

Submission to the Malaysian Sustainable Palm Oil (MSPO) Certification Scheme

Recommendations for Revamping the MSPO Complaints Mechanism

With a Proposed Risk Categorization Framework and Interim Protective Measures

Submitted by **The Borneo Project**

August 2026

Revised October 2026



**THE BORNEO
PROJECT**

Executive Summary

The Borneo Project welcomes the Malaysian Sustainable Palm Oil (MSPO) Certification Scheme's initiative to revamp its complaints mechanism. We submit this document in a constructive spirit, drawing on our direct experience supporting complainants and on the international evidence base for what works, and what does not, in sustainability certification grievance systems. This revised version also responds to MSPO's draft Complaint and Dispute Resolution Procedure (CPX-2026) and its annexes.

Our central recommendation is the introduction of a formal risk categorization system applied at the point a complaint is received, before any investigation begins. This single reform, combined with mandatory interim protective measures for the highest-risk categories, would address one of the most serious documented failures of certification complaints systems globally: the continued loss of irreplaceable forest and community resources while complaints are pending.

Our recommendations are organized into five areas:

- A four-tier risk categorization framework applied at intake, with defined objective criteria
- Mandatory interim protective measures, including stop-work orders, for Tier 1 and Tier 2 complaints
- Binding processing timelines differentiated by risk tier
- Structural reforms to independence, transparency, and anti-SLAPP protection
- Procedural fairness and access for affected communities, including keeping complaints about customary land and FPIC within scope, the right to see and respond to investigation findings, and standing to appeal

1. Introduction and Context

Complaint mechanisms are the accountability backbone of any certification system. In our experience in Malaysia, complaints mechanisms rarely function as intended. When they fail through delays, procedural opacity, weak or incompetent Certification Bodies (CBs), or inadequate interim protection, the certification label itself is discredited and real harm goes unaddressed.

MSPO is a national standard with a different institutional architecture from international schemes, and a close relationship with government policy and domestic industry. This is an advantage: MSPO has direct lines of communication with enforcement bodies, concession-granting authorities, and the legal system that international schemes lack. The recommendations in this submission are designed to harness those strengths.

1.1 Our Experience Supporting Complainants

The Borneo Project and allied civil society organizations have direct experience filing complaints through certification grievance channels with multiple certification entities. We have found, unfortunately, that ineffective complaints mechanisms are more common than not.

For example, in a complaint we helped a community file with MSPO, more than six months passed before the complaint was meaningfully processed. During that period, significant forest loss occurred that cannot be undone. The MSPO complaint process did not stop the clearing. Buyers put pressure on the mill, which in turn put pressure on the company to stop.

This delay was not the product of bad faith. It reflected the absence of any system for classifying that complaint as time-critical from the outset, and the absence of any mechanism for imposing interim protection while an investigation was conducted. The reforms we propose are designed to close that gap. The draft Procedure published for comment on October 1 does not yet close either gap.

1.2 Scope of This Submission

This submission addresses the design of a risk categorization framework for complaint intake; interim protective measures, including stop-work orders, triggered by complaint category; processing timelines differentiated by risk tier; and structural issues including independence, transparency, anti-SLAPP protection, and community access. It also addresses the scope of complaints MSPO will accept, procedural fairness for complainants, confidentiality, appeals, remedy, and the treatment of complaints already pending when the new Procedure takes effect.

We have reviewed comparable systems including RSPO's Complaints and Appeals Procedures (CAP 2017, with ongoing reform), FSC's complaint and Policy for Association procedures, Assurance Services International's (ASI) incident risk-scoring framework, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023

revision), and the academic literature on multi-stakeholder initiative grievance mechanisms. We have also reviewed MSPO's current complaints process as published on its website, the MSPO Complaints Procedure (CP 1/2020), and the MSPO Certification Scheme Document (Version 2).

