



RESPONSIBLE
AGRICULTURAL AND
FORESTRY INVESTMENTS:
HOW TO SET UP
COMPANY-BASED
GRIEVANCE
MECHANISMS



A MANUAL FOR
INVESTORS AND
RAI PRACTITIONERS

Foreword

Land-based investments have become one of the main drivers for growth and rural development in Lao PDR over the past decades. However, in many cases these investments failed to deliver on development promises made, as they harm the environment and livelihoods of those people affected by the investment or living nearby. Irresponsible business practices like the overuse of agrochemicals or poor labour conditions have often led to land degradation and social conflicts. These conflicts can severely threaten the success of an investment; disputes with local communities risk the reputation of an investor and can lead to long-term losses through a delay or termination of business operations.

To avoid this, the investor's strict adherence to national or local customary laws and regulations, as well as the compliance with international standards and principles, is necessary. This includes the systematic and effective engagement with local communities, who are affected by the investment in any manner.

The effective management of complaints and grievances is furthermore an important element that any investor must take care of when establishing a land-based investment. There are government-based conflict resolution and grievance redress mechanisms that investors can follow, nevertheless, individual investors should have their own grievance redress mechanism in place to manage conflicts and provide a timely and adequate dispute resolution.

The government adopted the revised law on grievance redress mechanisms in 2016. However, no national framework and guidance for investors on how to establish a company-based grievance redress mechanism exists. Therefore, this guide provides guidance and tools for investors on company-based grievance redress mechanisms. The necessities, principles, and practical steps investors should take are described, based on existing laws, international principles and standards.

This is one of five investor guides and manuals related to responsible agricultural investment that were developed under the Responsible Governance of Investments in Land (RGIL) project, commissioned by the European Union and the German Federal Ministry for Economic Cooperation and Development (BMZ). These guides provide in-depth knowledge on responsible agriculture investments, effective and inclusive community engagement on environmental and social safeguards, and the establishment of company-based grievance redress mechanisms.

My hope is that this manual will provide valuable guidance and tools for investors who wish to set up their grievance redress mechanisms and ensure that their investments are conducted in an environmentally and socially responsible manner. I would like to take this opportunity to sincerely thank the stakeholders from the government, civil society organizations, private sector, and the RGIL project teams of GIZ and NIRAS, who have made efforts to develop this investor's manual. Finally, I would like to express my gratitude to the EU and BMZ for their financial support.

Minister


Khamjane VONGPHOSY

Preface

Access to and secured long-term tenure rights of land are essential conditions for rural development, food production and security as well as social peace. The distribution and use of land is also connected to other thematic areas targeted in the Sustainable Development Goals like the achievement of SDG 5 gender equality and the implementation of human rights. As land is a limited resource, its distribution is often disputed between a variety of actors. The competition for land may further be aggravated by commercial agriculture and forestry investments. Such investments are often intended to generate value, providing positive impacts for the overall economy via land revenues and taxes, but also for the local communities in terms of livelihood improvement, job opportunities and transfer of know-how. However, if investments do not follow internationally agreed principles and guidelines and the national legal framework, they run a high risk of having negative consequences on communities and the environment. Investments may lead to land-use disputes, expropriation, and displacement as well as environmental degradation, worsening the socio-economic situation of already disadvantaged groups.

Population growth, climate change as well as global supply chain disruptions for agricultural inputs and staples are some of the drivers of food insecurity, poverty, and hunger. Investments in land, when committed in a sustainable manner – considering ecological responsibility, social equity, and economic performance – contribute to tackling these challenges. To ensure that investments in land not only generate profit for the investors, but also for other actors, certain aspects must be considered when designing sustainable and profitable investments in land.

This is where the project Promoting Responsible Governance of Investments in Land (RGIL), commissioned by the European Union and German Federal Ministry for Economic Cooperation and Development (BMZ) comes in. Implemented by GIZ in Laos, Ethiopia and Uganda, the project aims to ensure that investments in land are productive, contribute to sustainable land management and respect the rights and needs of local populations, in particular vulnerable groups and women. RGIL works together with target communities, political partners and investors as well as Civil Society Organisations, academia and investor associations on the implementation of good land governance based on international principles such as the VGGTs and the CFS' Principles on Responsible Agricultural Investment (RAI).

