

RSPO Complaints and Appeals Procedures

Compilation of Comments from Public Consultation on
Complaints & Appeals Procedures (Nov 2016)

The RSPO Complaints and Appeal Procedures was endorsed by the Board of
Governors on 14 June 2017

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Compilation of Comments from Public Consultation on Complaints & Appeals Procedures (Nov 2016)

General comments

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
RSPO Complaints and Appeals Procedure	<p>The current revision is a definite improvement over the last version. Nevertheless, it falls short on some critical issues:</p> <ol style="list-style-type: none"> 1. The links and roles of the CP visa versa the DSF are not spelled out in detail. This should be remedied. 2. Only formal complaints can enter the complaints procedure. In the past, the CP had the possibility to investigate cases, which were not submitted as complaints but were presented in newspaper articles, external studies, etc.. This opportunity to respond to violations of RSPO members based on external sources should be maintained. 3. There still is an emphasis on bilateral agreements between complainant and respondent. While this approach is solutions-focused, it's also quite intransparent. Given the power inequalities of the parties involved in a complaint, there is a danger of pressure or collusion. Additional safeguards must be put in place to minimize such risks. 4. The composition of the CP members deciding a particular case is not specified, so it's not clear if representatives of relevant stakeholder/membership categories are present in a balanced way. Need to have a balance between growers, NGOs and other relevant stakeholders. <p>Based on the final version of the RSPO Complaints & Appeals Procedure it is necessary to develop appropriate SOPs for Secretariat staff.</p>	English	-	Not accepting. 1) &3) This procedure is not meant to address links to DSF or provide clarity to Bilateral Engagement. 2) This procedures is only meant for complaint cases with official complainant. Explanation to take up cases without formal complainant is covered in Section 7. 4) Accepted. This has been expanded in section 6 of the revised procedures. (see rational document prepared and shared during public consultation in Nov 2016).
RSPO Complaints and Appeals Procedure	<p>Pragmatic flowchart: The document has gone through substantive changes, introducing more clarity but also introducing a legalistic nature to the document. Not clear is if the procedure will continue to be accompanied by a practical step by step flow-chart – which would be recommendable! – and how exactly the procedure relates to the various steps in the (updated) flow chart. References would help.</p> <p>Relation to DSF: The complaints procedure should clearly allow for bilateral engagement, where needed with support from the DSF. 5.7 is the only very brief reference. But it is not clear how the procedure relates to such processes which often can be less formal. I would recommend the procedure still puts a responsibility with the CP to monitor and close the case, based on sufficiently detailed evidence provided by BOTH parties of resolution through bilateral engagement.</p> <p>Title: Most if not all formal procedures have an escape or extra safeguard such as a possibility to appeal. The title of the complaints procedure does not need to refer specifically to that element, I believe. "RSPO Complaints Procedure" would suffice.</p>	English	-	Para 1: Accepted. Flowchart is in the process of finalisation. Para2: This is covered in Section 13 where it allows DSF and BE to take place. See rational document shared during public consultation and commune document prepared. Para 3: Not accepting the new title. See comment above for complaints cases without official complainant.

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	Possibly in section 5 the option should remain included to bring a case to the panel from the public domain, without an official complainant, if the case is sufficiently supported by evidence and about an RSPO member. Authority to decide on this should be determined, as well as ways to deal with the absence of a formal complainant in the furthering of the process.			
RSPO Complaints and Appeals Procedure	<p>Revised comments from 2nd Email:1. RSPO Complaints and Appeals Procedure</p> <p>The current draft is a dramatic improvement compared to the previous version that circulated and the current system.</p> <p>We, Aidenvironment, observe that we have really been heard in our criticism of the system and (recent) complaint handling. We thank RSPO for this.</p> <p>Provided that stakeholder comments are transparently adopted, the proposed system is very close to the spirit of RSPO GA Resolution 7f (2013).</p> <p>Our main areas of concern:</p> <ol style="list-style-type: none"> 1. Most cases evolve from a complex set of causes related to the respondent's actions, RSPO's rules, CB and ASI performance etc. The proposed system acknowledges this and also allows for interim learning. It is really important to ensure that the system delivers more fairness (not: suspend a company group and let off its CBs as if nothing happened). 2. In particular, we want to see the system cater for stronger accountability on part of RSPO Secretariat in complaint handling. If a complaint is poorly handled, then parties would still struggle to figure out how to see their concerns properly addressed. 3. We feel that it is extremely important that the CP or otherwise the AP have the mandate to comment on a complaint beyond the immediate boundaries of the complaint. Larger context, new developments must be weighed in. The system will quickly become irrelevant if it cannot do this. The spirit is to promote the growth in sustainable palm oil – then the CP/AP should not be bogged down by limited scope. At the same time, if the CP makes broader comments, then they be justified (not something unsubstantiated such as: "the company has always made effort to comply with RSPO rules..."). 4. External CP or AP: in our view, either the CP or AP should be comprised of external experts ('wise men and women'). Otherwise, the system still will not be independent from the varied (and not infrequently conflicting) RSPO's established interests. 5. There is a risk that the Appeal Panel will evolve into a mere second layer Complaint Panel. 6. Animosity of CP and AP members: should be the exception, not the rule. The exception should be justified. <p>Comments from 1st emailWe do not agree with a suggestion that reports and media clippings can trigger the complaint procedure. We believe that this will 'pollute' the system with half-baked un-mandated complaints. Someone who bothers to write a report should also make the effort to file a complaint (provided the complaint system is good). We should develop another pathway to handle reports/media clips without formal complainant.</p>	English	-	1. Noted and thank you. 2. Noted, Secretariat's duties are covered in the procedures. 3. Noted, scope of complaint is explained in the procedures, Section 1. 4. Not accepting and this is explained in communique document. 5. Noted, this concern is covered in Section 14. 6. Not accepting this. Confidentiality of CP members assigned to specific cases ought to be maintained, as a general rule . This is necessary to avoid approaches on individual members being made by the parties for information on the proceedings before the Panel. List of complaints panel members are available on RSPO website. See communique document.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
RSPO Complaints and Appeals Procedure	RSPO Complaints and Appeals Procedure has its supporting document such as ToR for Complaint Panel member and ToR for Appeal Panel member. Noted that the procedure and ToR has undergone several rounds of public consultation. However by making final round of public consultation only for the procedure document without the ToR documents is an incomplete process. The public might not aware what was contained in the ToR, hence could not give feedback accordingly. Suggest the public consultation for this procedure can be re-do, this time along with all its supporting document.	English	-	The TOR is being developed and it will be published on RSPO website.
RSPO Complaints and Appeals Procedure	1. Structure – Standardize document format Front page to include: Document Title: Document Number: Issue Date: Revision History (below bolded info in table. Refer to the comments document) Revision Number Details of Revision Date Font: To standardize with other RSPO Scheme Documents To include: Summary of Procedural Steps in a Flowchart To add: Annexes for Associated Documents -Complaints Form - Complaints Submission Checklist -Appeals Form -Appeals Submission Checklist -TOR for Complaints Panel	English	-	Noted. The RSPO is preparing for setting up ISO quality management system. The procedures will follow the documentation format.
	with view to resolution 6e on protecting human rights defenders, whistleblowers, complainants & community spokespersons passed by GA 13 in November 2016 the procedure should look at how to integrate the request for protection of human rights defenders, whistleblowers, complainants and community spokespersons and others in the procedure. In line with composition of other RSPO Committees, it would be useful and fair if the composition of the complaints panel would also reflect the different RSPO membership categories. This should be added to the criteria set forth in point 6.2. In addition, the anonymity of the complaint panel members should be ensured to avoid pressure or possible legal actions against them. With view to resolution 6d, which was passed by GA 13 in November 2016, the RSPO Remediation and Compensation Procedure (RaCP) Related to Land Clearance Without Prior High Conservation Value should be included as part of the RSPO Scheme documents mentioned in point 4.2	English	-	Noted. Protection of identity of whistleblower is covered in Section 3. Composition of CP based on membership categories is covered in Section 6. As a general rule, identity of CP members is confidential as covered in Section 6. RaCP is referred to P&C which is a key document.