2. Examples from Other Mechanisms

- **ASI's seven-factor incident rubric** (ASI-PRO-20-107, V3.0, 2023) provides the closest operational analogue to what we propose for MSPO complaint intake. It scores credibility, immediacy, scale, systemic pattern, and illegality to assign incidents to Minor, Normal, Major, or Critical categories with tiered response timelines.
- **RSPO's 5-working-day acknowledgment rule** sets a clear, simple intake standard that should be the floor, not the ceiling.
- **RSPO's Human Rights Defenders Protocol (2023)** provides a 72-hour crisis response for complainants facing personal risk, demonstrating that differentiated, time-sensitive response is operationally feasible within a certification scheme.
- **RSPO's stop-work orders under the New Planting Procedure** (Goodhope Asia Holdings, 2017, seven subsidiaries halted within weeks) demonstrate that rapid precautionary measures can be triggered when documentary criteria are clear and unambiguous.
- **FSC's self-initiation power**, the ability to open a case on satellite data, NGO investigations, or media reports without a formal complaint, is a best practice for proactive risk management.
- **AAK's buyer Grievance Management Procedure (2025)** defines three severity criteria that automatically trigger immediate consequences regardless of context: dangerous conditions, large-scale deforestation (>500 ha), or significant human rights violations. The "any single criterion = automatically severe" design prevents downgrading of the most serious cases through discretionary judgment.
- **The ISEAL Code of Good Practice (v1.1, 2025)** requires that risk management procedures assess both the likelihood and severity of harm to derive a risk rating, and that complaint data be used to inform risk management and institutional learning.
- **The UN Guiding Principles on Business and Human Rights (UNGPs)** set out eight criteria for effective non-judicial grievance mechanisms: legitimacy, accessibility, predictability, equity, transparency, rights-compatibility, a source of continuous learning, and based on engagement and dialogue. MSPO's revised system should be designed to satisfy all eight.

3. Proposed Risk Categorization Framework

We propose that every complaint received by MSPO be assessed against a risk categorization framework within five working days of receipt. The framework assigns each complaint to one of four tiers, each with defined criteria, mandatory interim measures, and binding processing timelines.

The draft Procedure lists factors MSPO may consider (draft section 5.11) but defines no criteria. Annex B (B8) rates complaints Low, Medium, High, or Critical without saying what each rating means, and the only consequence attached to a Critical rating is escalation to an authorized officer. The framework below should replace B8 and the urgency tests in draft section 9.3(h) and (i), with Critical corresponding to Tier 1.

3.1 The Four-Tier Framework

Tier	Classification	Criteria (any one criterion is sufficient)	Immediate Action Required
TIER 1	Critical / Imminent Irreversible Harm	Active, ongoing deforestation or land clearance in progress; deforestation exceeding or credibly projected to exceed 30 ha; clearance of documented HCV/HCS areas, primary forest, or ecologically sensitive areas; violence, threats, or safety risk to community members or complainants; confirmed illegal activity (criminal law violations); contamination of water sources serving significant populations; operations affecting communities without FPIC processes	Automatic precautionary certificate suspension and/or stop-work notification within 48 hours of tier assignment , with no additional internal approval required. Operations may not resume until MSPO lifts the hold.
TIER 2	High Risk / Serious Harm	Credible evidence of significant FPIC failure (process conducted but fundamentally flawed); large-scale	MSPO notifies operator and CB within 5 working days. An expedited preliminary

		peat or riparian buffer violations; multiple (3+) major non-conformities across the same certificate; credible evidence of systematic audit manipulation or auditor conflict of interest; labor violations involving forced or child labor; repeated complaint by the same community against the same operator with prior unresolved findings	assessment (site visit or document review) is commissioned within 15 working days, faster than the standard investigation timeline. If that assessment finds any single Tier 1 criterion is met, escalation to Tier 1 is automatic and immediate, with a stop-work notification issued within 48 hours of that finding. The complainant is informed of escalation triggers upfront so they know what evidence would move the complaint to Tier 1.
TIER 3	Moderate Risk	Isolated major non-conformities with a plausible corrective path; FPIC procedural gaps that do not appear to have caused immediate harm; transparency or documentation failures without evidence of substantive violation; complaints about auditor conduct not rising to the level of systematic manipulation	Standard investigation process. Operator notified. CB directed to review within defined timeline.
TIER 4	Low Risk / Administrative	Procedural or documentation complaints with no evidence of substantive harm; disputes better resolved through direct bilateral engagement; complaints outside MSPO's jurisdiction	Directed to appropriate channel. Complainant notified with clear explanation and referral.

Key design principle: Any single Tier 1 criterion is sufficient to trigger the Tier 1 response. Categorization may not be downgraded without documented justification approved in writing by a senior MSPO officer. This prevents case-by-case discretion from eroding protections for the most serious complaints. Tier assignment should depend on the risk of harm to forests, water sources, and affected communities.