A series of guides and manuals were developed and validated in a participatory and iterative process with stakeholders, after assessing actual needs regarding capacity development and analysing existing international and national guidelines, regulations and training materials. They combine important elements from existing products and trainings, and apply them specifically to the process of land-based investments and in relation to identified problems in each country. The various guides and manuals complement each other thematically and can be used both as individual products and as a complete toolkit in the respective country-specific context.

This manual is part of the Lao PDR capacity development toolkit for responsible land-based investments and provides practical advice and tools to investors to set up their own company-based Grievance Mechanisms.

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List of abbreviations

AMAF	ASEAN Ministers on Agriculture and Forestry
ASEAN	Association of Southeast Asian Nations
BMZ	German Federal Ministry for Economic Cooperation and Development
CFS	Committee on World Food Security
DSF	Dispute Settlement Facility
ESIA	Environmental and Social Impact Assessment
EU	European Union
FAO	Food and Agriculture Organisation of the United Nations
GIZ	The Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH
GPSNR	Global Platform for Sustainable Natural Rubber
GRM	Grievance Redress Mechanism
GRI	Global Reporting Initiative
IFC	International Finance Corporation
ILO	International Labour Organisation
INGO	International Non-governmental Organisation
MTP	Mekong Timber Plantation Co., Ltd
NGO	Non-Governmental Organisations
OECD	Organisation for Economic Co-operation and Development
PPP	Private Partnership Project
PS	Performance Standard
RGIL	Responsible Governance Investment in Land
RSPO	Roundtable for Sustainable Palm Oil
UN	United Nations
UN/ UNOHCHR	United Nations/United Nations Office of the High Commissioner
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

1. Introduction

Investments in the land and natural resource sector often trigger social conflicts. If these conflicts are not addressed adequately, this cannot only endanger the local communities' wellbeing and livelihoods, but also put the success of business operations at risk. The investor may face financial losses and damage to reputation. International standards require that companies provide effective grievance mechanisms for those potentially affected by social and environmental impacts and provide redress when needed. In Lao PDR, there are already some initial examples of company-based grievance mechanisms. It would be desirable for this to become a common practice. This handbook is intended to help entrepreneurs understand what is expected of them in respect to grievance management and how they can meet these expectations.



Figure 1: Local land users trying to stop an investor from clearing their land

1.1 Context, purpose and target group of the manual

In order to promote economic and social development and no longer fall into the category of least developed countries, the Government of Lao PDR has encouraged investors to invest in Lao PDR and, among other things, launched the "turning land into capital" campaign in 2006 to attract more private investment. Since then, both national investors (rather small-scale) and foreign investors (often quite large-scale) have been investing in Lao PDR (Hett et al. 2020). Many positive effects have been achieved, especially in terms of household income and employment. However, there have also been negative effects, such as a lack of land for farming and rising social conflicts, particularly in large-scale projects, especially in the tree plantation (rubber) sector (Hett et al. 2015).

Despite predominantly positive effects, large-scale land-based investments in mining, tree-plantation as well as agriculture can always unintentionally violate the rights of the local population. If this is recognised at an early stage, investment projects can be modified in good time so that conflicts and harm to villagers as well as to the company can be prevented.



Figure 2: An investor clearing farmland of a local family threatening their food security and source of income

Company-based grievance mechanisms allow for precisely this: early, direct information to the company about negative impacts on the employees or the surrounding population. The intention of such a mechanism is that problems can be resolved directly with each other as soon as they arise. The aim is to compensate for damage that has already occurred and to prevent future negative impacts.



Figure 3: Investor engaging with local communities' representatives seeking to resolve the conflict arising from his investment

Some companies in Lao PDR such as Mekong Timber Plantation (MTP) already have grievance mechanisms. In general, however, such mechanisms are not yet widespread in Lao PDR. This handbook is thus aimed at investors in Lao PDR regardless the size or scale with the intention to familiarise them with the concept of a grievance mechanism and provide them with instructions on how to introduce a grievance mechanism within their company or improve the existing one.

1.2 How the manual has been produced

The preparation of this manual was part of capacity development activities within the framework of Lao-German cooperation under the project “Responsible Governance of Investment in Land (RGIL)”, which is co-financed by the German Federal Ministry for Economic Cooperation and Development (BMZ) and the European Union (EU). The project aims “to foster investments in land that are productive, contribute to sustainable land management and respect the rights and needs of the local population, including vulnerable groups and women.”