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Sub-Section No.	Comments			
RSPO Complaints and Appeals Procedure	<p>A/ The document should include a clear flow chart of the Complaints process, and another for the Appeals process.</p> <p>B/ The system must include clearly how complaints can be raised by the RSPO against a member. We have this in our procedures, but it is not mentioned in this document.</p> <p>C/ How the relationship between the AB and the RSPO is managed is not clear. There is no balance to the role of the AB. There is no mention of ways to appeal AB decisions, or to engage with the AB. Our current AB has mechanisms for appeals, and this should guide the redaction of necessary articles in this procedure. See section 5.9, which should include a new item to cover complaints against the AB.</p> <p>D/ There should be sanctions prepared for when parties to a complaint or appeal do not follow the procedure, which is a breach of 5.1.1.6.</p>	English	-	<p>A: Accepted. Flowchart is already underway. B: This procedures is only meant for complaint cases with official complainant. Explanation to take up cases without formal complainant, and as incident report is covered in Section 7. C: Not accepting. The relationship between AB and RSPO is contractual. D: Not accepting, guidance on sanction will be covered in CP's interpretive guidelines.</p>

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
RSPO Complaints and Appeals Procedure	<p>The current text no longer contemplates accepting complaints against the RSPO Secretariat (as justified in the document submitted by the Solicitors).</p> <p>We note however the following:</p> <ul style="list-style-type: none"> • The probity and effective functioning of the RSPO is central to the effective running of the scheme and any failures in this respect have major implications for the credibility of the scheme including the Complaints process • In the last several years there have been major problems with the complaints process itself owing to RSPO Secretariat failures • Even where minuted agreements have been made between complainants, respondents and the Secretariat to advance resolution, the Secretariat has repeatedly failed to act as agreed • The Secretariat, as the public point of contact for the Complaints Panel, is very vulnerable to intimidation or other undue pressure (bribery etc) from affected parties • Deficient conduct by the Secretariat has already resulted in one staff member being dismissed. <p>We note that other international organisations specifically do accommodate complaints against the Secretariat, including for example the World Bank's Inspection Panel and the International Finance Corporation's Compliance Advisor Ombudsman.</p> <p>The Complaints Panel's scope should thus be revised to include complaints against the Secretariat for failures to uphold scheme documents and failures to act as agreed on complaints.</p> <p>Separation of Powers:</p> <p>The Secretariat addressing complaints is currently managed as just one other unit in the Secretariat. In most other large organisations, such redress mechanisms are administered separately, have separate reporting functions (eg report direct to the Board or the President) and, in the larger organisations, even have separate career structures. Given the vulnerability (and historic weak performance) of the complaints secretariat, it should be proposed that the Complaints Secretariat is separated from the rest of the Secretariat.</p> <p>Advisory Body:</p> <p>Currently the CP lacks a 'sounding board' of other experts with which it can have generic discussions about its work. At the last RT, an informal meeting between the CP and the Advisory Committee of the DSF was convened which was helpful for all parties and CP members agreed this kind of a sounding board was useful. I advocate creating such an advisory board. Its TORs should explicitly preclude it from making any decisions at all on specific cases, so that its advisory (only) function is absolute.</p>	English	-	<p>1. Not accepting. Complaint against the Secretariat is essentially a human resource issue. The governance structure provided in the RSPO Statutes provides for such complaints to be dealt with by the Chief Executive Officer or the Board of Governors and not by the Complaints Panel and the Secretariat has an important administrative role in the complaints system and if the Secretariat is subject to that system it would be placed in a position of conflict. See communique document. 2&3: The procedures will not address the administration of complaints unit and the advisory body proposal.</p>

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
Other Comments	<p>During 2016 GA, RSPO adopted a resolution to develop a procedure to protect whistleblowers, human rights defenders, community spokespersons and complainants. Somewhere in the text scope needs to be give to require adherence to these procedures and norms once they get adopted by the Board. These may include measures such as provisions for making complaints (or providing testimony) anonymously, witness protection and other measures to provide such people personal security.</p> <p>The current complaints Secretariat has unilaterally required some community and NGO complainants to pay a contribution for an investigation into violations (case of PT PHP/Wilmar in West Sumatra). The DSF Advisory Committee has recommended against such impositions but the secretariat has gone ahead notwithstanding. This is an illustration of the arbitrary and discretionary functioning of the Secretariat without due process or agreed norms. The current document needs to explicitly preclude such behaviour.</p>	English	-	Protection of identity of whistleblower is covered in Section 3. The Human Rights Working Group is working on the said resolution. Noted on the investigation cost and it will be covered in internal SOPs.
Other Comments	Possibly in section 5 the option should remain included to bring a case to the panel from the public domain, without an official complainant, if the case is sufficiently supported by evidence and about an RSPO member. Authority to decide on this should be determined, as well as ways to deal with the absence of a formal complainant in the furthering of the process.	English	-	This procedures is only meant for complaint cases with official complainant. Explanation to take up cases without formal complainant is covered in Section 7.

Purpose & Scope

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
1	Make a note to the effect that failure to comply with legal requirements by an RSPO member are beyond the scope of the CP, and should be referred to relevant authorities.	English	-	Not accepted. This explanation is not part of the procedures. This can be covered in SOP and interpretive guidelines.
1.1.1	The term “RSPO Scheme Documents” is new and possibly confusing. Possibly referring to “Key documents of the RSPO system” similar to RSPO website language is more appropriate.	English	-	Agreed. The term to be used is RSPO Key Documents
1.1.3	Reference to the most up-to-date reference guide for non-judicial remedy mechanisms, the United Nations Guiding Principles on Business and Human Rights has been removed and reduced to a short list of the principles. This also removes a possible element of acknowledgement of the globally agreed importance of these principles.	English	-	Not accepted. The entire procedures is based on the UN guiding principle.
1.1.1	There is no description on what RSPO Scheme Documents are in section 4.2	English	-	It is defined in Section 4.2 as RSPO Key Documents
1	<p>At present the Complaints Panel operates in anonymity. The explanation for this is not forthcoming. The costs and benefits of so operating need to be made clear.</p> <p>One serious cost is that, when the CP operates anonymously, the Secretariat becomes even more exposed and vulnerable to pressure (see above)</p> <p>Contrary to the view expressed by another commentator, compliance with the law is a major requirement of the RSPO standard (p2) and this cannot be left to the national courts as these courts are often dysfunctional and often do not take account of international laws which the RSPO standard explicitly requires be taken into account.</p>	English	-	As stated previously, the general rule of anonymity is maintained. Noted wrt the compliance to the law.

