opinion may be recorded in the Complaints Report.

13.19. **Complaints Report and Sanctions**

13.20. The Complaints Panel shall complete its deliberations and prepare a draft Complaints Report within 90 days of panel formation.

13.21. The draft report shall clearly set out the panel's Complaints Decision as to whether to uphold or reject the complaint.

13.22. Justification for the Complaints Decision shall state whether or not the Complaints Panel found the Respondent to be non-compliant with, or otherwise in 'breach' of, the RSPO scheme.

13.23. Where the Complaints Decision is to uphold the complaint, the panel shall:

13.23.1. prepare a detailed rationale for their decision which makes explicit reference to the RSPO requirements that were breached by the Respondent;

13.23.2. recommend sanctions to the Secretariat which may include suspension or termination of the Respondent's RSPO membership; and

13.23.3. recommend corrective action(s) to be implemented by the Respondent in order to remedy the breach of RSPO requirements.

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13.24. The draft and final Complaints Report shall have the following structure and content:

- 13.24.1. Executive summary giving a concise synopsis of the Complaints Report;
- 13.24.2. Background to the complaint (may include a summary of previous efforts to resolve the complaint and relevant precedents from other Complaint Decisions);
- 13.24.3. Methodology used for the complaint evaluation;
- 13.24.4. Analysis of evidence and arguments from the parties to the complaint, and evidence from independent sources (e.g. expert opinions, results from independent investigation) with comment on the reliability of that evidence;
- 13.24.5. Summary of comments (final report only) which summarizes comments received on the draft Report from the parties to the complaint and describes how the panel considered this feedback in preparing the final version of the report;
- 13.24.6. Decision as to whether to uphold or reject the complaint;
- 13.24.7. Rationale for reaching the decision;
- 13.24.8. Sanctions recommended by the panel;
- 13.24.9. Corrective actions recommended by the panel;
- 13.24.10. Distribution of costs as proposed by the panel (Section 15.4); and
- 13.24.11. Summary of lessons learned and opportunities for RSPO system improvement.

13.25. The Complaints Panel shall submit the draft Complaints Report to the Secretariat for immediate distribution to the parties.

13.26. The Secretariat shall inform the parties that they have 10 working days to review the draft and provide comments. If the parties do not reply within this timeframe, it shall be considered that there are no comments to the draft.

- 13.26.1. The Parties to the Complaint shall be asked to comment on factual matters underlying the decision, the fairness of proposed sanctions, and the adequacy and practicality of proposed corrective actions. The panel will not accept new information submissions.

13.27. After expiry of the review period, the Complaints Panel shall consider all comments received on the draft Complaints Report. The panel may choose to revise the report based on feedback, but any such revisions are at the sole discretion of the Complaint Panel.

13.28. Within 10 working days of receipt of the comments, the complaints panel shall finalize the Complaints Report and provide it to the Secretariat.

13.29. The Secretariat shall provide the final Complaints Report to the Complainant and Respondent within 5 working days of receipt.

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13.30. The Secretariat shall ratify the Complaints Decision from the Complaints Panel unless:

13.30.1. the Complaints Decision goes beyond the mandate of the Complaints Panel; or

13.30.2. the Complaints Decision conflicts with the authority given to the Secretariat by the RSPO membership.

13.30.2.1. In the unlikely event that the Secretariat does not fully ratify a Complaints Decision, the Secretariat shall prepare a detailed rationale for deviation which shall be published on the RSPO website.

13.31. The Complaints Panel shall return all confidential materials (all materials provided to or created by the Complaints Panel pertaining to the complaints process) to the Secretariat after evaluating and deciding on a complaint. These materials, together with other records of the Panel's proceedings, shall be kept by the Secretariat for at least seven (7) years.

13.32. The Secretariat shall then dissolve the Complaints Panel.

13.32.1. Note: RSPO may convene separate Complaints Panels (for separate complaints) that run concurrently, and an individual panel member may serve concurrently on separate Complaints Panels. However the Secretariat shall handle each panel appointment independently of all other appointments, in accordance with this procedure.

