

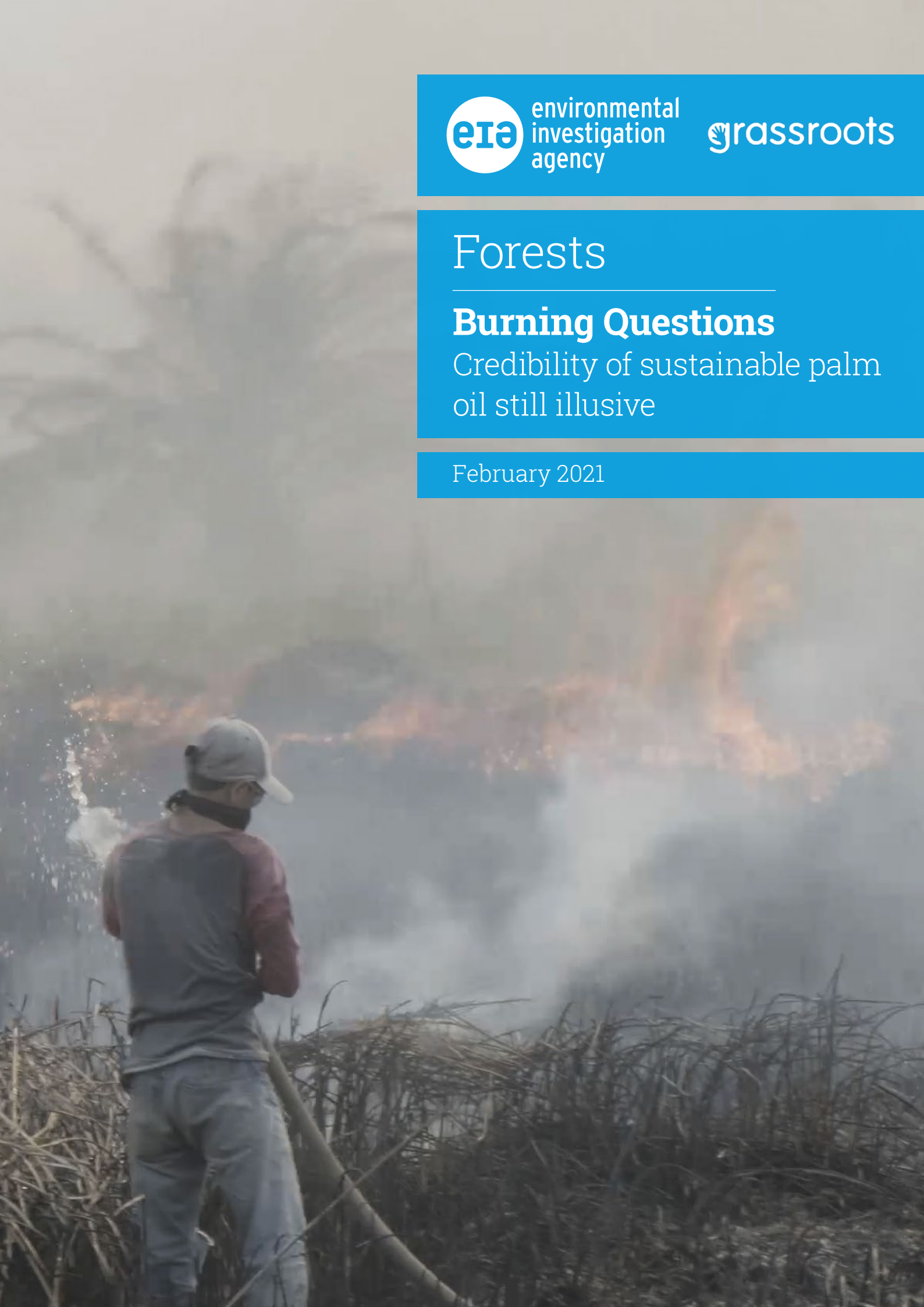


Forests

Burning Questions

Credibility of sustainable palm oil still illusive

February 2021





Summary

Above: Forests have often been cleared to make way for oil plantations, such as those in East Kalimantan in Indonesia
Front cover: ©KT/EIA

The Roundtable on Sustainable Palm Oil (RSPO) is one of the world's most well-known certification schemes. Its environmental and social standards are often ranked highly and yet it continues to face criticism, eroding trust in its brand.

The criticism stems from palm oil's part in destroying forests and people's lives where it is grown. RSPO members continue to be exposed for violations of the body's own standard (see Box 1) and this ongoing trend makes the RSPO's claims of sustainability unreliable.