Definition of Key Terms

Comments received		Language	English translation	RSPO CP / Sect input
Sub-Section No.	Comments			
2.4	The term mediator is not further defined, while this can refer to an official mediator, a DSF provided mediator or any self-chosen mediator. I suggest to specify “mediator (provided by DSF or otherwise)”.	English	-	Not accepting this. The term should be best defined in DSF document.
2.9	It is our view that either the CP or the AP should be comprised of external experts.	English	-	Not accepting this. See explanation in the communique document.
2	To add another term into this section: Complaints Record	English	-	Not accepting this. It is already detailed in Clause 8.5. Communications and updating of case tracker is already covered in the document.
2.10.	“Conflict of interest” : clarify the origin of this definition.	English	-	Not accepting this. This is a general term used universally. Definition is also based on ASI's definition adapted from ISO definitions.
2.17	Sanction" : in the case of an Appeal, the Respondent might be a non-member.	English	-	Accepted. Word member included.
2	Some terms are not explained like Appellant - is it the complainant or respondent or can be either one?	English	-	Yes, it's either party.
2	There needs to be a definition of Complaints Record eg as at 11.1	English	-	Not accepting this. Covered in 8.5

General role of RSPO Secretariat in relation to Complaints & Appeal

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
3.3.4	The communication of decisions within 5 working days seems unreasonably short, because minutes of meetings need to be approved by members of the CP, resp. AP.	English	-	Accepted. This has been changed to 15 working days.
3.2	Access can also be limited by fear of retaliation or other personal security issues. Therefore, this section would need to introduce how whistleblowers will be protected while accessing the complaints system. Other clauses already further specify this element for the later steps, but it begins with decreasing the threshold to enter.	English	-	Protection of identity of whistleblower is covered in Section 3.
3	Much appreciate this. Reviews must, of course, also allow for interim improvements and those improvements must somehow be made known to the membership.	English	-	Not accepting. This will be covered in internal SOPs. Notwithstanding, the overall review and evaluation of efficacy of the RSPO Complaints and Appeals Procedure is covered under 3.1.5
3.2.1	Very good; much appreciate that this is retained.	English	-	Thank you.
3.3.3	Must be subject to further rules. The reasons for confidentiality must be stipulated.	English	-	Two new sections have been introduced to address the mischief of external pressure being applied on the Complainant. The first is section 9.2 that imposes a duty on the Respondent not to engage in any form of retaliation, reprisal, violence, threats or adverse discrimination against or apply undue pressure upon the Complainant, his spokesperson, communities or whistle-blowers.
3.3.1	The Secretariat periodically makes public announcements shall regularly update the status of the about Complaints and Appeals cases on the RSPO's website Case Tracker . and shall regularly update the status of the Complaint or Appeal as the case may be. Rationale: Complaint and Appeal cases are not treated like normal RSPO Announcements or News Events unlike other announcements for Audits etc. The case status are updated in the Case Tracker (dedicated channel).	English	-	Accepted.
3.3.2	RSPO Secretariat shall take all reasonable steps to ensure that all public information or case updates relating to the Complaints and Appeals are always presented in a neutral way, without prejudice towards any of the parties involved.	English	-	Not accepting. Neutrality is to be reflected in all communications and not limited to public information.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
3.3.4	The RSPO Secretariat shall update the make announcements of the following events on its Case Tracker within five (5) working days of the following information becoming available to it.	English	-	Not accepting, except for the word following.
3.3.4.5	a change in the accreditation status of a certification body as a result of any sanction imposed	English	-	Accepted.
3.3.4.6	pertinent information as to the change in the status of the Accreditation Body.	English	-	Accepted.
3.1.2	Proposed addition to Section 3.1.2 – “and to ensure that none of the Complaint Panel Members, Appeals Panel Members and investigators have any interest in the Complaint. Any members or investigators who has a conflict of interest should declare such interests to the Secretariat and be discharged of his/her duties immediately.”	English	-	Not accepting. Conflict of interest is covered in Section 6 and declaration of conflict of interest must be done before assigning cases to specific complaints panel.
3.1.5	Who determines how & when “the proposed regular review & evaluation” will be done? What happens next after the RSPO has done the proposed review & evaluation? Who & how will the outcome of the review & evaluation be endorsed and changes made to the RSPO Complaints & Appeals Procedure? Will the proposed changes be endorsed by the Board after another public consultation process?	English	-	It is proposed that regular review is conducted every 5 years. If there is a need to consider substantive changes to the procedures, an endorsement is to be sought from the BoG.
3.1.2	Facilitate..." this should be linked to 8.2 and 11.5 which clarifies a key function of the RSPO Secretariat : provide secretariat for the proceedings, including the record-keeping.	English	-	Not accepting. Unnecessary to link.
3.3.3	In all communications..." Text should be added to also protect companies, eg "to avoid undue negative commercial impacts".	English	-	Not accepting. This will be covered in internal SOPs.
3	Important for the secretariat to also brief the respondent and complainant of the complaint system so insert this line in between 3.1.2 and 3.1.3 3.1.2b. To brief the respondent as well as the complainant on the complaint procedure;	English	-	Not accepting. This will be covered in internal SOPs.
3.1.4	... complaint handling." - Replce "." with ","	English	-	Accepted. Deleted and modified slightly.
3.1.6	...services if required" - Missing "."	English	-	Accepted.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
3.3.4	Important to keep public aware that case had moved to mediation and etc which is not listed here.	English	-	Not accepting. This section is in relation to the conclusion of the complaint.
3.3.3	<p>gives far too much discretion to the Secretariat to decide what information be withheld and what made public.</p> <p>Currently there are a number of complaints that have been filed which have been withheld from the Case Tracker or even the Complaints Panel at the discretion of the Secretariat (eg PT Nabire Baru/ Goodhope). This arbitrary behaviour is wholly unacceptable and is bringing the Complaints process into disrepute.</p>	English	-	<p>Types of information shared with public will be guided by internal SOPs and by the Complaints Panel.</p> <p>To note is the fact that the status of "Reported Case" is removed from the new procedures. As such, all complaints will be made public.</p>
3.3.4	This must include as 3.3.4.1 Acceptance of a complaint by the Panel	English	-	Not accepting. This section is in relation to the conclusion of the complaint.

Grounds for Complaints

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
4.2	Include RSPO Remediation and Compensation Procedures Related to Land Clearance without Prior HCV Assessment	English	-	Not accepting. RaCP is referred to in P&C, in Principle 7.
4.2.2	RSPO Principles & Criteria for Sustainable Palm Oil Production (P&C), including all guidance, indicators associated with the adoption and implementation of the P&C; Rationale: Guidance is not mandatory requirements as the indicators and criteria. Therefore it should not be used as grounds for non-compliance.	English	-	Accepted.
4.2.3	RSPO accepted or endorsed National Interpretation of the P&C (where applicable);	English	-	Accepted.
Add 4.2.9	RSPO Supply Chain Certification Standard (RSPO SCCS)	English	-	Noted.
4.2	With view to resolution 6d, which was passed by GA 13 in November 2016, the RSPO Remediation and Compensation Procedure (RaCP) Related to Land Clearance Without Prior High Conservation Value should be included as part of the RSPO Scheme documents mentioned in point 4.2	English	-	Not accepting. RaCP is referred to in P&C, in Principle 7.
4.2.2	Guidance is a guide only and not mandatory and therefore should not become a complaint.	English	-	Accepted.
	<p>must read: ‘Any other standards binding on members that the Board of Governors may from time to time adopt.’ (as there may be long delays in documents being posted on the list in 4.2.8)</p> <p>In the past an important precedent has been set where a company has been exposed to being in violation of RSPO standards in the media and the case was adopted as a Complaint even though no complaint has been filed. The current text does not allow for this. The current lack of protection of complainants from intimidation and human rights abuses means that complaints often do not get filed in the most serious circumstances. The CP must therefore be enabled to take up complaints where serious violations become alleged or known even where no complainant has come forwards.</p> <p>Furthermore, Resolution 6h/2015 explicitly requires RSPO to adopt a procedure to start complaints when the Secretariat on its own account identifies members’ failure to follow the New Plantings Procedure.</p>	English	-	This procedures is only meant for complaint cases with official complainant. Explanation to take up cases without formal complainant is covered in Section 7.