3.2 Risk Categorization Decision Process

At intake, a designated MSPO Complaints Officer (under the draft Procedure, an officer of the Integrity, Complaint and Grievance Unit, or ICGU) applies the following sequence:

Step 1 – Admissibility screen (within 2 working days): Is the complaint specific and accompanied by sufficient information to identify the subject? If not, MSPO contacts the complainant for clarification. A complaint is not rejected at this stage for insufficient evidence; evidence quality is assessed at categorization, not admissibility. Where information is missing, the complainant should have at least 20 working days to respond, the period allowed under Clause 6.4.1 of the current MSPO Complaints Procedure (CP 1/2020), not the three weeks proposed in draft sections 8.8 and 9.6. Complaints alleging Tier 1 or Tier 2 conditions should never be suspended, closed, or rejected for insufficient information (draft section 9.7(c)) while credible evidence of ongoing harm exists. In those cases the ICGU should actively seek the missing information, including through the community liaison point described in Section 6.2.

Step 2 – Tier assessment (within 5 working days of receipt): The Complaints Officer reviews the complaint against the four-tier criteria. Where criteria from multiple tiers are present, the complaint is assigned to the highest applicable tier. Assessment is documented on a standardized form.

Step 3 – Tier 1 fast-track (within 48 hours of tier assignment): Where Tier 1 is assigned, MSPO issues a precautionary certificate hold notice to the operator and CB immediately, without waiting for investigation. The operator is notified that they may make representations within 5 working days, and that operations may resume only upon MSPO's written clearance.

Step 4 – Complainant notification: The complainant is informed of the tier assigned and the process to follow within 5 working days of receipt, regardless of tier. This is a binding commitment.

Step 5 – Tier re-assessment: If new information emerges during investigation that would place the complaint in a higher tier, the complaint must be re-categorized and the higher-tier response applied immediately.

The draft Procedure sets a complaint's priority level only at acceptance, after the preliminary assessment (draft section 9.9(d)). Priority should be the risk tier assigned at intake, and the interim measures and timelines for that tier should apply as soon as the tier is assigned.

3.3 Scoring Factors to Support Tier Assessment

The following factors, adapted from ASI's incident handling rubric (ASI-PRO-20-107, V3.0, 2023), assist Complaints Officers in borderline cases. Each factor is scored 0 to 2. A total score of 10 to 14 strongly indicates Tier 1; 6 to 9 indicates Tier 2. The presence of any single Tier 1 criterion overrides a low aggregate score.

Factor	Score 1 (Moderate)	Score 2 (High)
Credibility of evidence	Requires validation	Very credible (satellite data, court records, multiple witnesses)
Immediacy of harm	Potential or recent past	Ongoing, active right now
Irreversibility	Significant but partially reversible	Primary forest loss, HCV destruction (irreversible)
Scale	10 to 30 ha or moderate community impact	>30 ha or major community/watershed impact or impact in ecologically sensitive location
Systemic pattern	Possibly repeating	Same operator, repeated complaints, prior non-conformities
Involvement of illegal acts	Some evidence of unlawful conduct	Allegation of deliberate criminal activity
Vulnerability of affected parties	Community has partial access to other remedies	Indigenous community with no FPIC and no alternative legal recourse

3.4 Scope and Admissibility

Several exclusions in the draft Procedure could remove the most serious complaints from the system before any risk assessment takes place. We recommend the following changes:

Customary land and FPIC. Draft section 4.4(e) excludes matters relating solely to land

ownership, land boundaries, or private property rights unless directly relevant to the MSPO Standards. For Indigenous communities, a dispute over customary land is often the substance of an FPIC or legality complaint, not a separate property matter. Section 4.4(e) should state that complaints involving customary land, native customary rights claims, or FPIC fall within scope wherever the certified operation sits on or affects the land in question, and that a separate land dispute between the parties does not exclude the complaint.

Criminal conduct. Draft section 4.4(d) excludes criminal offenses. Where a complaint alleges conduct that may be criminal, such as illegal clearing, the matter should remain within scope for certification purposes and be classified as Tier 1, with a parallel referral to the relevant enforcement authority. Referral should supplement MSPO's process and should not replace it.

Repeated complaints. Draft sections 4.4(g) and 9.7(d) exclude repetitive complaints without new or substantive information. A complaint repeated because earlier findings remain unresolved, or because harm is continuing, should not be treated as repetitive. If harm is continuing, the complaint contains new information by definition.

Historical complaints. Annex B (B5.5) allows complaints to be set aside as "significantly historical." Harm from land clearance and loss of customary land continues long after the original event. A complaint about harm that is ongoing, or about non-conformities that remain unresolved, should not be treated as historical regardless of when the original event occurred.

Anonymous and representative complaints. Draft sections 4.4(f) and 8.9 set a higher bar for anonymous complaints than for named ones. Community members who fear retaliation may only be able to file anonymously or through a representative organization. Anonymous complaints should be assessed against the same tier criteria as other complaints, and a representative organization should be able to file on behalf of complainants who wish to remain anonymous to the respondent, with the ICGU directing requests for further information through that organization.