13.33. Where the Complaints Decision is to reject the complaint, the Secretariat shall record the case as 'closed' and update public databases accordingly.

13.34. Where the Complaints Decision is to uphold the complaint, the Secretariat shall be responsible for implementing the Complaints Decision, including any sanctions and/or corrective actions that arise from that decision.

13.35. The Secretariat shall be responsible for monitoring the Respondent's implementation of corrective actions arising from Complaints Decisions.

13.35.1. The Secretariat shall document its monitoring of corrective actions, and what sanctions, if any, were imposed in the event of failure to implement the corrective actions.

13.35.2. The Secretariat shall record the case as "under monitoring" and update public databases accordingly until such time as:

13.35.2.1. The corrective actions are fulfilled by the Respondent; or

13.35.2.2. The Secretariat imposes Sanctions for non-fulfillment of corrective actions within the prescribed timeframe.

13.36. At the conclusions of each Complaints Panel evaluation, the Secretariat shall request feedback from both Complainant and Respondent regarding the fairness of the process and the treatment received.

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13.37. Where the Complainant or Respondent is unsatisfied with the outcome of a Complaints Decision, the Secretariat shall advise them that they have recourse to appeal the decision through the RSPO Appeals Mechanism.

13.38. **Suspension and Termination**

13.39. The Secretariat, not the Complaints Panel, retains sole authority for issuing and enforcing sanctions upon RSPO members. Sanctions may include suspension and termination of membership.

13.40. Currently, the Secretariat's internal processes for suspension, termination and re-instatement of RSPO membership are still poorly defined. These should be clarified at once. However a general outline for sanctions involving suspension and termination is as follows:

13.40.1. Suspension of membership should normally precede termination of membership. A sanction that specifies immediate termination should be rare and would arise from only the most egregious/flagrant/irreparable of breaches.

13.40.2. Suspensions should always be set for a defined period (e.g. 6 months).

13.40.3. Lifting of suspension (i.e. re-instatement) should be contingent on demonstrated effectiveness of corrective actions taken during the suspension period.

13.40.4. If evidence shows actions are effective => re-instate full membership at end of 6 month period.

13.40.5. If evidence does not show actions are effective => terminate membership at end of 6 month period.

13.40.6. Organizations with terminated memberships are ineligible to re-apply for RSPO membership for > 5 years.

14. **COMPLAINTS AGAINST RSPO**

14.1. The Secretariat shall handle complaints against its own organization in accordance with this procedure (i.e. complaints shall be acknowledged, reviewed, accepted, logged etc. as per Section 9).

14.2. The Secretariat should attempt bilateral engagement (Section 11.6) with the Complainant, which may involve:

14.2.1. responding directly to the Complainant about the issues raised in the complaint;

14.2.2. describing good faith efforts made by RSPO to correct identified shortcomings;

14.2.3. indicating RSPO's intended next steps; and

14.2.4. requesting further dialog with the Complainant to resolve the complaint.

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- 14.3. If bilateral engagement is unsuccessful, then the Complaints Panel shall be called upon to evaluate the complaint that was filed against RSPO as an organization (Category 5 complaint).
- 14.4. The process by which the Complaints Panel shall evaluate a complaint against RSPO is not materially different from the processes already described for the Complaints Panel in Section 13. Therefore only the exceptions are described here.
- 14.5. When the Complaints Panel evaluates a Category 5 complaint, RSPO is “the Respondent.”
- 14.6. Complaints in Category 5 may be treated in one of three sub-categories:
- 14.6.1. shortcomings in RSPO Scheme Documents such as the RSPO P&C (i.e. a complaint about the formulation of standards);
- 14.6.1.1. Note: RSPO is open to receiving comments and suggestions for improvement of the P&C at any time, in line with the ISEAL Code of Good Practice for Setting Social and Environmental Standards. RSPO periodically reviews the P&C for relevance and effectiveness.
- 14.6.2. performance of the RSPO Secretariat in executing its duties (i.e. a procedural complaint); or
- 14.6.3. shortcoming of RSPO governance and decision making structures and bodies (i.e. a governance complaint).
- 14.7. The Complaints Panel shall review relevant evidence including the manner in which RSPO engages stakeholders, makes decisions, or otherwise governs itself or any of its component bodies or committees.
- 14.8. The Complaints Panel shall issue a draft and final Complaints Report as per Section 13 which is provided for review and comment by the Complainant as well as the Secretariat.
- 14.9. The Secretariat shall publish the Complaints Report on the RSPO website, implement corrective actions as required,
- 14.9.1. After implementation of corrective actions, the Secretariat shall record the case as ‘closed’ and update public databases accordingly.
- 14.10. Conclusions from the Complaints Panel evaluation, including any lessons learned, shall be captured in the RSPO Annual Report (Section 16.4).