Complaints Submission and Receipt thereof

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
5.1	Need to include an opportunity for the Secretariate to take up or investigate violations by an RSPO member that were not submitted as a complaint, but from plausible information in the public domain. The CP should have right to take up potential cases of this sort and to task the Secretariate with investigations, etc..	English	-	This procedures is only meant for complaint cases with official complainant. Explanation to take up cases without formal complainant is covered in Section 7.
5.1.1.4	Add: ... with reference to the specific scheme documents under 4.2. and particular provisions alleged to be violated, where possible.	English	-	Not accepting. This will cause an access barriers to complaints.
5.1.1.5	Change “possible” into “plausible”. In many cases this does not make sense, in particular if areas were cleared or there is no directly affected party. Also not sure how helpful this requirement is. I would support including 5.1.2 without changes so that the complaints panel can see the range of possible remedies that the complainants are envisioning.	English	-	Not accepting. Plausible relates to an argument or statement being reasonable. Our point here relates to remedies and as such 'possible' is a more accurate term.
5.2.2	Include “reasonable”, under: “.. provide a reasonable time limit for a response.” Also: What are the consequences if the complainant does not respond to the second request?	English	-	Accepted.
5.2.3.2	Wrong reference: Should be 5.2.2. rather than 6.2.2	English	-	Accepted.
Add 5.3.2.6	Notify the Complaints Panel	English	-	Not accepting as CP is not even set up at this stage. There is nobody to notify as the members of the CP will only be constituted at 6.1 from the list
5.4	Reasons for withdrawal must be submitted in writing to the Secretariate to avoid collusion.	English	-	Not accepting. Complainant must be free to withdraw complaint. However, CP has the discretion to proceed with investigation if required after withdrawal of complaint.
5.7.1	Rules and acceptable behaviour must be spelled out for bilateral engagement. If any party exerts pressure the CP needs to be directly informed and the case is escalated to CP or DSF.	English	-	Parties must engaged in good faith is covered in Section 9. As for BE/DSF, parties must be free to negotiate freely on their terms. The mediator must ensure that the said situation must be avoided and this will be covered in DSF procedures. In cases of BE the CP may request for updates within a stipulated timeframe.
5.7.2	Criteria for “where applicable” must be spelled out	English	-	Not accepting. The criteria of when DSF should apply ought to be found on the DSF protocol not here in the Complaints procedures.
5.9.1	Not sure if this is helpful? Basically, the CB could have overlooked or ignored an issue. What is the remedy? To adapt the audit report? The CP needs to have oversight of steps undertaken by the CB, or with respect to 5.9.2 the AB.	English	-	Not accepting. Suspension of certification is under the power of CB. Therefore, the rational is to divert the complaint to those who can rightfully exercise a lawful sanction. Not all has to be done by the CP as there is a Certification System that deals with it.

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5.10.2	Include 5.9.2 to read “.... As provided for in sections 5.9.1 and 5.9.2, the....”	English	-	Not accepting. CP has no jurisdiction to sanction the CB. The explanation for this has already been dealt in length in the rational document.
5.1.1	“Complaints shall be submitted to the secretariat who serves as the sole entry”, however, the secretariat consists of a broad range of functions and is therefore not a sole entity. This may mean that complaints may (and sometimes indeed should) arrive through a country representative, the CEO or through a general email. I think that should be alright as long as each staff member knows how to transfer this to the sole entity internally. (I know of a case that came in through a country representative and was solved rather quickly but did not appear on the list of successfully closed cases!)	English	-	Noted. Secretariat will provide for separate procedures to deal with these circumstance. Complaints must be streamlined in a formal manner. This will be addressed in the SOP too.
5.1.1.5	Although I understand the rationale for removing the requirement of having exhausted other, bilateral, options before turning to the complaints system, I believe explicit reference to steps undertaken already should be made, in order to prevent the secretariat and panel repeat unsuccessful efforts.	English	-	Misunderstanding by commenter. We never referred to an exhaustion of one avenue before proceeding to CP.
5.2	The immediate action in case of serious direct risk to people, the environment or RSPO’s reputation is removed here and moved to section 9. By doing so it is unclear if this is part of the initial diagnosis. Rationale for removing this refers to unclear authority for such steps to be decided by the secretariat. Possibly putting this as a duty for the complaints coordinator to signal but CEO to decide puts additional trust in the possibility to cater for such – hopefully exceptional – cases.	English	-	Not accepting. Immediate actions are now decided by the CP as they was severe objection of the Secretariat to be doing this.
5.7/5.8	<ul style="list-style-type: none"> [see also comments in intro]. Change “in cases where the parties indicate” into “in cases where both parties indicate” To proceed or to adjourn the hearing seems to leave insufficient room for the panel to take an active role in directing (e.g. specifying the relevant ground or grounds) and monitoring (e.g. sufficient resolution to come into RSPO compliance) the bilateral engagement. 	English	-	Not accepting. This again undermines the DSF and BA process by CP being involved in it , CP plays an active role if DSF or BE fails. This has been explained in rational document shared during public consultation.
5.10.2	The panel shall have to power to monitor and proceed	English	-	Not accepting. CP has no oversight over the CB.
5.1.4	Unclear language. A complaint can be re-submitted??	English	-	Accepted. Correction made.
5.2.1	Based on past experiences, we remain highly uncomfortable with RSPO Secretariat as the single gateway to the system. The Secretariat will have to prove that it does its reviews without undue considerations.	English	-	Noted. Secretariat will provide for separate procedures to deal with these circumstance. Complaints must be streamlined in a formal manner.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
5.2.2	Will the Secretariat also approach the respondent? If so, subject to what rules? It is much, much, MUCH better if the parties are brought around the table to present their case, cause and defense first. This really helps to filter out all the non-eligible issues, and narrow down to the issues to be escalated to the CP.	English	-	Not accepting. Completely not feasible. In any case request for information is requested from the complainant only. This is a power given to derive clarity on the facts of the complain.
5.2.3.2	Clause 6.2.2. is the wrong reference	English	-	Accepted. Correction made.
5.2.3.3	Define 'qualified representative'	English	-	Not accepting. No definition required because we do not want to limit the qualified representatives. Guidance can be provided in internal SOPs.
5.3.2.3	This is the first action, not the third.	English	-	Accepted. Correction made.
5.7	At minimum, the Secretariat should first directly hear the case as perceived by both parties.	English	-	Not accepting. NO relevance as Secretariat only has a administrative role. The choice is up to parties.
5.9	Good, very good. However, how consistent will these processes and their outcomes be? This will be a field for intense learning. But anything better than how things were until today.	English	-	Thank you.
5.9.1/ 5.9.2	Related to our concern above: There is no clear distinction in many cases. This is not proper integration. What if ASI finds there is nothing wrong but the CP does find the opposite?	English	-	Not accepting. CP can only further impose sanction on membership status and not certification status.
5.10.	This is a crucial additional article, along with the immediate actions article. Very good!! It is hugely important that there is consistency and fairness in sanctions.	English	-	Thank you.
5.2.3/ 5.2.3.2	Is there an error on this? Section 6.2.2 is referring to the experience of Complaint Panel member. This should be 5.2.2 instead.	English	-	Accepted. Correction made.
5.10.	Section 5.10.2 would cause 2 investigations ongoing for the same complaint. In the event when result of investigations are conflicting each other, which result shall be used? Section 5.10.3 only applies to complaint against certified unit. It should be made clear that investigation result of Certification Body shall be considered by Complaint Panel, however the decision by Complaint Panel shall prevail and referred to. Section 5.10.3 also applies to complaint against Certification Body, as the whole section 5.10 is applicable to complaints referred to the Certification Body or the Accreditation Body	English	-	Accepted. Changes made with modification.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
5.1.1	To whom shall the complaints be specifically directed/ submitted at the Secretariat? The Secretariat consists of many departments thus the Forms shall explicitly mention the relevant department who will be in-charge of handling and receiving the forms and materials.	English	-	Noted. Secretariat will provide for separate procedures to deal with these circumstance. Complaints must be streamlined in a formal manner.
5.1.1.6	contain an agreement Agrees to adhere to the terms and provisions of this procedure; Rationale: The complaint & appeal forms automatically contains a sentence where they only have to tick "Agree"/"Disagree". If the parties disagrees then the Secretariat has to reject the forms.	English	-	Accepted with slight amendment by removing the word 'contain'.
5.1.4	To be consistent with 13.4.2 where there is a 2 weeks timeframe given to re-submit.	English	-	Not accepting. This will encourage multiple complaints lodged.
5.2	What is the timeframe given to Secretariat to conduct the initial diagnosis? It is not mentioned in this section.	English	-	Accepted. Timeframe of 30 working days included.
5.2.2	What is the time limit for a response? The time frame should be consistent with 5.3.2.2	English	-	Not accepting. Reasonable time frame will be guided by internal SOP and directive from CP. The reason is because some parties may need longer time to response due to language barrier or limited access to communication facilities.
5.2.3.2	If the Complainant fails to respond to the Secretariat's request for information or clarification in accordance with Clause 6.2.2 5.2.2;	English	-	Accepted. Correction made.
5.3	The subtitle to be consistent with the section title where the word "Receipt" is used.	English	-	Accepted. Correction made.
5.3.1	Once it has been determined that a submission fulfills the criteria set forth above (Section Clause 5.2.1), the Secretariat shall proceed to formally accept the complaint	English	-	Not accepting. To retain consistency in usage of the term 'section'
5.5	The Secretariat shall as soon as practicable and in any event within thirty (30) days of formally accepting the Complaint cause a Complaints Panel to be constituted in accordance with the procedures set out in Section 6.	English	-	Accepted. Correction made.
5.6	Instead of asking the parties to the complaint what language at this stage, this question should be explicitly mentioned in the complaint form & appeals form. Preferred working language. Thus this clause can be deleted.	English	-	Not accepting. Forms are already in multiple languages. Secretariat should ask parties what language there are comfortable with.
5.10.3	Section 5 is about submission and receipt of complaints only. This clause is about sanctions which can be removed or relocated to the relevant section, maybe section 7.	English	-	Not accepting. It is important for Secretariat to communicate this.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
5.2.1	5.2. I am uncomfortable with this section on Initial Diagnosis because while it clearly refers to verification of allegations of fact, it still relies on the substantive expertise of the Secretariat conducting the fact-verification mission, outside the supervision of the Complaints Panel. I understand that the complainants can re-submit, but if the Secretariat were wrong in rejecting it in the first place, the complainants would have lost precious time. One control we can put in place is that initial diagnoses, especially those rejecting the submission of the complaint, have to be submitted in writing to the Complaints Panel Chair. The written initial diagnosis should include the reasons why the complaint is being rejected or forwarded to the panel for deliberation. This needs further discussion and consideration.	English	-	Not accepting. There is no verification of facts intended. This is an administrative action. Please refer back to the rational document shared during public consultation.
5	This section should include how the RSPO can submit a complaint against a member, as provided by the RaCP for example.	English	-	Explanation on how such cases can be taken up has been provided in Section 7. Further guidance will be provided in a separate procedure/SOP.
5.1.1.1	'Name and contact...' see above.	English	-	Not accepting.
5.1.1.6	'contain an agreement...' what happens if a party breaches the agreement ?	English	-	It will be expanded in guidance and SOPs. Should not be part of the procedure.
5.3.3.2	wrong reference to 6.2.2., it should be 5.2.2 ?	English	-	Accepted. Correction made.
Add 5.2.4	"The Secretariat shall inform the member against which the complaint was made. When there was a request for anonymity, the Secretariat shall ensure that the information passed to the member does not reveal the complainant."	English	-	Noted. This will be covered in the SOP on how to handle requests for confidentiality.
5.3.2.2	'the notification...within 14 working days' Working days where ? In Malaysia ? i suggest using Kuala Lumpur as the base for all time periods. Members and non-members can answer and explain their situations.	English	-	Noted. Standardised to working days.
5.5	'The Secretariat....within thirty days...' Calendar days or working days in KL ?	English	-	Noted. Standardised to working days.
5.8	What if the parties do not inform the RSPO that they are solving the complaint outside of the RSPO ? Breach of 5.1.1.6 ?	English	-	Do not foresee such an event. If Secretariat not informed then investigations go on. It is not in the interest of parties to omit informing Secretariat.
Add 5.9.3	to address complaints against the AB. It can refer to internal mechanisms of the AB. If this is the way complaints against the AB are to be managed (ie outside of the RSPO), it should be made clear in the document.	English	-	Accepted.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
5.1.4	<p>Is this a complaint that had not been looked into?</p> <p>If it is we should not allow complaints to be re-submitted unless there are fresh evidence and it had satisfy the disqualification during the first round.</p>	English	-	Not accepting. This statement is not about a complaint that has not been looked into.
5.9 & 5.10	<p>The revised text does now allow for the CP to continue to look into complaints even if these have also been passed to CBs and ASI for consideration.</p> <p>However this is still only granted as a discretionary power (as in 5.10.2 and 5.10.3) whereas it should be a requirement that the CP continues to look into complaints against members even if CBs and ASI are also investigating.</p> <p>The serious weaknesses with the FSC's Complaints Procedures show that passing complaints to CBs and Accreditation bodies has resulted in long term failures and frustration with that system. RSPO should / must avoid repeating this mistake.</p>	English	-	Not accepting. CP can only suspend and terminate membership and can impose the said sanctions, additional to actions taken by CB in certified facility.
5	<p>It should be added how the Complaints Panel deals with credible media reports about misconduct of RSPO members that are not formally submitted to the Complaints Panel. In these cases the Complaints Panel should also have the possibility to direct the Secretariat to appoint an independent investigator.</p>	English	-	Already addressed in current procedures and provided in new procedures.