4. Interim Protective Measures and Stop-Work Orders

4.1 The Case for a Precautionary Hold

The most important reform MSPO can implement is a mechanism that stops ongoing harm before the investigation concludes. Every month of delay is a month in which an operation under complaint can continue. Where that operation involves active deforestation, the harm is permanent.

The draft Procedure refers to "urgent intervention" (draft section 9.3(i)), and Annex B (B8) requires complaints presenting an immediate or critical risk to be escalated to "the appropriate authorised officer." Neither the Procedure nor the annexes say what action that officer can take, and nothing in the draft allows MSPO to halt operations while a complaint is investigated. We recommend a new sub-chapter, 9.12 Interim Protective Measures, built on the design below.

A precautionary certificate hold is **not a finding of non-conformity**. It is a reversible protective measure applied in the same spirit as a court injunction: on the basis of credible evidence that ongoing harm may be irreversible, pending a fuller determination. The operator retains full rights to make representations and to have the hold lifted promptly if those representations are accepted.

It is operationally feasible: MSPO can notify an operator and their CB within 48 hours if the administrative process is designed to allow it.

4.2 The Stop-Work Notification Mechanism

For Tier 1 complaints, we recommend a formal Stop-Work Notification mechanism with the following design:

- **Trigger:** Automatic upon assignment of Tier 1 classification. The Tier 1 classification is itself the trigger; no additional internal approval chain is required.
- **Form:** A written notification to the certificate holder (CH) and the CB stating that (a) a Tier 1 complaint has been received; (b) MSPO considers the credible evidence of ongoing harm to warrant precautionary suspension; and (c) operations covered by the certificate must cease or be restricted as specified, pending MSPO clearance.
- **Operator representations:** The operator has 5 working days to submit evidence that the Tier 1 criteria are not met. MSPO must respond within 5 working days. If MSPO agrees the criteria are not met, the hold is lifted.
- **Scope:** The hold applies to the specific operations that are the subject of the complaint, not necessarily the operator's entire certificate portfolio, unless the complaint is system-wide.
- **Coordination with authorities:** MSPO should proactively share the stop-work

notification with the relevant Forestry Department, land authority, or enforcement body, enabling parallel government enforcement action. This is a distinctive advantage of MSPO as a national scheme; international certification bodies lack this direct government channel.

- **Resumption:** Operations may only resume upon written clearance from MSPO, based on either (a) substantiated representations that Tier 1 criteria are not met; or (b) completion of an investigation finding no breach. Clearance is not automatic upon expiry of any time period.
- **Duration:** The hold remains in place throughout the investigation and during any appeal, unless MSPO has issued written clearance. The draft Procedure already provides that an appeal does not suspend corrective action (draft section 11.13); the same rule should apply to interim measures.

Precedent exists for this kind of protective measure. RSPO stop-work orders under its New Planting Procedure halted seven Goodhope Asia Holdings subsidiaries within weeks in 2017, and FSC issued a provisional suspension in the MCT Peru case in 2024.

4.3 Tier 2 Enhanced Monitoring

For Tier 2 complaints, MSPO should direct the relevant CB to conduct an **expedited preliminary assessment**, either a document review or unannounced site visit, within **15 working days** of complaint receipt, rather than waiting for the standard investigation timeline. Findings must be reported to MSPO within **30 days**. This preliminary assessment has an additional purpose beyond information-gathering: to determine whether any Tier 1 criterion is met. If it is, the complaint is **automatically and immediately re-categorized to Tier 1** and a stop-work notification is issued within 48 hours of that finding, without any additional internal approval. The complainant is informed at the outset of what evidence or findings would trigger escalation, so the pathway to stronger protection is transparent and accessible from the start.

4.4 Protection from SLAPP Actions

A critical vulnerability in certification complaints systems is the use of strategic litigation against public participation (SLAPP) to delay complaint processing. This tactic has been documented in the Malaysian certification context: legal action by CHs against complainants has been used to create procedural delays lasting years, during which operations continued uninterrupted.

The draft Procedure creates several openings for this tactic. It excludes matters subject to ongoing judicial proceedings (draft section 4.4(c)), asks at preliminary assessment whether a complaint is subject to judicial proceedings (draft section 9.3(g)), and allows the ICGU to defer a complaint where the matter is subject to legal proceedings, with no maximum period for deferral (Annex B, B5.4, B5.6, and B10 Option 5). Section 4.4(c) allows MSPO to proceed where it "determines that separate action is necessary," but this leaves protection

to MSPO's discretion.