In 2020, the RSPO's newly formed Assurance Standing Committee (ASC) again took up the task of trying to improve assurance mechanisms. While it has been a challenging year for all under the pandemic, the ASC has yet to complete any major tasks which would improve assurance. The ASC's main achievements in 2020 were setting the foundations for its work,

part of which involves it deciding to conduct a root cause analysis, in order to reach consensus on what is causing the issues.

Despite various actions over five years, there is little to inspire optimism that the RSPO – a multi-stakeholder body with industry and NGO members – will appreciate its own responsibility or fix the problems. Without assurance mechanisms that properly function, the RSPO has little credibility and its claims are hollow. The ASC and the RSPO must act faster, get to the root of the problems and put in place changes that will truly address them.

“Better to have poor standard, and great audits, than great standard and poor audits”

Feedback from ASC member

“Providing assurance is at the heart of everything we do at RSPO”

RSPO's new CEO, Beverley Postma

Human rights violations continue to plague the RSPO in 2020

RSPO companies have continued to be beset by assurance issues in 2020. Associated Press notably reported on labour violations in Malaysia, including by RSPO members.¹ These allegations included forced labour, the abuse of women and child labour, among others.

Equally, RSPO member companies were linked to labour abuses in Indonesia, such as paying below the minimum wage, exposure to hazardous chemicals and the suppression of independent unions.² All of these practices are banned under the RSPO.

Allegations and investigations triggered Liberty Shared to file petitions in the US, as well as complaints under the UK Modern Slavery Act and to the Malaysian Stock Exchange on two of the largest palm oil companies in Malaysia – FGV and Sime Darby. Both are RSPO members. Subsequently, both companies have been blocked from importing palm oil to the USA, following investigations by US Customs and Border Protection.³

While these federal investigations have found evidence of abuses, the RSPO stated Sime Darby's audits have not found any such red flags. Although the RSPO continues to develop better guidance – on labour auditing, child rights and others⁴ – better guidance does not necessarily result in better outcomes. It is still lacking in reviewing how its policies and practices are being audited and implemented.

Meanwhile, the RSPO is investigating claims of bribery and illegal land use by Golden Agri Resources (GAR), one of the largest palm oil producers in Indonesia, following a formal complaint being filed.⁵

Elsewhere, a critical study found 75 per cent of RSPO-certified concessions were in areas which had been deforested and/or where endangered large mammals had lived in the past 30 years.⁶ Under the RSPO, it has only been a requirement to conserve primary forests and other conservation areas since 2005.

“An initial review of audit findings earlier this year did not generate any red flags against Sime Darby Plantations [SDP]. We rely on independent auditors to detect violations of this nature and to date, no non-conformances have been identified on any certified SDP plantations.”⁷

RSPO Statement, 31 December 2020

Below: There continue to be concerns about the abuse of workers' rights in oil palm plantations





Above: There have been multiple allegations of forced labour by palm oil companies over the past year

Background

Certification schemes are based on trust, which lies in the assumption that the certificate and label awarded assure the public it performs exactly as the scheme says in its standard.

The sustainability label's trustworthiness is wholly dependent on credible assurance. Without it, there is no guarantee that a certification system's standards are being adhered to. Many certification systems rely on independent third-party auditors to carry out assessments to check their standards are being adhered to by companies.

The RSPO falls into this category, with nearly 20 per cent of all palm oil produced globally being RSPO-certified. In Europe, 86 per cent of the palm oil imported is RSPO-certified,⁷ making it the RSPO's biggest market.⁸

The EIA/Grassroots 2015 report '*Who Watches the Watchmen*' revealed widespread sub-standard and fraudulent assessments in the RSPO, finding that major labour abuses, forest clearing, entrenched land conflicts and human trafficking have been allowed in RSPO members' palm oil plantations.