Constituting the Complaints Panel

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
6	The CP should be a standing committee. Individual members should serve fixed terms that may be extended. The composition of the CP must in addition to criteria under 6.2. balance various stakeholder interests, as in all other RSPO decision-making bodies or working groups.	English	-	Accepted with modification. Stakeholder representation covered. TOR will cover topics on fixed terms.
6.7	Need to identify the stakeholder groups to ensure balance.	English	-	Accepted with modification.
6.8	Not sure if better to exclude? The identity of CP members should be protected to avoid possibility of pressure or legal action against CP members by parties involved in a particular case. There is a clause on liability (14.1), but I'm not if this precludes legal action by external parties.	English	-	Accepted with modification.
6	The procedure is insufficiently clear about the required size (minimum, odd number) and composition (balance from various stakeholder categories) of each panel. Previously the names of panel member linked to each individual case were kept confidential but the full list of the pool of members was made public in order to build the necessary trust that this pool contains capable persons instead of a secret list of self-determined (?) experts. This requirement and purpose seem to be lost now.	English	-	Quorum has been specified. Stakeholder representation has been added. The arrangement on anonymity and website information is still the same.
6.8	Change "in a unanimous vote" into "by consensus"	English	-	Accepted.
6.5.1	Define 'he'. We are concerned about financial institutions because too often they have conflict of interest. The CP member may not even be aware of this at the time of declaring conflict of interest.	English	-	Added she. Secretariat maintains a list of companies financial institutions has conflict of interest with.
6.5.2	How would complainant and respondent know about the change???	English	-	Conflict of interest is raised at every meeting. See above.
6.8	We disagree. Anomosity should be the exception, not the rule. How many courts in this world have anonymous judges??	English	-	Not accepted. Anonymity is the general rule but CP can choose to waive the rule.
6.4	While expertise and experience is very important, the Panel members must be able to communicate in the preferred working language as chosen by the Complainant/Parties.	English	-	Not accepted. May not be feasible in all cases. Interpretation and translation services are made available
6.5.1	that he or she does not have any professional, financial or personal relationship with the parties or their subsidiaries or their personnel that would result in bias or prejudice or otherwise impact his or her judgment as a Panel member; and	English	-	Accepted.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
6.5.2	that should a conflict arise in the course of serving as a member of the Complaints Panel he or she shall immediately declare it to the Secretariat;	English	-	Accepted
6.8	Clause 6.8 contradicts with clause 1.1.2 and clause 7.1.1 in terms of maintaining confidentiality of identities of panel members while seeking to be transparent and fair at the same time. One of the main weaknesses of how each complaint was being handled was that the Respondent was not allowed to know or meet or explain the situation themselves to the Panel. Many things cannot be clearly explained in letters, photos and reports. Therefore, clause 6.8 can be removed while maintaining clause 7.1.1.	English	-	No contradiction. As a general rule, CP's identity remains anonymous unless they waive the anonymity. Once they waive it, they will be able to conduct site visits and interviews. This shall be a collective decision with the consensus of the CP and to be determined on a case to case basis.
6.5	not consistent with the definition of COI in 2.10.	English	-	Definition is clear. This is further elaborated.
6	Scope must be given for the CP to co-opt non-members with appropriate expertise especially if they are less likely not to have conflicts of interest.	English	-	Not accepting. CP has power to direct secretariat to appoint experts to assist. No need for these experts to sit in Panel.
6.8	<p>I question the wisdom of making the Complaints Panel anonymous.</p> <p>Currently the composition of the Panel (as far as we can know) is dominated by industry professionals and excludes representatives of many other stakeholder groups like indigenous peoples, smallholders, community representatives, trades union members and human rights organisations. The good will of the current members is not in doubt and their willingness to work without remuneration is admirable, but the capacity of this group of persons to carry out the work is thereby severely limited. It is clear that current members find it very hard to find time to read all the detailed materials submitted to them, let alone develop TORs for investigations and to interview witnesses etc etc</p> <p>The RSPO should consider funding the work of the CP members so they can carry out their tasks adequately.</p> <p>It is vital that both the CP and the Complaints Secretariat includes members competent in Bahasa Indonesia, Spanish and French as well as English.</p>	English	-	Anonymity is important to ensure CP will not be exposed to external pressure. However, it has been modified in the new procedures that they can waive the anonymity to conduct site visit and interviews. See communique document for detailed explanation.
6.2	6.2 In addition to the listed criteria, the list should include that the composition of the complaints panel should be balanced between representatives of the various stakeholder groups within the RSPO membership. The way the criteria are written at the moment it would be possible that three NGOs or three growers decide about complaints against a grower.	English	-	Accepted.