We strongly recommend that MSPO's revised procedure:

- Explicitly state that the filing of legal proceedings by an operator against a complainant does **not** pause, suspend, or affect the MSPO complaints process in any way.
- Maintain a clear bright-line rule: the complaints process runs in parallel to any civil proceedings; it is not contingent on the outcome of those proceedings.
- Provide complainants with written assurance of this rule at the point of complaint receipt, as part of the acknowledgment.
- Remove legal proceedings brought by a respondent against a complainant as a ground for exclusion, deferral, or delay in sections 2.4, 4.4(c), and 9.3(g) and in Annex B.
- Extend the non-retaliation protections in draft section 5.12 to legal action by a respondent against a complainant.

5. Processing Timelines by Risk Tier

Binding timelines that are communicated to complainants at intake are essential to a credible complaints system. MSPO's current complaints page lists working-day figures for acknowledgment (5), review (20), investigation (90), and notification of the decision (10). The draft Procedure states none of these. It refers instead to timeframes "established by MSPO" (for example, in draft sections 8.6(b) and 11.10) and sets no deadline for MSPO at any stage before the appeal. It also shortens the complainant's window to supply missing information from 20 working days under CP 1/2020 to three weeks.

The timelines below keep MSPO's current figures for most complaints and set faster deadlines for the highest-risk ones.

Stage	Tier 1 (Critical)	Tier 2 (High)	Tier 3 (Moderate)	Tier 4 (Low)
Acknowledgment of receipt	2 working days	5 working days	5 working days	5 working days
Tier classification communicated to complainant	5 working days	5 working days	5 working days	5 working days
Stop-work / interim measure	Within 48 hours of tier	Expedited preliminary	N/A	N/A

issued	assignment	assessment within 15 WD; findings to MSPO within 30 days; automatic escalation to Tier 1 and stop-work if any Tier 1 criterion found		
Time for complainant to supply missing information	At least 20 WD; no closure while harm is ongoing	At least 20 WD; no closure while harm is ongoing	At least 20 WD	At least 20 WD
Investigation completed	45 working days	60 working days (if no escalation)	90 working days	30 working days (redirect or close)
Decision issued to all parties	Within 10 WD of investigation close	Within 10 WD of investigation close	Within 10 WD of investigation close	Complainant notified within 10 WD of the decision
Progress updates to complainant	Every 2 weeks	Monthly	At investigation close	At decision
Appeal window	30 working days from receipt of the decision	30 working days from receipt of the decision	30 working days from receipt of the decision	15 working days from receipt of the decision

These timelines are binding. Where an extension is required due to exceptional circumstances, MSPO must notify the complainant in writing with a revised timeline within the original deadline. Extensions may not exceed 50% of the original timeline without the complainant's agreement. The same rule should apply to extensions of corrective action deadlines.

6. Structural Reforms

6.1 Independence of the Complaints Function

The credibility of any complaints system rests on the structural independence of the body that investigates and adjudicates complaints. Where the same institution both promotes certification and adjudicates complaints, there is an inherent tension, regardless of the good faith of the individuals involved. Independence should therefore apply at the level of the institution, not only to individual staff.

- The MSPO complaints function should be administered by a designated Complaints Unit (under the draft Procedure, the ICGU, together with Investigation Officers) that is operationally separate from MSPO's certification promotion and standards development functions.
- For Tier 1 and Tier 2 complaints, adjudication by the Dispute Resolution Committee (DRC) should involve at minimum one independent external expert with relevant technical expertise (ecology, social impact assessment, or FPIC as applicable) who is **not employed by MSPO or any CB auditing MSPO-certified operators**.
- The DRC's Terms of Reference (Annex U, section 5) set its composition only "as far as practicable" and require members to be independent only of the parties to a case (section 7). At least one standing DRC member should have expertise in Indigenous rights or community land rights, and no member should be employed by, or have a financial interest in, a certified entity. The same standards should apply to the Appeals Board (Annex V, section 5).
- Complaints about an ACB's audit or certification decision should remain within the DRC's scope. Annex U, section 4, sends matters within the "exclusive" jurisdiction of an ACB to that ACB's own mechanism, which could send a complaint that an ACB failed to detect a non-conformity back to the same ACB.
- Conflict-of-interest declarations should be required and published for all staff and panel members involved in any complaint determination.
- Corrective action arising from a complaint should be verified by an independent auditor, not the same CB whose audit gave rise to the complaint. Draft section 13.5(f) currently allows verification through confirmation from Certification Bodies, and the verification checklist (Annex L) does not say who the verifier is or what independence requires.

