

Resolution GA14-6i

Proposed Resolution to be adopted at the 14th General Assembly of the
Roundtable on Sustainable Palm Oil (RSPO)

30th November 2017

**TITLE: RESOLUTION TO AMEND THE STATUTES OF THE RSPO AND THE CODE OF CONDUCT
FOR MEMBERS TO FORMALISE THE ROLE OF THE COMPLAINTS AND APPEALS PANEL**

Submitted By: The Board of Governors of the Roundtable on Sustainable Palm Oil
(Currently represented by: Unilever, Malaysian Palm Oil Association, FELDA, PT. Musim Mas *,
Agropalma, AAK, IOI Loders Croklaan, Mondelez International, Marks and Spencer, Retailers' Palm
Oil Group **, Rabobank, The Hongkong and Shanghai Banking Corporation, Both ENDS, Oxfam
Novib, World Resource Institute, WWF)

** Represents the Indonesian Growers Caucus*

*** Ahold Delhaize, Aldi South Group, Asda, Boots UK, Coop (Switzerland), Coles, Federation of Migros Co-operatives,
Kingfisher, Sainsbury's, Tesco, The Body Shop International, The Co-operative Food (UK) and Waitrose*

Background:

The impetus for the review and strengthening of the Complaints Systems origins in Resolution 6(f) adopted by the 10th General Assembly of the Roundtable on Sustainable Palm Oil (RSPO) in November 2013. In adopting Resolution 6(f) on "*Guaranteeing Fairness, Transparency and Impartiality in the RSPO Complaints System*", the General Assembly agreed that the Board of Governors shall ensure a strict separation of executive powers in handling complaints and grievances. It was further noted in the GA10 Resolution 6(f), that the Complaints System is yet to be an entity that is formalised by the Statutes of the RSPO. An immediate move to implement this resolution resulted in the resignation of members of the Board of Governors from the Complaints Panel.

Pursuant thereto, several reviews of the existing Complaints Procedures were conducted. Following three (3) public consultations, the revised **RSPO Complaints and Appeals Procedures (2017)** was endorsed by the Board of Governors on 14 June 2017. The Procedures grants the Complaints and Appeals Panels the powers to suspend and terminate the membership of RSPO members on the basis of a Complaint.

Notwithstanding, the current Statutes of the RSPO grants the sole discretionary powers to suspend or terminate membership of RSPO Members only to the Board of Governors and the Chief Executive Officer. Thus, the endorsement of the Board of Governors is still required to enforce the decision of the Complaints and Appeals Panel to suspend or terminate the membership of the RSPO Member.

Accordingly, it is of concern that if the RSPO Statutes is not amended, including by formalising the Complaints and Appeals Panels, the Complaints and Appeals Procedures (2017) may be subjected to challenge on the basis that it is *ultra vires* the Statutes.

The amendments below are proposed in the spirit of Resolution GA10-6f and is aimed at ensuring coherence and avoiding conflict, in adherence to the revised Complaints and Appeals Procedures (2017).

THIS RESOLUTION PROPOSES:

That the Statutes of the RSPO and the Code of Conduct for Members of the RSPO be amended to avoid conflict of jurisdiction, contradictions and provide legitimacy to the revised Complaints and Appeals Procedures (2017).

The revised articles are mentioned below (changes are marked in bold italic):

Statutes of the RSPO¹

8. Termination of Membership

(b) In the event of the following and subject to clause 8 (c) **and clause 8 (d)** below:

- (i) Any circumstances that the Board of Governors may think fit to terminate the membership; or
- (ii) Breach of the Statutes including failing to pay the membership fee within three (3) months of having received an invoice; or
- (iii) Breach of the Code of Conduct, **subject to any complaints procedures.**

The Board of Governors shall notify the RSPO Member of such events, in which the said RSPO Member shall then explain to the Board of Governors of reasons why the membership should not be terminated. The Board of Governors may proceed to terminate the membership of such member if the explanation is not satisfactory in the sole discretion of the Board of Governors without further reference to the RSPO Member.