Powers of the Complaints Panel

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
7.1.1	Remove clause “to delegate to the Secretariate any or all of its powers”. This is too far-reaching and undermines the roles of the Secretariate and the CP.	English	-	Not accepted. It is restricted to procedural directives and not all powers. CP remains control.
7.1.1	Some of the measures, mentioned may be difficult if the CP members are to maintain anonymity. This also holds for 7.1.5	English	-	Anonymity is the general rule unless it is waived.
7.1.14.3	Need to clarify if this is compliant with the Statutes and Bylaws. Thought this power was with the BoG? Also applies to 7.1.14.5	English	-	Procedures prepared on assumption Statute will be amended at General Assembly.
7.1.15	7.1.15: unsure of the meaning of “to stay the implementation...”. Context? – It means that the Complaints Panel can direct the suspension of the execution of the decision (e.g., suspension of membership, corrective action, etc) if an appeal is filed. It means that the decision of the Complaints Panel does not become final and executory except when there is no appeal.	English	-	It means that the status quo before the complaint is maintained and corrective actions need not be taken even if ordered
7	The procedure under this clause is incomplete. An additional power of the panel must be to monitor progress on agreed action plans, because many of the cases reach agreement on required actions (which can take ample time to implement, e.g. in the case of compensation and land restitution) and get “closed for monitoring” while it is unclear what this monitoring means and how is being decided on complete “closed”. The mandate to impose most severe sanctions (suspension of membership and termination) is with the Board of Governors, who after reviewing due process by the panel (and explicitly not reviewing the content matter of the case) endorse the panel’s decision. It is not clear if and why this was changed.	English	-	Noted. Can add power to request Secretariat to report back to it on progress of compliance of any order made
7.1.1	This is VERY good. Prefer it is specified as tripartite bilateral meetings.	English	-	Thank you.
7.1.5	CP members conduct site visits? That must be procedurally laid out. Can't have secret visits etc.	English	-	Noted. Can be elaborated in guidelines and SOPs.
7.1.6	Reasonably	English	-	No change needed.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
7.1.9	About and from, or decision	English	-	No change needed.
7.1.14	Finally!! Good. Sanctions must be duly justified and consistent with 'jurisprudence'	English	-	Thank you.
7.1	See comment in section 5.10. Which decision shall be referred to, when Complaint Panel and Certification Body reached different conclusion for the same complaint case? It should be made clear that investigation result of Certification Body shall be considered by Complaint Panel, however the decision by Complaint Panel shall prevail and referred to.	English	-	Confirm with CP. Proposed CB to investigate the case and deliver its findings.
7.1	Proposed to add 2 additional powers under Section 7.1 to include: 1) To reject the Complaint if the investigation results do not support the Complaint or show that the Complaint was unreasonable; 2) To give the Respondent the right to be heard or rebut the facts and investigation results; 3) To order the parties to the Complaint to reconcile and settle the issues amicably.	English	-	1. Accepted. To add power to dismiss complaint. 2. Parties of complaints are given the opportunities to comments on the investigation/verification report and submit evidences if necessary. 3. BE and DSF are provided in the procedures and parties will enter both processes voluntarily. Statement on good faith is added to address mischief and external pressure.
7.1.14	RSPO should provide a list of examples which can trigger the proposed sanctions e.g. violations of human rights, violence etc like those specified in Section 9.	English	-	Noted. This will be expanded in guidelines and SOPs.
7.1.16	Include the period when the decision of the Complaints Panel become final and executory automatically. (In this case when there is no Notice of Appeal filed within 30 days.) At the same time, there should also be a provision that allows for immediate execution of the complaints panel decision, due to the urgency of the matter (e.g, threat to life, displacement, etc).	English	-	No need to change. CP has the power to make these things clear in decision.
7.15	to conduct site visits" Who pays for the site visits ? The RSPO ? There should be clarity.	English	-	Investigation and verification exercises are currently being covered by the respondent and the arrangement will be the same in the new procedures.
7.1.11	'to make adverse inferences...' Plain English would be preferable.	English	-	Not accepted. This is understandable.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
7.1.14	what about the AB ? If it is to be included in the complaints procedure, there must be a mention of what can happen to the AB.	English	-	Not accepted. AB is not within the CP's jurisdiction. The AB has contractual relationship with RSPO.
7.1.5	To add the following in between 7.1.5 and 7.1.6 as follow: 7.1.5b. to have access to all relevant documents pertaining to the Complaint;	English	-	No change needed. Secretariat has duty to bring all documents to CP's attention
7.1.1	The wording of the final sentence is far too discretionary and allows too much power to revert to the Secretariat	English	-	Not accepted. It is restricted to procedural directives and not all powers. CP retains control.
7.1.14	The CP should also have a means of publicly manifesting its graded concerns about members' performance for example through a 'traffic light' procedure in the Case Tracker which should shows which cases are under investigation (pale yellow), which are under interim measures (amber) and which are already sanctioned (red) and then which cases resolved for monitoring (amber again) and which cleared (green). In cases of suspension and serious sanction, cases could also be highlighted on the first page of the complaints webpage and in the most serious cases to the RSPO home page (this is similar to how the International Labour Organisation also grades its reporting of violations).	English	-	No change needed. Improvements will be made on the website to ensure clarity of the stages in complaints procedures.
7.1.15	The CP should also have a means of publicly manifesting its graded concerns about members' performance for example through a 'traffic light' procedure in the Case Tracker which should shows which cases are under investigation (pale yellow), which are under interim measures (amber) and which are already sanctioned (red) and then which cases resolved for monitoring (amber again) and which cleared (green). In cases of suspension and serious sanction, cases could also be highlighted on the first page of the complaints webpage and in the most serious cases to the RSPO home page (this is similar to how the International Labour Organisation also grades its reporting of violations).	English	-	No change needed. Improvements will be made on the website to ensure clarity of the stages in complaints procedures.