6.2 Accessibility for Communities

Affected communities, particularly Indigenous and rural communities, face significant practical barriers to accessing certification complaints systems: unfamiliarity with the process, language barriers, limited digital access, and fear of retaliation. The draft Procedure states that assistance "may be provided" (draft section 5.8). The commitments

below should be mandatory.

- MSPO should publish clear, plain-language guidance on the complaints mechanism in Bahasa Malaysia and, where relevant, Indigenous languages spoken in major production areas. Guidance should describe the four tiers and what each triggers. The complaint submission form (Annex A) should be available in the same languages.
- MSPO should designate a **community liaison point**, a named officer or partner organization, who can assist communities in preparing and filing complaints, particularly for Tier 1 and Tier 2 situations.
- Oral or informal complaint filings should be accepted for Tier 1 situations, with MSPO staff responsible for formalizing the written record. Requiring a written submission before triggering a stop-work notification creates a barrier that may delay action by weeks. MSPO's definition of a complaint already covers verbal complaints (draft section 1.2), and the complaint form already lists telephone and walk-in receipt (Annex A, Part H), but draft section 8.5 does not list oral filing as a method of submission. It should.
- The complaint form should ask at the outset whether clearing, construction, or other harm is happening now, with space for supporting evidence such as satellite alerts or photographs, so the ICGU can assign a tier immediately. It should add "Deforestation or land clearing" and "Land rights, customary rights, or FPIC" to its complaint categories; MSPO's own annual report template already reports a "Land / community" category that the form does not capture.
- MSPO should provide qualified interpretation for testimony given in Bahasa Malaysia or Indigenous languages. The evidence register (Annex D, D14) lists "translated document" and "hearsay" as evidence limitations; translation alone should not reduce the reliability of evidence, and collective community testimony about land use should not be treated as hearsay for that reason alone.
- MSPO should publish a **summary annual complaints report** (see Section 6.6).

6.3 Proactive Monitoring and Self-Initiation

The best-performing certification systems do not wait for a formal complaint to identify high-risk situations. We recommend that MSPO develop a capacity for proactive monitoring that allows the complaints function to be self-initiated where credible third-party evidence indicates conditions meeting Tier 1 or Tier 2 criteria in a certified operation. This includes satellite-based deforestation alerts, NGO investigations, or media reporting.

Malaysia is well served by Global Forest Watch, Planet Labs, JAXA ALOS, and other satellite monitoring platforms. Integrating alerts from these platforms into routine monitoring would allow the system to act on emerging situations before they become formal complaints, and before irreversible harm has occurred. The draft Procedure's methods of submission (draft section 8.5) should provide for self-initiation explicitly.

6.4 Remedy, Not Just Compliance

A finding against a CH should carry an obligation not only to correct the non-conformity going forward, but to address harm that has already occurred. We recommend that MSPO's complaints procedure include a remedy requirement for all Tier 1 and Tier 2 findings: where harm has occurred, the complainant or affected community must be meaningfully involved in determining what remedy is appropriate. Remedy may include ecological restoration (where feasible), community development support, or other measures agreed with affected parties. The operator's compliance with a remedy plan should be a condition of lifting any certificate suspension or stop-work notification.

The draft Procedure does not yet provide for this. Its decision options address future compliance but not harm that has already occurred, remedial action for affected communities is optional, and failure to implement corrective action does not lead to certificate suspension. We recommend that a remedy plan be required for Tier 1 and Tier 2 complaints decided valid, that failure to implement it lead to suspension of the relevant certificate, and that a case close on the basis of a settlement only with the complainant's written confirmation that the matter is resolved.

6.5 Procedural Fairness for Complainants

The draft Procedure requires that respondents be informed of the allegations made against them (draft section 5.5(b)) and gives the respondent an opportunity to respond (Annex C, C27), but contains no matching provision for complainants. We recommend that the complainant receive the draft Investigation Report and a summary of the respondent's submissions, with redactions only where needed to protect third parties, and have a reasonable opportunity to respond in writing before the matter goes to the DRC. The DRC Terms of Reference already require that "parties have a reasonable opportunity to respond" (Annex U, section 15), and the investigation report template includes a date for party responses (Annex F, F3). The Procedure itself, in sections 5.5 and 11.7, should state this as a right of both parties.