The RSPO responded by setting up an Assurance TaskForce (ATF) in 2015 to address the issues but, four years later, EIA and Grassroots found this TaskForce had

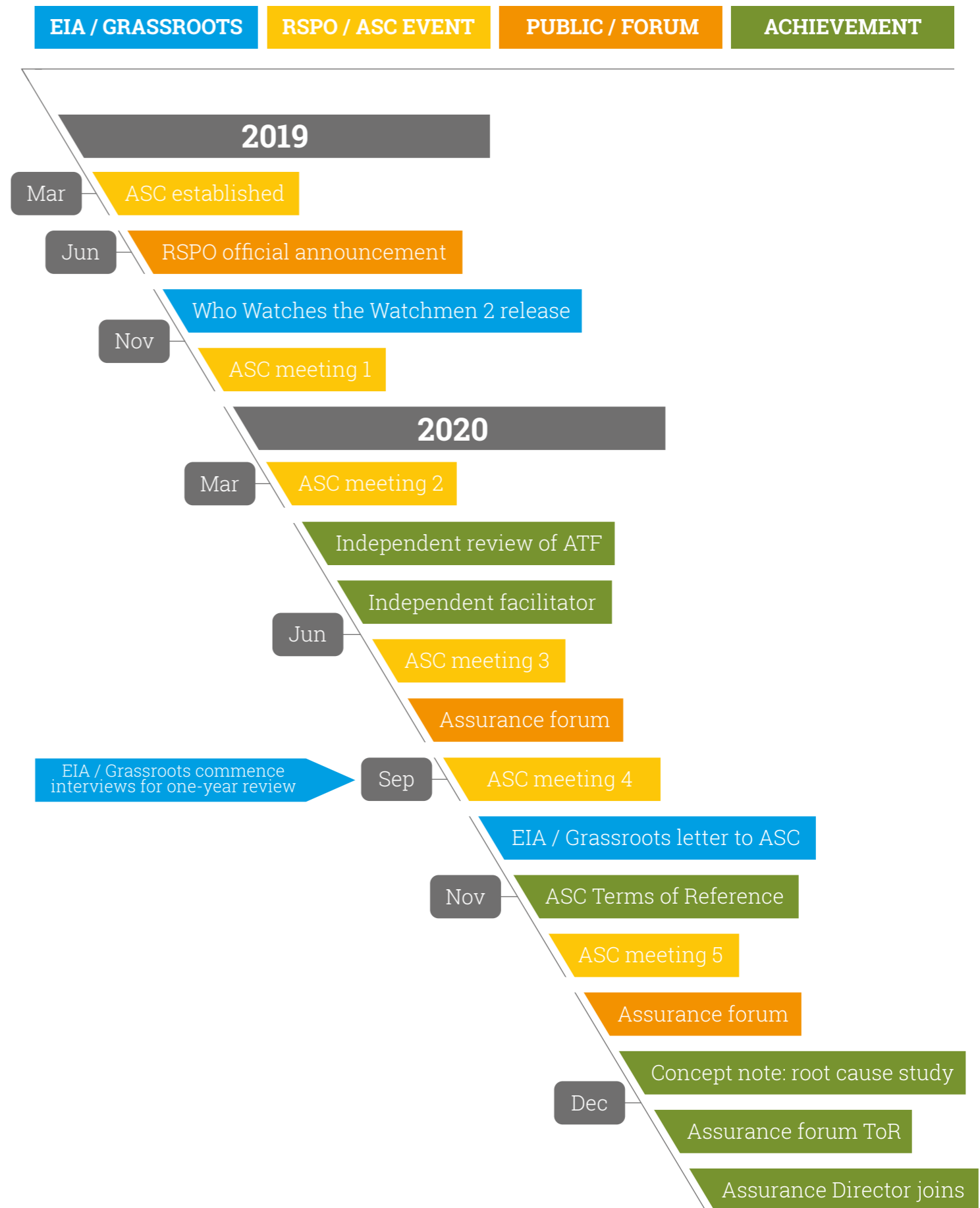
failed to take meaningful action on the issues while sub-standard practices persisted, further eroding the credibility of the RSPO's label and reputation – as detailed in '*Who Watches the Watchmen 2*' in 2019.

Again, the RSPO responded with an initial rebuttal of the second *Watchmen* report but still promised to take action,⁹ committing to an independent review of the ATF and the reinvigoration of its assurance work through the newly formed Assurance Standing Committee (ASC).

The ASC is one of four permanent RSPO Standing Committees, comprised solely of RSPO members.¹⁰ It is tasked to provide direction on credibility and accountability in the RSPO. The ASC was first announced in June 2019 as having been established in March 2019 and it first met in late 2019.

Here we look at what it has achieved so far, based on a review of documents and interviews with a selection of ASC members, the RSPO and Assurance Services International (ASI).

Timeline



Main developments in 2020

Progress on assurance matters in the RSPO in 2020 has been slow and hindered by multiple reasons – the COVID-19 pandemic, a change to the co-chair of the ASC, a new RSPO CEO and a lack of assurance staff in the organisation.