In order to ensure that the content and form of the manual meet the requirements and expectations of the government, the private sector and civil society, the development was actively accompanied by a multi-stakeholder forum. The multi-stakeholder forum first discussed a draft outline and later gave their feedback on the draft manual so that the final version could take into account the contributions of the different stakeholder groups.

1.2 How to use this manual

The handbook provides answers to the following three questions:

- Why should investors provide grievance mechanisms in Lao PDR? (Chapter 2)
- What exactly are such grievance mechanisms? What should they be able to accomplish? How do they work? (Chapter 3)
- What can companies do? What options do they have? What concrete steps do they have to take? (Chapter 4)

The reader can thus select the information he or she is looking for. Those who already know what a grievance mechanism is and see a need for it in Lao PDR can directly find concrete advice in Chapter 4 on the necessary steps to take when setting up a new grievance mechanism or improving an existing one.

2. Background: The necessity to offer grievance mechanisms

The necessity for companies to offer grievance mechanisms derives equally from the international as well as the national context. According to international principles, companies have a responsibility to establish a grievance mechanism. In the national context, company-based grievance mechanisms are a helpful complement to the often difficult-to-access and lengthy government grievance mechanisms. In addition, company-based grievance mechanisms allow for faster conflict resolution at a time before the conflict escalates. This can reduce damage and saves costs for all parties involved. It enables the company to avoid reputational damage.

2.1 The necessity as it derives from international standards and regional guidelines

“To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted”
(UN 2011, principles 29).



Figure 4: The conflict has been resolved - investor and community representative presenting the Memorandum of Understanding that they have signed

When the United Nations adopted the Guiding Principles on Business and Human Rights in 2011, they included a call for companies to provide grievance mechanisms for their employees and communities who may be negatively impacted by the companies' operations.

Since the adoption of the UN Guiding Principles on Business and Human Rights, the requirement for companies to have operational-level grievance mechanisms to provide remedy has been enshrined in several international instruments, including a guideline specifically for the Asian region, namely the ASEAN Guidelines for Responsible Investment in Food, Agriculture and Forestry. In 2012, the Committee on World Food Security (CFS) has taken up this requirement and demands that companies provide remedy, including effective operational-level grievance mechanisms, where they have caused or contributed to adverse impacts on human rights and legitimate tenure rights (CFS 2012, General principles 3.2). This places particular emphasis on the importance of grievance mechanisms for the early termination of land seizures.

While these guidelines are voluntary, the voluntary request becomes a mandatory requirement when it is linked to access to credit. For example, International Finance Cooperation (IFC) has anchored this requirement in its Performance Standards 1, 2 and 5. Since the IFC Performance Standards are also used as criteria by other banks, there too the establishment of a grievance mechanism is a prerequisite for the granting of a loan.

Finally, the sustainability reporting that many large companies are obliged to submit has also included the aspect of grievance mechanisms since 2018 (Global Reporting Initiative (GRI) Sustainability Reporting Standard 413-1).

Hence, increasingly companies are expected to either offer their own operational-level grievance mechanisms or provide access to joint mechanisms.

Box 1: Overview on relevant international and regional principles, guidelines, performance and reporting standards

The following principles, guidelines, performance and reporting standards are particularly relevant for companies planning or already carrying out large-scale land-based investments in Lao PDR:

- UN Guiding Principles on Business and Human Rights (2011);
- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), negotiated and adopted by the Committee on World Food Security in 2012;
- ASEAN Guidelines for Responsible Investment in Food, Agriculture and Forestry, adopted by the ASEAN Ministers on Agriculture and Forestry (AMAF) in October 2018;
- International Finance Cooperation (IFC) Performance Standards (PS) (2012):
 - PS 1 on assessment and management of environmental and social risks and impacts,
 - PS 2 on labour and working conditions, and
 - PS 5 on land acquisition and involuntary resettlement;
- Global Reporting Initiative (GRI) Sustainability Reporting Standard 413-1 on Operations with local community engagement, impact assessments, and development programs.

In Annex A1, the central dispositions of these instruments concerning operational-level grievance mechanisms are compiled.