Duties of the Secretariat in relation to the CP & Investigation

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
8.4	The secretariat should also facilitate the protection of whistleblowers. Please add here as 8.4.3.	English	-	No change needed. This topic is covered by Human Rights Working Group. Anonymity of complainant is covered in this procedures.
8.3	Compile and not just summarize	English	-	Accepted. Changes made.
8.3.6	Is this translation and interpretation going to be outsourced to experts or done by Secretariat staff? If done by the Secretariat staff, they may need to sign a non-disclosure agreement as well.	English	-	Noted. This can be provided in the SOPs.
8.4.2	interviews with Respondents, Complainants, relevant witnesses, relevant authorities and any other persons that may be relevant to the case.	English	-	Noted. Added parties to the Complainant but not 'relevant'. This is because relevancy is not to be determined at this stage.
8.5.4	transcriptions of all interviews (clause 8.4.2) with all witnesses;	English	-	Accepted. Changes made.
8.5.7	where applicable, any information from and any decision of the CB or AB;	English	-	Accepted. Changes made.
8	What is not evident in the duties of the Secretariat is the need to be non-bias manner towards either the complainant or the respondent.	English	-	No change needed. The issue of bias does not arise as the Secretariat is performing an administrative function. Secretariat has no discretionary powers here for the issue of bias to arise

Urgent Action & Interim Measure

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
9	As stated above, not clear to me why this has been moved here.	English	-	Not accepted. Secretariat will not have the power to make decision on interim measure and urgent actions. The CP will be responsible. As explained in previous section.
9.3.3	In addition to including duration and validity of interim measures, the panel should also spell out clear conditions that need to be met before an interim measure can be lifted.	English	-	Noted. This will be further explained in interpretive guidance for CP.
9.2	Very good!	English	-	Thank you.
Add 9.2.4	cases where risk and impacts of any delayed action to the affected parties and local community	English	-	Accepted with slight modification. See section 10.
9.2	Proposed to add the following proviso at the end of Section 9.2 – “Provided always that the circumstances under this Section 9.2 are seen as an immediate actual risk and not just a foreseeable likelihood or based on probabilities.”	English	-	Not accepted. The word evidence and other descriptions are sufficient.
9.2.3	RSPO to give specific examples of what constitutes a clear threat to RSPO’s credibility. Currently, as well as in the past, no actions have been taken against members violating the RSPO Code of Conduct? Some members have initiated or are supporting other initiatives which are not in line with the Code of Conduct. In recent times, others have also issued no palm oil labels or palm oil free labels on their products instead of supporting RSPO’s CSPO labels.	English	-	Not accepted. Not feasible to give examples.

Investigation Phase

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			

10	Section 10 of this document sounds very vague. There is no timeframe for deliberations or target to complete the investigations.	English	-	No changed needed. This must be read together with powers under section 7. Also standard timeframe cannot be imposed as the timeframe will differ from case to case depending on complexity etc
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Decision of the Complaints Panel

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
Add 11.10	To keep a record of the sanctions relative to the violations as a reference for similar cases.	English	-	Accepted.
Add 11.11	The Secretariate will develop and implement a system for long-term monitoring of compliance with the terms of settlement of a complaints case (up to 5 years) and update the CP periodically.	English	-	No change needed. CP stipulates time frame for compliance.
11.2	Decision by consensus, failing which a majority decision shall prevail. This goes against RSPO's strong history of decision making by consensus. I suggest that at least majority decisions should be accompanied by a statement that discloses the minority position.	English	-	Noted. Consensus is the priority. We fear that insisting on a decision by consensus alone have the negative potential of causing delay and protraction towards delivering a decision. In the event that consensus cannot be achieved it would be unfair to the parties to hold the delivery of the decision in abeyance indefinitely. Thus the provision for the majority decision to prevail in instances where a consensus cannot be reached is necessary and unavoidable. We note however the request for the minority decision to be recorded and have accordingly made provision for it to be recorded.
11.3.5	Decision by consensus, failing which a majority decision shall prevail. This goes against RSPO's strong history of decision making by consensus. I suggest that at least majority decisions should be accompanied by a statement that discloses the minority position.	English	-	Noted. Consensus is the priority. We fear that insisting on a decision by consensus alone have the negative potential of causing delay and protraction towards delivering a decision. In the event that consensus cannot be achieved it would be unfair to the parties to hold the delivery of the decision in abeyance indefinitely. Thus the provision for the majority decision to prevail in instances where a consensus cannot be reached is necessary and unavoidable. We note however the request for the minority decision to be recorded and have accordingly made provision for it to be recorded.
11.3.6	The scope is too limited here and should rather help identify generic lessons. Change into "opportunities for RSPO systems improvement" so that each individual case gets evaluated for any generic weaknesses that the P&Cs or other rules may have.	English	-	Noted. No change needed, as this is covered in SOPs.
11.3.6	WOW!!!!	English	-	Thank you.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
11.4	<p>The Secretariat Complaints Panel shall provide the Grounds for the Decision to the Complainant and Respondent within 5 working days of receipt and notify them of their right to lodge an appeal against the decision of the Complaints Panel in accordance with section 13.</p> <p>Comment: To be consistent with clause 9.7 where the CP is the one preparing the grounds of its decision, not the Secretariat. The Secretariat duty is to notify the Complainant and Respondent.</p>	English	-	Not accepted. It's the Secretariat's duty to provide the grounds to Parties not CP. This is procedural. The grounds for the decision will be reflected in the CP's decision letter.
11.6	The Secretariat shall update the Case Tracker to reflect the decision of the Complaints Panel.	English	-	Accepted.
11.9	This clause is no longer relevant as everything has been mentioned in clause 11.3. This clause also sounds confusing	English	-	Not accepted. Clause 11.3 does not stipulate sanctions for non compliance- if Party does not comply the CP should first be appraised on why they has not been compliance before a sanction is imposed- otherwise it's too draconian. But we have brought more clarity to Clause 11.9
11.2	'decision by consensus...failing which the majority decision shall prevail" This is a deviation from the RSPO values. If a majority decision is taken, it must be indicated in the public information.	English	-	Noted. Consensus is the priority. We fear that insisting on a decision by consensus alone have the negative potential of causing delay and protraction towards delivering a decision. In the event that consensus cannot be achieved it would be unfair to the parties to hold the delivery of the decision in abeyance indefinitely. Thus the provision for the majority decision to prevail in instances where a consensus cannot be reached is necessary and unavoidable. We note however the request for the minority decision to be recorded and have accordingly made provision for it to be recorded.
11.3.4	'Sanctions...' What happens the complaint was unfounded and false accusations raised ?	English	-	If the complaint is unfounded or/and false, it will be dismissed.
11.1	The language is ambiguous. The CP should also be empowered to look into alleged violations that are reported to it by the Secretariat and into any violations that may be uncovered by investigations even if these were not know to a complainant.	English	-	Noted. Where there is no complainant in the matter, it is covered under section 7 and can be dealt with a separate process.
Add 11.1x	Language is needed here in case a respondent does not comply with a sanction or request from the CP.	English	-	No change needed. See 11.9 provides for this. In any case this is in relation to the decision and not requests for information