6.6 Confidentiality and Transparency

Draft section 5.7 lets the MSPO secretariat decide what is confidential and requires all participants to maintain confidentiality both during and after the process, and sections 7.2(f) and 7.10(e) repeat the obligation for complainants. Applied to complainants, this could prevent an affected community, or the organizations supporting it, from speaking publicly about the harm it is experiencing, or from raising it with buyers and financiers, while a complaint is pending. In the case described in Section 1.1, it was buyer pressure that stopped the clearing, not the complaint process.

We recommend that the Procedure define what must stay confidential instead of leaving it to the secretariat's discretion. Confidentiality should cover personal information, the identities of witnesses and complainants who have requested protection, and information MSPO has formally designated as commercially sensitive, giving reasons. All other information should not be restricted, including the complainant's own evidence,

investigation findings, and the decision. During an investigation, MSPO may ask parties not to disclose specific material where disclosure would compromise the investigation, but this should end once the decision is issued. The complainant's identity should be withheld from the respondent where the complainant requests it and retaliation is a credible risk, and the complaint form should say so (Annex A, Part F).

On transparency, we recommend that MSPO:

- Publish DRC decisions and their reasons, with protected information removed.
- Publish a summary annual complaints report including: number of complaints received; tier breakdown; average processing times by tier; outcomes; and number of stop-work notifications issued and lifted. The draft Procedure submits the Annual Complaint and Dispute Resolution Report only to management (draft section 14.11), and its template allows any classification from Internal to Public Summary (Annex R, R44). A public summary should be mandatory. Only 4 of 40 major sustainability schemes publish full complaints data (MSI Integrity, 2020).
- Send complainants progress updates at fixed intervals by tier (Section 5), and state these commitments in the transparency principle (draft section 5.6).

6.7 Appeals

- **Standing.** Draft section 12.2 limits appeals to the complainant and respondent, while the appeal forms list "Affected Party" as an eligible appellant (Annex H, H3; Annex I, I3). Section 12.2 should include affected communities and their chosen representatives, whether or not they filed the original complaint.
- **Oral hearings.** The Appeals Board normally decides on documents alone (Annex V, section 15). For Tier 1 and Tier 2 complaints, the appellant should be able to request an oral hearing.
- **Interim measures.** Stop-work notifications remain in place during an appeal unless MSPO has issued written clearance (Section 4.2).

6.8 Complaints Pending When the New Procedure Takes Effect

Draft section 16.3 allows MSPO to apply the new Procedure to existing complaints where doing so would not prejudice any party. MSPO should apply it to any existing complaint where its provisions, including risk categorization and interim protective measures, would better protect affected parties, and should inform complainants with pending complaints and invite them to request this. Complaints that have been pending longer than the deadlines in Section 5 should be prioritized.

7. Summary of Key Recommendations

#	Recommendation	Rationale / Evidence Base	Priority
1	Introduce a four-tier risk categorization system applied at intake within 5 working days of every complaint.	The draft Procedure's risk rating (Annex B, B8) has no criteria or consequences. ASI's seven-factor rubric provides the closest operational model.	Critical
2	Establish an automatic precautionary certificate hold / stop-work notification for Tier 1 complaints, issued within 48 hours of tier assignment, as a new sub-chapter 9.12.	Addresses the primary documented failure across all major schemes: ongoing harm during processing. Modeled on RSPO's Goodhope stop-work order (2017) and FSC's MCT Peru provisional suspension (2024).	Critical
3	Establish a bright-line anti-SLAPP rule: legal proceedings by an operator do not pause or affect the complaints process in any way.	SLAPP suits have been documented in the Malaysian certification context as a mechanism to freeze complaints processes for years while operations continue. Draft sections 4.4(c) and 9.3(g) and Annex B allow exclusion or deferral.	Critical
4	Keep complaints involving customary land, FPIC, criminal conduct, continuing harm, and anonymous or representative filing within scope.	Exclusions in draft section 4.4 could remove the most serious complaints before any risk assessment.	Critical
5	Establish binding, published processing timelines differentiated by risk tier, with mandatory progress updates to complainants and at least 20 working days for complainants to supply information.	RSPO targets 5 WD acknowledgment; FSC targets 60 days for Director General decision. MSPO already publishes working-day targets that the draft Procedure omits.	High
6	Ensure structural independence of the	ISEAL Code of Good Practice; UNGP Principle 31 legitimacy	High

