

RESOLUTION TO BE ADOPTED AT THE 10TH GENERAL ASSEMBLY OF THE ROUNDTABLE OF SUSTAINABLE PALM OIL, 14 NOVEMBER 2013

TITLE: Guaranteeing Fairness, Transparency & Impartiality in the RSPO Complaints System

SUBMITTED BY: Sawit Watch, LINKS, PAN-AP, and SETARA

SUPPORTED BY: Bora, WildAsia,

Background

Appreciating that:

- RSPO has adopted a Complaints System since 2007;
- The Complaints System is accessible for RSPO members and non-members;
- The current version of the RSPO Complaints System aims "to ensure that any alleged breaches of specified RSPO Statutes, By-laws, motions approved by the General Assembly, or any other approved articles, including the Principles & Criteria for Sustainable Palm Oil Production, Certification System and RSPO Code of Conduct are fairly, impartially and transparently resolved" and that
- The RSPO Complaints System aims to address the effectiveness criteria for non-judicial grievance mechanisms in the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework" (UNGP).

Granting appreciation for the above, the proponents and supporters of this resolution are concerned with ensuring RSPO's ability to guarantee members and other stakeholders a fair, transparent and impartial process, i.e. a level playing field, namely that:

- Over 50 complaints have been filed since 2008, that there has been a recent boom in the number of complaints, that there is a significant backlog in addressing cases and that a very low percentage of cases is resolved to the satisfaction of complainants and defendants;
- The backlog in the Complaints Panel's portfolio comes at demonstrable expense of the interests of the environment, local communities, civil society organizations, the private sector, RSPO members and non-members alike, and RSPO's integrity;
- The currently publicly available Complaints System fails to fully address a fundamental institutional flaw, namely that the RSPO Executive Board can simultaneously fulfil all of the following conflicting roles: 1) Complainant, 2) Defendant, 3) Membership of the Complaints Panel, 4) Appeal Panel, 5) Advisor to the Complaints Panel, 6) Oversight Body of the Complaints Panel and 7) Final Arbiter to determine ultimate sanctions;
- RSPO does not have an independent appeal mechanism;
- The RSPO Complaints System has yet to comply with most Effectiveness criteria for non-judicial grievance mechanisms the United Nations "Guiding Principles on Business and Human Rights";
- The RSPO Complaints System is not duly formalized in the By-Laws and Statutes. Thus the Complaints Panel is not bound to inform the RSPO General Assembly about the status and progress of conflict resolution and mediation;
- The RSPO Secretariat lacks the proper mandate and capacity to effectively address complaints and grievances.

THE 10th RSPO GENERAL ASSEMBLY GATHERED IN MEDAN ON AGREES TO THE FOLLOWING:

To guarantee Fairness, Transparency & Impartiality in the Complaints Mechanism, the EB shall ensure that there is a strict separation of executive powers in handling complaints and grievances, in order for the Complaints System to be in line with the UNGP - especially ensuring operationalization of criterion h. (operational system); criterion a. (legitimacy); criterion c. (predictable); criterion d. (equitable); and, criterion e. (transparency).