- (c) Notwithstanding the generality of Clause 8 (b) above **and subject to Clause (d)**, the Chief Executive Officer may terminate or suspend the membership of an RSPO Member for breaches of any rule or code which applies to an RSPO Member under this Statutes or the Code of Conduct including for the non-payment of the requisite membership fee, provided always that any such termination or suspension shall be in accordance with procedures to be determined and approved by the Board of Governors from time to time. In such circumstance, the Chief Executive Officer shall notify the RSPO Member of its concerns in which the said RSPO Member shall then explain to the Chief Executive Officer of reasons why the membership should not be terminated or suspended. The Chief

¹ The current Statutes of the RSPO can be downloaded for review at <http://www.rspo.org/key-documents/membership>

Executive Officer may proceed to terminate or suspend the membership of such RSPO Member if the explanation is not satisfactory in the sole discretion of the Chief Executive Officer, without further reference to the RSPO Member or the Board of Governors. The Board of Governors will be informed after a termination or suspension of membership has been carried out by the Chief Executive Officer.

- (d) ***Notwithstanding Clause 8 (b) and (c) above, the Complaints and Appeals Panels, may suspend or terminate the membership of an RSPO Member for any breaches in accordance to its procedures, as endorsed by the Board of Governors. The Complaints and Appeals Panels shall at its sole discretion notify the RSPO Member of the decision to suspend or terminate the membership, without further reference to the Board of Governors.***

11. Board of Governors

(h) Powers

- iv. The Board of Governors in collaboration with the Chief Executive Officer may adopt all policies and procedures necessary for the management of its activities and may, within the frame of its powers, delegate part of its powers and responsibilities to either the Working Groups or other such committees ***or panels***.

14. ***Complaints and Appeals Panels*** [proposed new Article]

- (a) ***The composition, mandate and powers of the Complaints and Appeals Panels is as provided for within the complaints procedures, and subject to Clause 8 (d) above.***
- (b) ***The Complaints and Appeals Panels shall ensure fairness and impartiality in handling complaints, and there shall be strict separation of functions and powers of the panels from that of the Board of Governors. It is the responsibility of the members of the Complaints and Appeals Panels to disclose any conflict of interest that would render them unsuitable to hear a complaint.***
- (c) ***Membership to the Complaints and Appeals Panel is voluntary and shall be without expectation of remuneration.***

Note: The numbering of the subsequent articles shall be changed to reflect the insertion of the new Article 14 above.

Code of Conduct for Members of the RSPO²

² The current Code of Conduct for Members of the RSPO can be downloaded for review at <http://www.rspo.org/key-documents/membership>

5. Breaches of this Code

- 5.1 Members will seek to resolve grievances directly with other member organisations **or individuals** in a timely fashion, and will not make unsubstantiated allegations of breaches against other members.
- 5.2 Breaches of this Code or Statutes **by RSPO Members** may lead to **suspension or termination** from the organisation.
- 5.4 The RSPO **Complaints and Appeals Panels**, through the Complaints System, may conduct an **investigation** against any member whom, in its view may have breached this Code, the Statutes **or other key documents relating to RSPO systems and procedures as endorsed by the Board of Governors**. RSPO Members who are found to have **been in breach** after due **investigation in accordance to** the Complaints System, **may be suspended or terminated** at the sole discretion of the **Complaints and Appeals Panels** without further reference to the RSPO Member **or Board of Governors**.
- 5.5 **Subject to** Clause 5.4 above, the Chief Executive Officer may terminate or suspend the membership of an RSPO Member for breaches which applies to an RSPO Member under this Statutes or the Code of Conduct including for the non-payment of the requisite membership fee, provided always that any such termination or suspension shall be in accordance with procedures to be determined and approved by the Board of Governors from time to time. Members who are found, after due inquiry, to have breached this Code or the Statutes by the Chief Executive Officer, will be terminated or suspended at the sole discretion of the Chief Executive Officer, without further reference to the RSPO Member or the Board of Governors. The Board of Governors will be informed after a termination of suspension of membership has been carried out by the Chief Executive Officer.

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