15. COST DISTRIBUTION AND SCHEDULE OF COMPLAINT FEES

- 15.1. RSPO may charge Complaint Fees to complainants and/or respondents, and these may include an administration fee and/or a fee for the cost of evaluating complaints. Complaint fees are solely to defray a portion of the actual costs incurred by RSPO (e.g., panel members’ fees, experts fees, travel and accommodation and other disbursements), and these fees will not represent a net source of revenue for RSPO.

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- 15.2. RSPO shall publish and maintain an up-to-date **Schedule of Complaint Fees** on its website. RSPO has discretion to charge different complaint fees for different categories of complainants or respondents (e.g., supply chain member, grower member, social/environmental NGO, affected communities) and for different categories of complaint. Complaint Fees may be varied from time to time at the sole discretion of the RSPO, taking into account actual experience of the volume, nature, outcome and costs of complaints.
- 15.3. On receiving an application from a complainant, RSPO has discretion to waive complaint fees in instances where complainants have limited financial resources and the complaint has significant social or HCV impact. RSPO may seek the advice of the Complaints Panel in determining whether fees can be waived for a particular complainant or type of complaint.
- 15.4. When communicating its final decision, the Complaints Panel recommends the distribution of costs between the RSPO, complainant, and respondent (up to the maximum specified in the Schedule of Complaint Fees).
- 15.5. RSPO shall report to its members, on an annual basis, the number and outcome of complaints, the total costs incurred in the handling of complaints, and the total fees charged to complainants and respondents.


16. SYSTEM IMPROVEMENT

- 16.1. The Secretariat shall keep records of all complaints, final decisions, follow-up actions, effectiveness of these actions, feedback from parties to complaints (Section **13.35**), and recommendations for improvement from Complaints Panels.
- 16.2. The Secretariat shall publish and periodically update a register of complaints on RSPO's website (i.e. the "complaints clearinghouse") identifying the parties to each complaint, the statuses of each complaint, and complaint outcomes where complaints have been 'closed'.
- 16.3. The Secretariat reserves the right to publish a summary or statements about a particular case on RSPO's website with due regard for privacy and confidentiality. Content should cover the key issues raised in the complaint, the process undertaken, rationale for decisions and lessons learned.
- 16.4. RSPO is committed to providing high-quality services. Therefore, the Secretariat shall prepare an Annual Report describing the activities of the RSPO Complaints System during the preceding year.
- 16.4.1. The report shall include a review of complaints received, information and feedback collected during the process in order to identify systemic problems, trends and challenges in implementing the Procedure for the RSPO Complaints System.
- 16.4.2. Opportunities to continually improve both the complaints process and RSPO services and thus increase the effectiveness and efficiency of the Complaints System should be identified.
- 16.4.3. RSPO shall publish each Annual Report on RSPO's website.
- 16.5. This procedure shall be revised immediately when needed and at least be evaluated once every three years to match current practices, include stakeholder feedback and replace any

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previous versions. Nonetheless a public version of the current approved procedure will always be available on the RSPO website.

16.5.1. For each revision, RSPO shall conduct a public consultation of the document with relevant stakeholders to promote an open and productive dialogue and to take the public's input and views into account.

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ANNEX 1

Flowchart of the RSPO Complaints Process

PENDING