A Review of RSPO's Complaints System

Main Changes to Date

Organisation of Recommendations

Methodology of the Review

Key Issues to Balance

Implementation of Recommendations
A Review of RSPO's Complaints System
Main Changes to Date

2007
- First Complaint
- Ad hoc grievance procedure
- No certified palm oil
- First Principles & Criteria adopted

2012-13
- Changes Introduced
  - Improved flow of information between
    - social list and Complainants Panel
  - Efforts to provide summaries of complaints
  - New format for Complaints Panel minutes

Late 2013
- External & Stakeholder Critiques
  - Workshop in Russia
  - Questions on all "Beyond Certification"
  - Pulp and Paper Group Initiative:
    - "Is the Forest striker?"
    - First Principles Programme et al:
      - "Conflict or Consent?"

Nov 2013
- Resolution 6f
  - "Greenwashing, Misleading, Transplanting and Importing"
  - In the RSPO Compliance System
  - More separation of executive powers in handling complaints and grievances
  - Agreed with UN Guiding Principles, particularly Principle 21 criteria

2013-14
- Changes Introduced
  - New remediation procedures
  - Larger pool of Complaints Panel members
  - Full-time independent complaints coordinator
  - More detailed complaints-handling procedures
  - More regular updates to online Case Tracker
  - Transition towards BSF-free Panel
2007

First Complaint

- Ad hoc grievance procedure
- No certified palm oil
- First Principles & Criteria adopted
First Complaint

- Ad hoc grievance procedure
- No certified palm oil
- First Principles & Criteria adopted
Changes Introduced

- Improved flow of information between Secretariat and Complaints Panel
- Efforts to provide summaries of complaints
- New format for Complaints Panel minutes

2012-13
Changes Introduced

- Improved flow of information between Secretariat and Complaints Panel
- Efforts to provide summaries of complaints
- New format for Complaints Panel minutes
Late 2013

External & Stakeholder Critiques

- Workshop in Puncak
- Grassroots et al: "Beyond Certification"
- PAN-AP: "The RSPO Roulette"
- Forest Peoples Programme et al: "Conflict or Consent"
External & Stakeholder Critiques

- Workshop in Puncak
- Grassroots et al: "Beyond Certification"
- PAN-AP: "The RSPO Roulette"
- Forest Peoples Programme et al: "Conflict or Consent"
Resolution 6f

- "Guaranteeing Fairness, Transparency and Impartiality in the RSPO Complaints System"
- Strict separation of executive powers in handling complaints and grievances
- Align with UN Guiding Principles, particularly Principle 31 criteria
Resolution 6f

- "Guaranteeing Fairness, Transparency and Impartiality in the RSPO Complaints System"
- Strict separation of executive powers in handling complaints and grievances
- Align with UN Guiding Principles, particularly Principle 31 criteria
Changes Introduced

- New compensation procedure
- Larger pool of Complaints Panel members
- Full-time Indonesian complaints coordinator
- More detailed Complaints Panel minutes
- More regular updates to online Case Tracker
- Transition towards BoG-free Panel
Changes Introduced

- New compensation procedure
- Larger pool of Complaints Panel members
- Full-time Indonesian complaints coordinator
- More detailed Complaints Panel minutes
- More regular updates to online Case Tracker
- Transition towards BoG-free Panel
Main Changes to Date

2007
- First Complaint
- Ad hoc grievance procedure
- No certifed panel
- First Principles & Criteria adopted

2012-13
- Changes Introduced
  - Improved flow of information between Secretariat and Panel of Experts
  - Efforts to provide summary of complaints
  - New format for complaints panel minutes

Late 2013
- External & Stakeholder Critiques
  - Workshop in Paris
  - Gastrova et al. "Beyond Certification"
  - PNMAP "The RPOD Reader"
  - Forestry Peoples Programme & proficiency criteria

Nov 2013
- Resolution 8F
  - "Gastrova 2013: Forests, Transparency and Legitimacy in the RPOD Complaints System"
  - Strengthening of executive powers in handling complaints and grievances
  - Align with UN Guiding Principles, particularly Principle 11 criteria

2013-14
- Changes Introduced
  - New compensation procedure
  - Larger pool of Complaints Panel members
  - Full-time Indonesian complaints coordinator
  - More detailed Complaints Panel minutes
  - More regular updates to online Case Tracker
  - Transition towards Ombudsman role

Methodology of the Review

Stakeholders Engagement
- Workshop at Kickstarter in August
  - 40 participants
- Document analysis
- Interviews
- Focus groups
- Two site visits
- Email exchanges

Complaints Site Visits
- Two weeks of site visits conducted with tenants (visits 1 and 2 were the key visits)
- See Written Report

Final Report
- End of November
- Final recommendations and action plan
- Consolidation of all background research and interviews

Final Inputs at RT-12
- Round of discussions meeting
- Prop Cluster
- Informal discussions
- Written feedback

Desktop Research
- Neighborhood and Community profile
- Property and financial analysis
- Current condition
- Historical context
- Market analysis
- Housing needs
- Recommendations
Desktop Research

- Baseline of current Complaints System
- International law and policy
- Other complaints mechanisms
- External critiques
- Gaps assessment
- Recommendations
Stakeholder Engagement

- **Workshop** in Bandung in August: 43 participants (companies, NGOs, communities, Secretariat)
- Detailed group discussions
- Very positive feedback
- Several **interviews** + email exchanges
Complaints Site Visits