But even taking these factors into account, the ASC has displayed a lack of urgency, tangible results or coherence. Considering its remit and goals, the ASC only meeting four times a year for just a few hours on each occasion, as it did in 2020, is insufficient.

To its credit, the ASC has achieved some milestones, institutionalising itself into the fabric of RSPO's platform with terms of reference, independent facilitation, a workplan, dual-Chairs, Board links and formalisation as part of the permanent RSPO committee structure; the key pieces for it to succeed are in place. The ASC's appointment of an independent facilitator has brought some coherence and has been a key success, mainly by keeping things on track.

Yet the timing of these key milestones casts doubt over the process' reliability. ASC members joined the committee back in 2019, but it took a year just to finalise the ASC's Terms of Reference. The ASC and RSPO have started on a number of assurance activities (see Table 1), but these activities are somewhat haphazard, and ASC's mandate is not always clear. For example, ASC members provided input into the RSPO's Certification System document, but it is unclear what its key asks were and whether these were incorporated in the final version.

Part of the delay seems to stem from a lack of consensus as to the root causes of the issues and how to address them. A root cause analysis was announced in December 2020 by RSPO, based on a recommendation from Harrison's review of the previous Assurance TaskForce.¹¹ Despite Harrison's review corroborating the conclusions of EIA/Grassroots regarding the incompetence of the RSPO Secretariat and finding it woefully lacking,¹² it was announced the Secretariat will lead and conduct much of this root cause analysis. EIA/Grassroots has raised formal objections to this but has received no formal response from the RSPO Secretariat or the ASC as to how it will be addressed.

Equally, the ASC's slow progress relates partly to the structure within the RSPO. The ASC members are all volunteers and rely on the RSPO Secretariat staff to do the work, which has been under-resourced and lacked leadership. The ASC also lacks any formal working groups or taskforces under it, unlike other RSPO standing committees. For example, the Human Rights and Social Compliance Working Group sits under the Standard Setting Committee, meaning it tends to focus on setting better standards and guidance, rather than on how well these are implemented.

External bodies – such as the ASI, the accreditation body for the RSPO – have also been isolated from the ASC by effectively a firewall that is the Secretariat. They were previously part of the ATF. This is inefficient and deprives the ASC of the ASI's technical expertise; nor does it allow the ASC to easily input into those aspects being developed by ASI, such as the Key Performance Indicators (KPIs) for certification bodies. The conditions are similar for other external parties involved in quality assurance in the RSPO, such as the High Conservation Value Resource Network (HCVRN) and High Conservation Stock Approach (HCSA).

There has also been a lack of prioritisation from the RSPO's Board and new CEO of assurance in 2020. The RSPO's failure to re-commission another study on decoupling auditors highlights the low priority which assurance matters currently have. Instead, the International Union for Conservation of Nature (IUCN) and Forest Peoples Programme (FPP) worked to do this externally, outside of the RSPO. The RSPO does at least seem prepared to take on board the findings of this study as part of its root cause analysis.

An Assurance Forum – a way to engage external stakeholders – was also established in 2020, with two meetings taking place. It is supposed to be the primary outreach and stakeholder conduit for participation, but to date has not functioned or performed to support opportunities to interact and gather meaningful feedback. Instead, it has primarily acted as a way to update wider stakeholders. The draft Terms of Reference for the Forum puts no obligation on the RSPO or the ASC to respond to or act on Forum questions or feedback.

Overall, the ASC still has a myriad of assurance issues to work through and is still to identify and reach consensus as to what are the root causes of these issues. The existing, ongoing assurance quality improvement actions by RSPO cannot be shown to have improved the situation, based on annual assessments of certification body performance (see Box 2).

Without a well-functioning and well-resourced Secretariat, the use of external consultants and expertise (especially given the failings of the Secretariat in the past), and a clear mandate from the RSPO's Board and CEO it will struggle to be effective, even if there is willingness from ASC members for it to succeed.