2.2 The necessity as it derives from prevailing conditions in Lao PDR

Large-scale land-based investments in Lao PDR have had not only positive but also negative impacts on individuals and communities. In such negative cases, the Constitution of Lao PDR article 41 defines that “Lao citizens have rights to file complaints and petitions and to propose ideas to relevant state organizations in connection with issues pertaining to the public interest or to their own rights and interest”. There are three mechanisms that Lao people or communities affected can use to raise a so-called “grievance” as set out in detail in the Law on Grievance Redress Mechanisms, revised in 2016. These are executive, judiciary, and legislative mechanisms (GIZ/NIRAS 2022, p. 9f). However, a recent case study analysis showed that local communities do not seem to be aware of these governmental mechanisms, do not have the means to access them or are not motivated to submit their complaints to these mechanisms because of a lacking enabling environment (GIZ/NIRAS 2022, p. 9ff). This often makes it difficult for individuals and communities to claim their rights. As a result, minor violations cannot be stopped early on, and over time they grow into major problems and increasingly complex conflicts that become more and more difficult to resolve. This is not only to the detriment of individuals and communities, but also of companies. The bigger a problem has already become, the harder it is to fix. Companies benefit from being made aware of problems in the early stages of an investment. Often there is still the possibility to realise alternatives that have less or even no negative impact. Company-based or other operational-level grievance mechanisms offer precisely this possibility.

Lao legislation supports the establishment of company-based grievance mechanisms. The decree on environmental and social impact assessment (ESIA) and the one on compensation state that project developers (companies) should set up a committee that is responsible, among other things, for receiving and resolving complaints from affected communities (Article 74 of the Prime Minister’s Decree on Environmental Impact Assessment, 2022, Article 25 of the Prime Minister’s Decree on Compensation and Resettlement Affected by Development Activities, 2016). Further, in the context of Private-Public Partnership Project (PPP), investors have a right and responsibility to establish a simple and effective company-based conflict resolution and grievance mechanism (Article 42 of Prime Minister’s Decree, 2021).



Figure 5: Local community members reporting to the village chief that an investor is clearing their land and forest

3. Operational-level grievance mechanisms: What are we talking about?

3.1 What is an operational-level grievance mechanism?

Operational-level grievance mechanisms are accessible directly to individuals and communities who may be adversely impacted by a business enterprise. Such mechanisms do not require that a complaint or grievance amount to an alleged fundamental rights abuse before it can be raised, but specifically aim to identify any legitimate concerns of those who may be adversely impacted. If those concerns are not identified and addressed, they may over time escalate into more major disputes and human rights abuses.



Figure 6: Local land user negatively affected by an investment submitting his complaint

Operational-level grievance mechanisms are typically administered by enterprises, alone or in collaboration with others, including relevant stakeholders. They may also be provided through recourse to a mutually acceptable external expert or body. They do not require that those bringing a complaint first access other means of recourse. They can engage the business enterprise directly in assessing the issues and seeking remediation of any harm (UN/UNOHCHR 2011, p. 31f).

3.2 Why are operational-level grievance mechanisms important?

Operational-level grievance mechanisms perform several functions, not only regarding the responsibility of business enterprises to respect human rights (UN/UNOHCHR 2011, p. 32; Bündnis für nachhaltige Textilien 2018, p. 5):

1. They support the identification of adverse impacts on fundamental rights of local communities as a part of an enterprise's ongoing **fundamental rights due diligence**. They do so by providing a channel for those directly impacted by the enterprise's operations to raise concerns when they believe they are being or will be adversely impacted.
2. By analysing trends and patterns in complaints, business enterprises can also identify systemic problems and adapt their practices accordingly. In this way, grievance mechanisms become a **monitoring tool** and serve as **source of continuous learning**.
3. These mechanisms make it possible for grievances, once identified, to be addressed and for **adverse impacts to be remediated** early and directly by the business enterprise.
4. Grievance mechanisms thereby **prevent harms from compounding and grievances from escalating**. They thus have a **preventive function** and serve as an **early warning system**.
5. By allowing grievance mechanisms to help identify problems and conflicts at an early stage, companies can **avoid costs and reputational damage**.

