

TERMS OF REFERENCE (TOR)

IMPLEMENTATION OF RESOLUTION GA15-6d: DISCOURAGING RSPO MEMBERS SUBJECT TO COMPLAINTS FROM AVOIDING THEIR OBLIGATIONS BY DIVESTING OR WITHDRAWING THEIR MEMBERSHIP

BACKGROUND

Resolution GA15-6d, titled “Discouraging RSPO Members Subject to Complaints from Avoiding their Obligations by Divestment or withdrawing their Membership” (“Resolution”), was adopted by the 15th RSPO General Assembly on 15 November 2018.

1. SCOPE

- 1.1 The RSPO requires its members to act in good faith in ensuring that its standards are met. This includes a commitment by members, subject to a complaint under the RSPO Complaints and Appeals Procedures, to act in good faith, at all times, in ensuring that the said complaint is resolved in a constructive and timely manner.

- 1.2 To preserve the integrity of the RSPO standards and credibility of the organisation as a whole, a legal assessment with the following scope needs to be conducted with a view to implementing the above mentioned Resolution:

1.2.1 Part 1 – Gap Analysis and Liability Considerations

- 1.2.1.1 Conduct a gap analysis and rapid review of the RSPO Key Documents, including but not limited to the Complaints and Appeals Procedures (CAP), RSPO Code of Conduct, and RSPO Statutes, amongst others to identify existing mandate and powers to support the implementation of this Resolution;
- 1.2.1.2 Scope and limits of the RSPO and its members in developing and implementing this Resolution, including the identification of potential legal liabilities for the RSPO that may arise from developing and implementing this Resolution through the RSPO’s framework and systems.
- 1.2.1.3 Subject to the analysis in 1.2.1, recommendations, if any, to limit these liabilities and what elements can be implemented to ensure effective, practical and timely implementation of the Resolution.

1.2.2 Part 2 – Subject to the analysis in 1.2.1, to develop specific recommendations to be considered by the Sub-Committee:

- 1.2.2.1 Recommend possible incentives and procedures that would discourage divestment or self-suspension of operations subject to complaints;
- 1.2.2.2 Develop a proposal for graduated sanctions on any RSPO members, which act in violation of this requirement, both to be submitted for endorsement by the Board of Governors;

1.2.2.3 Propose amendments (if any) to RSPO Key Documents to facilitate the implementation of the above.

1.3 The legal assessment to consider competition laws and take into account national legal maxims and/or international instruments and guidelines to assist the Sub-Committee and the Secretariat in the development of this implementation process.

1.4 Requirements in identification of legal expert:

1.4.1 Demonstrates a thorough understanding and deep knowledge of RSPO framework and procedures;

1.4.2 Proven knowledge and experience in national law and international principles and standards on commercial good practices.

2. DURATION

Legal assessment to be conducted from April – June 2019, subject to a service agreement being signed between RSPO and the successful legal consultant.

3. QUALIFICATION

Interested candidates must possess the following qualification:

3.1 International law firm with experience in corporate/commercial matters across Malaysia, Indonesia, Latin America and Africa;

3.2 10 years PQE and qualified to practice in at least one (1) of the above mentioned jurisdiction;

3.3 Fluency in English, spoken and written.

4. APPLICATION

Interested candidates are invited to apply with a proposed work plan including fee quote. All applications must be emailed to complaints@rspo.org by 29 March 2019.

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