Table 1: Key assurance activities undertaken in 2020

Activity	Description	Progress
ASC-led		
Independent review of the Assurance TaskForce (ATF)	The review, done by Adam Harrison (former RSPO board member) found the RSPO Secretariat and ATF failed in its objectives.	COMPLETED
Independent lead facilitator of the ASC	ProForest was appointed to facilitate the ASC meetings and has an initial one-year contract.	COMPLETED
ASC Terms of Reference (ToR)	The ASC has developed and finalised its ToR	COMPLETED
Remote audit process	The RSPO Secretariat created a remote audit process to substitute for field audits where COVID-19 prevented visits.	COMPLETED
ASC workplan	A workplan has reportedly been developed by the ASC although this is not public.	UNCLEAR STATUS
KPIs for certification bodies performance	The ASI, in collaboration with the RSPO, has been developing KPIs to assess the performance of certification bodies. The ASC has commented and a presentation at the next ASC meeting in March 2021 is planned.	IN PROGRESS
Revamp of the RSPO Secretariat Assurance Unit	New RSPO assurance director as of January 2021 and department to be revamped to the Assurance Integrity Unit.	IN PROGRESS
Fire monitoring hub	The Secretariat is finalising a fire monitoring hub.	IN PROGRESS
Independent pool of experts	Concept is broadly supported by ASC members with indications the Secretariat will manage it, but the role of such a pool is unclear.	IN PROGRESS
Assurance issues root cause analysis study	A recommendation from the independent review with plans for 2021 activity. A draft brief has been developed for this work and the Secretariat has already commenced some work.	IN PROGRESS
Sub-groups formed under the ASC	The ASC aims to set-up sub-groups for specific activities to increase productivity.	PLANNED
Joint meeting with Complaints Panel	A meeting between the ASC and Complaints Panel to discuss assurance issues was delayed.	PLANNED
Not ASC-led		
Revision of the Certification Systems document	The RSPO's Standing Setting Committee (SSC) conducted the revision and the ASC provided feedback.	COMPLETED
Human Rights Defenders (HRD) policy review	Implementation and policy review of the HRD policy was meant to happen – a general review of the policy was done.	UNCLEAR STATUS
Revision of the New Planting Procedure (NPP)	Some ASC members are on the NPP sub-group which is revising the NPP.	IN PROGRESS
Labour Auditing Guidance	A better Labour Auditing Guidance document has been developed but has not yet been field tested because of COVID-19. A Labour sub-group is also being set up again and child rights guidance has been developed too.	IN PROGRESS
External		
Study on increasing the independence of auditors	IUCN commissioned a study into the independence of auditors following the RSPO/ASC not committing to re-commission a previous ATF study.	COMPLETED

Non-Conformity Analysis – A wasted opportunity?

Annual Non-Conformity (NC) analyses by the ASI provide limited insight and utility in understanding why auditors continue to inadequately assess companies' operations against the RSPO's Principles and Criteria on both environmental and social issues.

While some trends (e.g. higher NC numbers when assessments are witnessed by the ASI) are straightforward, the RSPO's refusal to share all data and information on certification reporting prevents meaningful research into why this occurs. This is a demonstration of the ongoing unwillingness of the RSPO to drive meaningful change by getting to the real issues – even when the data is there, parties are willing to do it and a formalised process is in place which means it could happen.

“The analysis and conclusions presented in this report are indicative but not conclusive. In particular, it should be noted that the data is incomplete because ASI did not have access to data available in RSPO's internal systems”¹³

ASI, RSPO NC Analysis, 2019

Recommendations

There has already been a multitude of recommendations as to how the RSPO should improve its assurance systems, not least the *Watchmen* reports and the independent review of the ATF, one of which clearly needs to be prioritising the assurance of human rights.

The following recommendations seek to ensure the full and effective running of the ASC and the RSPO to enable these changes to happen:

Involve ASI, HCVRN and HCSA in the ASC – the ASI should be treated as a formal collaborator or functionary in the ASC because it helps manage the certification delivery mechanism

Expand the Secretariat's capacity and ability to do the work – the Secretariat needs resourcing with dedicated staffing who have technical competence, motivated and in adequate numbers

Better define the roles and responsibilities of the ASC – the mandates of the ASC must be improved. Although it has input into processes, it is unclear how its input is incorporated and endorsed before approval by the RSPO's Board

Utilise the input of external stakeholders – the Assurance Forum must act as a way to incorporate wider stakeholder feedback and input, including into processes and documents

Expand the role of the independent facilitator – given their effectiveness, its role should be enlarged to include more time and greater scope

Demonstrate leadership – the RSPO's CEO and the Board of Governors must prioritise assurance credibility and its budget, to show it is serious and committed

More frequent ASC meetings and formalise sub-working groups – the ASC is exploring utilising sub-groups to work on set issues to progress issues quicker, which is welcomed

Independent, credible root cause analysis – the Secretariat has an untenable position of self-critique and the root cause analysis must have independent oversight.



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