

## **RSPO Dispute Settlement Facility in relation to Grievances Procedure and RSPO's Certification System**

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This sub-session will provide the RSPO community with (i) a systematic oversight of how the RSPO Dispute Settlement Facility (DSF) relates to the Grievances Procedure (GP) and RSPO's Certification Systems and accreditation procedure; (ii) an update on DSF, now being operational since July 2011; and (iii) some insights gained through mediated reconciliation of land disputes

Land related conflicts pose a continuous risk to the credibility of the RSPO and the palm oil sector as a whole. The RSPO P&C specifically require certain kinds of interactions regarding how producers are to proceed when dealing with issues surrounding land use and customary rights of local peoples, and most notably to follow processes of Free, Prior, Informed Consent as specified in the P & C. Furthermore, requirement 4.2.4 in the RSPO Certification Systems document states that certification is not possible when there are ongoing disputes. Palm oil producers which apply for RSPO certification will thus need to resolve existing land conflicts with indigenous peoples and smallholder communities.

The ability of RSPO Members to address disputes encountered on the ground is key to meeting the objectives of RSPO. The major parties involved in such disputes - notably plantation companies and local communities - have repeatedly expressed the often-difficult challenge of dealing with such disputes adequately and in a timely manner. The two sides are often highly unequal stakeholders and often do not adequately communicate. In many cases external mediation is required.

To more expeditiously help settle disputes, RSPO has thus created an additional Dispute Settlement Facility (DSF). The DSF enables a mediation process that may be undertaken by mutual consent of the parties involved in the dispute. The DSF is subordinate to the RSPO Grievance Process, which must be further pursued if a party rejects the mediation process or the DSF mediated process fails to achieve a resolution. Furthermore, the Grievance Process and DSF now clarify and require related complaints about the certification process (ie certification body performance) to be appropriately addressed by the RSPO accreditation framework. This will help ensure that root problems are clearly identified and the responsibility for resolving them placed on relevant parties.

**Nestlé and TFT:**  
**Working towards traceable and sustainable palm oil**  
**through innovation and leadership**

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Nestlé views the destruction of tropical rainforests and peatlands as one of the most serious environmental issues facing us today. In 2010, Nestlé committed to ensuring that its products do not lead to deforestation. This commitment applies to all commodities associated with deforestation and is an integral part of Nestlé's Creating Shared Value approach focusing on nutrition, water and rural development.

Also in 2010, Nestlé embarked on a partnership with The Forest Trust (TFT) to achieve Nestlé's ambition of purchasing 100% of its palm oil from sustainable sources by 2015. Together with TFT, Nestlé has established Responsible Sourcing Guidelines (RSGs) to ensure that Nestlé's palm oil purchases will:

- Be derived from plantations operating in compliance with local laws and regulations
- Protect high conservation value (HCV) forest areas
- Support the free prior and informed consent of indigenous and local communities
- Protect peatlands
- Protect high carbon stock (HCS) forest areas

The Nestlé RSGs are complementary to existing RSPO principles and criteria and introduce specific safeguards on the protection of peatlands and high carbon value forest areas. The Nestlé TFT model is composed of three pillars: defining values and providing clear guidance (RSGs), transparency and traceability in the supply chain, and collaborative work with supplies to ensure they can meet the guidelines. Since 2010, palm oil supply chains for Nestlé's markets in China, India, Thailand have been mapped and assessments against the RSGs have been performed. Action plans are being developed with each supplier which includes technical assistance to those who currently don't meet the guidelines but who are committed to achieving them. The results achieved by Nestlé and TFT to date demonstrate that it is possible to innovate and transform the palm oil industry towards transparency and traceability and thereby to protect tropical forests and support local livelihoods.

# **Realities of RSPO implementation: a preliminary consideration on workers and communities**

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The standards developed by the Roundtable for Sustainable Palm Oil, a voluntary, multistakeholder organization, is one of the first “sustainability” standards for a major global commodity. Officially launched in 2007, the standard includes social, environmental and agronomic performance standards. Whilst it is still early days of implementation, RSPO membership now stands at 40 percent of palm oil producers, while RSPO certified area now covers 966,000 hectares, producing an estimated annual production of about 9 percent of global palm oil, or 46 million tonnes annually. The numbers are growing in significance, but there has yet to be a comprehensive assessment of the changes or improvements brought about by RSPO certification.

This paper attempts to start a discussion on the realities on the ground in the Malaysian context, particularly on the emerging changes of RSPO implementation on oil palm workers and communities, one of the key areas of sustainability interest. The findings discussed in this paper are based on the authors’ experience as external advisors and/or assessors with RSPO-aspirant companies in Malaysia and other relevant research.

The paper charts the circumstances and changes that had been observed by the authors since the trial-run of the standard since 2004, and juxtaposes the standard’s ideals with the realities faced by oil palm and mill managers, workers and communities, as well as those created by institutional challenges. The emerging issues include decent living wages, working conditions, migrant workers and community engagement.

Finally, it also discusses the barriers and spaces for opportunities that RSPO creates for oil palm workers and communities affected by oil palm development; and for the producers themselves.