- **Two** complaints selected with parties' consent on basis of criteria agreed with the Secretariat *(see Interim Report 1)*
- **Aim**: focused on the process undertaken and perceptions; *not* an attempt to resolve
- **Interviews**: complainants and supporting NGOs, responding RSPO members, Complaints Panel members, and Secretariat
Final Inputs at RT-12

- Board of Governors meeting
- Prep Cluster
- Informal discussions
- Written feedback
Final Report

- End of November
- Final recommendations and action plan
- Consolidation of all background research and interviews
Methodology of the Review

Stakeholder Engagement:
- Workshop in Tanzania to gather 60 participants
  - Communities, NGOs, international organizations
  + Discussion groups
  + Interviews
  + Focus groups
  + Outreach

Complaints Site Visits:
- Three complaints assessed on different sites:
  - Kinondoni
  - Kibungo
  - Temeke
- Identification of gaps and lessons learned
- Recommendations
- Identification of next steps

Desktop Research:
- Review of current complaints system
- Interviews with community members
- Literature review
- Interim reports
- Analysis
- Recommendations

Final Report:
- Final of November
- Final recommendations
- Action plan
- Consolidation of all background research and interviews

Final Inputs at RT-12:
- Board of Governors meeting
- Prep Cluster
- External discussions
- Version feedback
Organisation of Recommendations

Principle 31 criteria for effectiveness of non-judicial grievance mechanisms

(a) Legitimate  
(b) Accessible  
(c) Predictable  
(d) Equitable  
(e) Transparent  
(f) Rights-compatible  
(g) Source of continuous learning  
(h) Operational-level mechanisms based on engagement and dialogue

Complaints System Governance
- Improving Legitimacy and Transparency
  - Removing conflict of interest
  - Formalisation in institutional instruments and procedures
  - Addressing loopholes between related RSPO components
  - Monitoring procedure

Complaints System Management
- Improving Accessibility and Predictability
  - RSPO Secretariat’s role
  - Complaints Panel composition and functioning
  - Complaints Panel documentation and deliberations

Institutional Vitality
- Improving Continuous Learning and Engagement and Dialogue
  - Experiences and lessons learned within RSPO
  - Learning and collaboration within and beyond RSPO

Public Communications and Outreach
- Improving Accessibility and Transparency
  - RSPO website and Case Tracker
  - Public accessibility and outreach

The Complaints Procedure
- Improving Equitability and Compatibility with Rights
  - Changes to the Flowchart
  - Supplementary guidance
  - Due diligence, verification and investigation
Principle 31 criteria for effectiveness of non-judicial grievance mechanisms

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Complaints System Governance

*Improving Legitimacy and Transparency*

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Complaints System Management

Improving Accessibility and Predictability

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- Complaints Panel composition and functioning
- Complaints Panel documentation and deliberations
The Complaints Procedure

*Improving Equitability and Compatibility with Rights*

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Implementation of Recommendations

2014
Short-term
Before or immediately after RT-12
=> Many already underway or complete

2015
Medium-term
Before or immediately after RT-13
=> Vast majority of recommendations

2016-18
Longer-term
Before adoption of next Principles & Criteria
=> Very few recommendations

1. Advisory Group
2. Monitoring complaints
3. Monitoring adherence to complaints procedure
4. Annual reports and reviews

Monitoring and Review
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Monitoring and Review
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=> Vast majority of recommendations
Longer-term

Before adoption of next Principles & Criteria

=> Very few recommendations
Keyword & Description

Indicator
Person or Group in Charge

Costs (need more detail!)
1. Advisory Group
2. Monitoring complaints
3. Monitoring adherence to complaints procedure
4. Annual reports and reviews

Monitoring and Review
Implementation of Recommendations

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Monitoring and Review
Transparency & Confidentiality

Wide spectrum of cultural perspectives and communication styles

Transparency

- The norm
- Central to building confidence
- Exceptions: threats to complainants; eventual mediation; identity of Panel members
Transparency

- The norm
- Central to building confidence
- Exceptions: threats to complainants; eventual mediation; identity of Panel members
Conflict of Interest

Removing BoG involvement in the Complaints Panel and procedure...

... declaring conflict of interest in Complaints Panel deliberations ...

... separating the Panel from RSPO??

Independent Appeal Mechanism

- Need to identify most useful elements of other systems - no clear “best practice”
- Develop in 2015 alongside implementation of other recommendations
- Need broad consultation
Independent Appeal Mechanism

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- Develop in 2015 alongside implementation of other recommendations
- Need broad consultation
Systems Approach

Complaints are **dynamic**... system should be adaptive, responsive, and provide **diverse options**

... reconceptualise and rebuild as an **integrated system**
Single entry point

Determine the relevant pathway for resolution

Preventive Mechanisms
- Bilateral engagement
- Alerts and early warnings (NPP)
- Reporting (ACOPs)
- Monitoring and review

Mitigative Mechanisms
- Interim measures
- Facilitated dialogue
- Formal mediation (DSF)
- Third-party decisions (CP)

Corrective Mechanisms
- Independent investigations
- Remediation and compensation
- Sanctions and penalties
- Auditing and certification
Single entry point

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Preventive Mechanisms

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- Alerts and early warnings (*NPP*)
  - Reporting (*ACOPs*)
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Systems Approach

Complaints are **dynamic**... system should be adaptive, responsive, and provide **diverse options**

... reconceptualise and rebuild as an **integrated system**
Innovative Procedures

Need clear procedures and detailed guidance

- Interim measures
- Sanctions
- Investigations
- Roster of experts
- Authoritative guidance
Cost Implications

- Secretariat staff
- Roster of experts
  - Consultations
  - Consultants
- Independent Panel or appeal mechanism
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Implementation of Recommendations

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