Resolution of complaints through Bilateral Engagement or Mediation through DSF

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
12	Bilateral agreements require greater transparency to avoid pressure, collusion or manipulation by either of the involved parties. Need to consider safeguards. Also wonder about the scope of an agreement? If for example an NGO raises a complaint about land clearing that it does not have a title to, the settlement between the parties cannot entail land or financial compensation. Such cases would need to be directly escalated to the CP.	English	-	Noted. BA is an option to be entered into by the Parties. CP may request for timely updates but shall not intervene in the process, including in the terms of agreement. Mediation will be covered in DSF process.
12.1	Requires the parties to inform the secretariat of the terms. This should include written affidavits that the agreement was not reached as a result of coercion, pressure, etc..	English	-	Not accepted. Terms can be recorded but this is best captured in the SOP for BA and DSF.
12.3	The panel should first review the information about bilateral resolutions before directing the secretariat to close it. The panel should verify if indeed the resolutions cover the ground or grounds of the original complaint.	English	-	Not accepted. We feel that transparency in the sense of the Complaints Panel having oversight over Bilateral Engagement and DSF is not feasible. This is because the effectiveness of these processes (BE and DSF) depends upon the parties being free to engage without the fear of what is disclosed at the negotiating/mediation table being used against them in the proceedings before the Complaints Panel. If negotiations are subject to Complaints Panel scrutiny, parties will be reluctant to speak freely. This would in turn render Bilateral Engagement and DSF redundant. See communique document.
12	This section has the most usage of the word “thereof” as compared to all other sections in this document.	English	-	yes it does but what is the contention here?
12	This section is very weak. Consistency must be sought with the DSF texts. The key point is that for the DSF to be functional, it is imperative that the CP makes clear what violations need to be acted on by the respondent to bring itself into compliance. In the absence of this this clarity, the discussions between parties through mediators get lost and agreements may be reached which leave companies in violation of the RSPO standard which is no good for the companies or the RSPO’s credibility. This section also needs to contemplate that complainants may resolve their differences over one aspect of a complaint but the respondent still remains in violation of others raised in the initial complaint or exposed through investigations. These will still need to be addressed by the CP.	English	-	Not accepted. We feel that transparency in the sense of the Complaints Panel having oversight over Bilateral Engagement and DSF is not feasible. This is because the effectiveness of these processes (BE and DSF) depends upon the parties being free to engage without the fear of what is disclosed at the negotiating/mediation table being used against them in the proceedings before the Complaints Panel. If negotiations are subject to Complaints Panel scrutiny, parties will be reluctant to speak freely. This would in turn render Bilateral Engagement and DSF redundant. See communique document.

Appeals

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
13	Here as in the CP balanced representation of stakeholders is necessary. Likewise anonymity of members must be ensured.	English	-	Noted on anonymity. Balance representation will be provided in TOR.
13.7.2	Change “unanimous” by “consensus”. I suggest that at least majority decisions should be accompanied by a statement that discloses the minority position.	English	-	Accepted.
13.2.2.1	Very vague. We are concerned that the AP could evolve into a second layer complaint procedure; which it should not be. This requires further thinking-through and decision making. Perhaps the AP should be granted the mandate to look at a complaint case and CP ruling in its totality - essentially to review if the final outcome of the CP is fair, just, equitable etc. in relation to all involved: complainant, respondent, RSPO Secretariat, CBs, ASI, the P&C and national interpretation: does the final CP ruling do justice in view of all these influences?	English	-	Not accepted. AP role is already defined.
13.3.1	We do not agree with this. If the CP is comprised of RSPO members, then the AP should be comprised of external "wise men and women". This is because every RSPO member has vested interest (in RSPO) one way or another and this prevents true independent decision making.	English	-	Not accepted. Already addressed in the Rationale document for the need for AP members to be comprised of RSPO members
13.1	It should be made clear that during the appeal process and prior to appeal panel making final decision, whatever decision made by Complaint Panel shall be maintained and upheld. During the appeal process and prior to appeal panel making final decision, the decision made by Complaint Panel shall be maintained and upheld	English	-	Accepted by adding 13.2.3.
13.4.4	Same as the membership of complaint panel member, there should be ToR for appeal panel member to ensure that the member have required expertise in order to investigate the case. Proposed text: The Secretariat shall maintain a list of persons who are prepared to serve as Appeals Panel members. The Appeal Panel membership criteria and responsibilities are defined in the document Terms of Reference for the Appeal Panel.	English	-	Noted. TOR is underway based on endorsed procedures.
13.4.6	Suggest the document to provide timeframe regarding formation of Appeal Panel. Proposed to add text: The Secretariat shall form of Appeal Panel within thirty (30) days of formally accepting the Notice of Appeal.	English	-	Noted and amended, see 14.4.7

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
13.4.7	The 21 days timeframe for Secretariat to provide copies of notice of appeal, complaint record and complaints decision to Appeal members is too long considering these documents are readily available at the time when appeal has been formally accepted. Furthermore, the Appeal Panel only has 45 days after its formation to come into conclusion and made final decision. By having 21 days timeframe for Secretariat have easily taken up half of the time Appeal Panel has to investigate the case. To shorten the timeframe for Secretariat to 7 days to allow more time for Appeal Panel to investigate.	English	-	Noted on the timeframe adjustments made based on experience in handling appeal. Not feasible to have shorter timeframe.
13.6.1.4/ 13.6.1.11	There should be limitation when the case has been appealed, the decision of appeal panel shall be final. By allowing the matter to be referred back to the Complaints Panel again will indicate that the previous Complaint Panel do not have the capacity and thus making RSPO's ability in maintaining list of credible Complaint Panel member questionable. This may come to the conclusion that the whole complaint process is not credible and cannot be sustained. Further to this, please see comment on section 13.5.2 and 13.5.3. Suggest to omit clause 13.6.1.4 and 13.6.1.11	English	-	Noted on the concerns, there will be clear interpretive guidelines to guide what cases will be transferred back to CP for further investigation.
13.7.4	If final here means that the decision of Appeal Panel shall be referred to, even in the case when it conflict with Complaint Panel's decision, it should have been made clearer to avoid misunderstanding. Suggest to add details on what is meant by final.	English	-	No change needed. It's understood it's overriding the CP decision. We doubt a misunderstanding will arise
13.4.4	The Secretariat shall maintain a list of persons who are prepared to serve as Appeals Panel members. Rationale: This clause is no longer relevant as this list is mentioned in clause 13.3 already.	English	-	Not accepted. 13.3 is about appointment of Appeal panel and 13.4.4 is about maintaining a list of panel members.
13.4.12	Are the Appeal Panel identities confidential as well? How do they deliberate on an appeal if they don't meet face to face with the appellant?	English	-	Yes. The arrangement is the same as CP and the reasoning is the same.
13.5	Conduct of the Appeals Panel	English	-	Not accepted. The Appeal is not the Panel and we are not addressing behaviour but proceedings.
13.5.3/13.6.1.11	What is the difference between clause 13.5.3 and 13.6.1.11? Do they contradict one another?	English	-	No contradiction. The former is the general rule followed by an exception if the latter clause is relied on.

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
13.4.4	'...a list of persons...' Should clarify that Board members cannot be on complaints or appeals panels ?	English	-	This is understood, Board members are barred from all complaints as per adoption through a resolution. Can be provided in SOPs and TOR.
13.6.1.12	'to permit the Appellant to withdraw the appeal...' Should not be allowed. What if there is evidence appearing during the appeal against the Appellant ?	English	-	It's a power to choose to allow or not...most circumstances will allow for it
13.7.1	'...within 45 days' Calendar or working days ? What happens if the experts have not completed their work within 45 days or there is new evidence ? The appeal is closed ?	English	-	Noted. Changes made. Appeal decision is final.
13.3.2	Delete text after 'odd number.' (why impose this ceiling?) As per first comment consideration needs to be given to how to address this situation if the appeal is against the Secretariat.	English	-	Not accepted. There must be a limit to make it manageable.
13.7.2	should say '... failing which the majority decision shall prevail.'	English	-	Accepted.

Liability

Comments received		Language	English translation	RSPO CP/Sect input
Sub-Section No.	Comments			
14.1	Perhaps the word " all officials and authorized personnel" can be explained further. Rules? Or Procedures? Procedures turns into Rules?	English	-	We cannot impose a limitation- but noted on Procedures

