

COMPENSATION MECHANISM FOR LAND CLEARANCE WITHOUT HIGH CONSERVATION VALUE ASSESSMENT

15 November 2011

Background

This exercise was commissioned by the Biodiversity and HCV Working Group at the request of the EB of the Roundtable on Sustainable Palm Oil (RSPO) to facilitate the development of an RSPO position on compensation for land clearance that has occurred after Nov. 2005 without prior High Conservation Value (HCV) assessment. It was conceived in response to a widely shared sense of urgency among RSPO members to get the necessary compensation mechanism defined and operational, as well as an evidently strong desire for co-operation between growers, NGOs and others to find an acceptable system to move forward

Statement of Need

Criterion 7.3 of the Principle and Criteria (P&C) states that new plantings since November 2005 should not have replaced primary forest or any area required to maintain or enhance one or more HCV areas. However, the National Interpretation (NI) of Indonesia includes provisions to allow for RSPO members that had carried out land clearance without prior HCV assessment after Nov. 2005 but before end Nov. 2007 to rectify this situation through a compensation mechanism. RSPO's Executive Board then decided that members should be given clear guidance as to the process of compensating both for HCV areas that have been cleared since Nov. 2005 and for any land that has been cleared without HCV assessment since Nov. 2005.

Stakeholders' Consultation

During the period of Jul. to Oct. 2011, ERE Consulting Group conducted a series of stakeholder consultations which comprised of discussion with experts, two stakeholders' consultation workshops, in Kuala Lumpur and Jakarta respectively, and participation in the Compensation Task Force (CTF) and Biodiversity and High Conservation Value Working Group (BHCV WG). The aim of the consultations was to develop consensus and to identify options to facilitate the development of the compensation mechanism, as follows.

Fundamentals

The compensation mechanism will be based on the following agreed fundamentals:

- Fundamental 1: The compensation mechanism will be globally consistent, with local adaptations where necessary.

- Fundamental 2: The compensation actions will be economically viable for responsible growers.
- Fundamental 3: Compensation costs will escalate over time to discourage 'clear and pay'.
- Fundamental 4: Incentives will be provided for companies that undertake efforts on transparency.
- Fundamental 5: There will be "fixed goalposts", no ambiguities and clear communication on the compensation mechanism.
- Fundamental 6: There will be flexibility in the application of in-situ and/or ex-situ compensation for HCVs 1 to 3.
- Fundamental 7: Compensation actions for HCVs 4 to 6 will be applied locally as a priority and through dialogue with affected parties.
- Fundamental 8: Reviews and updates of the compensation mechanism will coincide with the review of the P&C.

Under these fundamentals, the following rules were also agreed upon:

1. Historical assessments that are carried out on land cleared would be based on the condition of the land immediately prior to Nov. 2005.
2. The following time periods have been proposed to apply to all RSPO members:
 - a. From Nov. 2005 to end Nov. 2007, compensation actions will be required to replace the value of lost HCV areas as a result of land clearance. A company may however opt not to conduct a historical HCV assessment and land use change analysis, in which case it will be obliged to compensate for the total area of land cleared.
 - b. From Dec. 2007 to end Dec. 2009, compensation actions will be required for the total area cleared without prior HCV assessment. To determine the extent of areas cleared, a land use analysis and historical assessment must be conducted.
 - c. From Jan. 2010 onwards, the total area cleared will require compensation and will be subject to a multiplier. A land use analysis and historical assessment will be conducted. The multiplier of compensation costs from January 2010 onwards will be determined by RSPO's Executive Board.
3. If land has been cleared (whether or not it has been subsequently planted) either by or for a commercial grower, the company that acquires the land will be required to bear the responsibility for rectifying non-compliances regardless of the commodity planned for planting. However, if the land was cleared (or subsequently planted) in a non-commercial manner such as by local

communities or smallholders, the company will not be subject to compensation requirements for any non-compliance that occurred prior to ownership.

Compensation Framework

The proposed compensation framework is summarized as follows:

1. When land clearance without prior HCV assessment after end Nov. 2005 is detected and/or volunteered to the RSPO, the grower will be required to conduct an historical HCV assessment and historical land-use analysis for the area cleared. The grower will also conduct an audit (using external consultants) of all its management units to detect other possible occurrences of land clearing without prior HCV assessment after end Nov. 2005. If land clearance occurred during the period Dec. 2005 through Nov. 2007, the company may however opt not to conduct an assessment but proceed directly to the development of a compensation proposal for the total area cleared.
2. Companies are required to voluntarily declare all non-compliances within their holdings (as opposed to being reported by a third party). The membership of companies that demonstrate their intent on voluntarily resolving non-compliances will not be suspended.
3. The compensation plan will include (a) a full disclosure of all land clearance without prior HCV assessment since Nov 2005 (b) a documentation of proposed corrective actions to prevent future non-compliances, and (c) a time-bound compensation plan covering the area initially identified and other (if any) areas identified during the land clearance audit.
4. The company will then be required to submit the compensation proposal to the RSPO Secretariat within 6 months of the initial detection of non-compliance.
5. The RSPO Secretariat will review the compensation proposal and prepare its findings and recommendations. If the proposal is satisfactory, it will be submitted to the BHCV WG together with the Secretariat's findings and recommendations.
6. The BHCV WG will be tasked to review the compensation proposal together with the findings and recommendations of the RSPO Secretariat. If the proposal is considered satisfactory, it will be endorsed.
7. A summary of the compensation proposal will then be made publically available on the RSPO website.
8. The company will then undertake any compensation actions according to the schedule proposed in the compensation plan.

9. The RSPO will appoint, at the expense of the grower, an accredited Certification Body to audit the delivery of the compensation actions carried out by the grower.

All members will also be required to disclose the extent of their landholding that has been cleared without prior HCV assessments since Nov. 2005. New members would be required to do so before their first certification audit, while existing members would be required to do so before the next annual progress report in 2012.

Reporting

A full report that elaborates on the above points has been submitted to the RSPO Secretariat at the same time as this short report for the RSPO Executive Board.