	Complaints Unit from certification promotion functions, with at least one external expert for Tier 1/2 adjudication, and set independence and expertise requirements for the DRC and Appeals Board.	criterion.	
7	Give complainants the draft Investigation Report and the respondent's submissions, with an opportunity to respond before the DRC decides.	UNGP equity criterion; Annex U, section 15 already provides for responses.	High
8	Define confidentiality narrowly and publish DRC decisions with reasons.	Open-ended confidentiality could prevent communities from raising harm publicly or with buyers while a complaint is pending.	High
9	Publish plain-language community complaints guidance in Bahasa Malaysia and relevant Indigenous languages; designate a community liaison point; accept oral filings; add an ongoing-harm question to the complaint form.	Communities are the primary affected parties in the most serious complaints but face the greatest barriers to access.	High
10	Integrate satellite deforestation monitoring alerts (Global Forest Watch, JAXA ALOS) into routine MSPO monitoring and allow self-initiation of the complaints process on credible third-party evidence.	FSC self-initiation model. Freely available monitoring tools already used by Malaysian civil society.	Moderate
11	Require a remedy plan, agreed with affected communities, as a condition of lifting any Tier 1 or Tier 2 certificate suspension; build remedy into the decision	Aligned with emerging best practice in sustainability certification remedy frameworks and UNGP Pillar III on access to remedy.	Moderate

	and corrective action templates; suspend certificates for failure to implement.		
12	Publish an annual complaints report with tier breakdown, processing times, outcomes, and stop-work notifications issued and lifted.	Only 4 of 40 major sustainability schemes publish full complaints data (MSI Integrity, 2020). Transparency is foundational to scheme credibility.	Moderate
13	Give affected communities standing to appeal, harmonize the appeal window, and allow oral hearings on request for Tier 1 and Tier 2 appeals.	The draft's appeal forms already list "Affected Party" as an eligible appellant.	Moderate
14	Apply the new Procedure to pending complaints where it better protects affected parties.	Draft section 16.3 already permits this.	Moderate

8. Conclusion

MSPO has an opportunity to design a complaints mechanism that provides real-time protection against ongoing harm, not just eventual accountability after harm has been done. The four-tier risk categorization framework and the precautionary stop-work mechanism we propose are the logical application of principles that already exist in the best international practice, applied consistently and with binding effect.

We are aware that any mechanism that can trigger a stop-work order must be carefully designed to prevent misuse. The safeguards we have proposed, including admissibility screening, rapid operator representations, time-bound lift procedures, and tier re-assessment, are designed to ensure the mechanism is firm but fair, and that operators with legitimate concerns are heard quickly.

The Borneo Project looks forward to continued engagement with MSPO on these proposals. We are available to discuss any aspect of this submission and to participate in stakeholder consultation on the revised complaints procedure design.

References and Sources

Academic Studies

- Harrison, J. & Wielga, M. (2023). "Grievance Mechanisms in Multi-Stakeholder Initiatives: Providing Effective Remedy for Human Rights Violations." Business and Human Rights Journal.
- MSI Integrity (2020). Not Fit-For-Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance.
- Afrizal et al. (2023). "Palm oil and conflict in Indonesia." Agriculture and Human Values.
- Depoorter & Marx (2024). Comparative analysis of voluntary sustainability standards. Regulation & Governance.

Reports

- SAVE Rivers, RimbaWatch, KERUAN, The Borneo Project & Bruno Manser Fonds (2024). How to Fix Critical Flaws in Malaysia's Timber Certification System.
- Forest Peoples Programme (February 2025). Community Guide to the RSPO Grievance Mechanism.
- OECD Watch (2020). State of Remedy: Assessing the Effectiveness of National Contact Point Procedures.

Certification Scheme Procedures

- RSPO Complaints and Appeals Procedures 2017 (CAP 2017), as amended December 2018.
- FSC-PRO-01-008 V2-0: Processing Complaints in the FSC Certification Scheme (2014; revision targeting 2027 effective date).
- FSC-PRO-01-009 V4-0: Processing FSC Policy for Association Complaints (2021).
- FSC International (August 30, 2024). "Provisional suspension of MCT's certification."
- ASI Incident Handling Procedure ASI-PRO-20-107 V3.0 (effective July 1, 2023).
- OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023 revision).
- ISEAL Code of Good Practice v1.1 (2025).
- AAK Grievance Management Procedure (2025).
- MSPO Complaints Procedure (CP 1/2020), effective July 1, 2020.
- MSPO Certification Scheme Document, Version 2 (2025).

- MSPO, Complaint and Grievance web page, mspo.org.my/complaint-and-grievance (accessed October 2026).
- MSPO, Draft Complaint and Dispute Resolution Procedure and Annexes A to W (CPX-2026 consultation).

Submitted by The Borneo Project, info@borneoproject.org, October 2026