3.3 Characteristics of effective grievance mechanisms

In order to ensure their effectiveness, non-judicial grievance mechanisms should be (UN/UNOHCHR 2011, p.33):

- **Legitimate**: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- **Accessible**: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- **Predictable**: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- **Equitable**: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- **Transparent**: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- **Rights-compatible**: ensuring that outcomes and remedies accord with internationally and nationally recognized fundamental rights of local communities and workers;
- **A source of continuous learning**: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

Operational-level mechanisms should also be:

- **Based on engagement and dialogue**: consulting the stakeholder groups for whose use they are intended on their design and performance and focusing on dialogue as the means to address and resolve grievances.

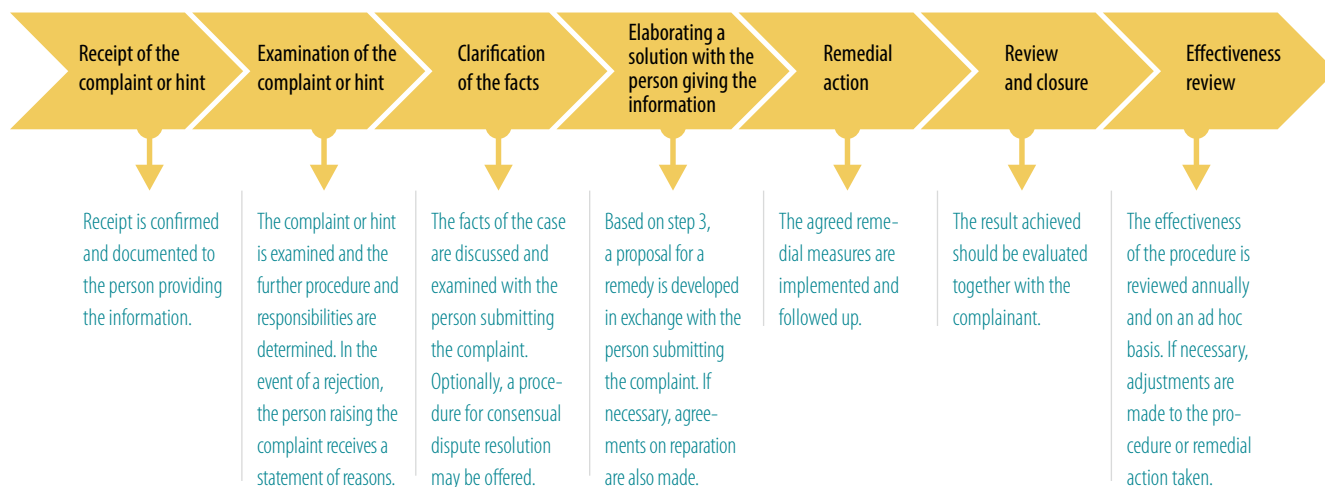


Figure 7: A good company-based grievance mechanism offers a wide choice of communication channels for affected persons to complain

3.4 Procedural elements of grievance mechanisms (process design)

A grievance procedure begins with the filing of the grievance and ends with the review of the effectiveness of the remedy. The individual phases are shown in the following diagram (Bundesamt für Wirtschaft und Ausfuhrkontrolle 2022):

Exemplary course of a complaint procedure



To ensure high effectiveness of the grievance mechanism, the details of the procedure must be clear and transparent. They should be laid down in **publicly accessible rules of procedure**. Ideally, a law sets out these details, as the EU Whistleblower Directive 2019/1937 has done for companies with 50 or more employees, public sector institutions, public authorities as well as municipalities with 10,000 or more inhabitants within the European Union.

Important procedural elements are:

- **Clarity about complainants:** Employees as well as individuals and communities affected by a company's impacts must have the right to use the grievance mechanism.
- **Clarity about potential subject matters of grievances:** In addition to fundamental rights, social and environmental impacts, compliance issues such as corruption, fraud and nepotism should also be allowed to be the subject of complaints.
- **Accessibility of the grievance mechanism:** All potential complainants must be aware of the existence of the grievance mechanism, know how it functions and have access to it.
 - The company must provide permanently available information to staff and external people who may be negatively affected about the existence of the grievance mechanism and how it works. This information must be available in local languages and accessible to non-literate persons. This can be done via:
 - the company's website,
 - local radio,
 - notices to local councils and municipal administrations,
 - signs with clear visualisations on project sites, etc.
 - There should not be any barriers, e.g. in form of costs, language, literacy required, distance, etc. Therefore, it should be possible for grievances to be filed:
 - in all local languages
 - at no cost
 - through a diversity of reporting channels (hotlines, inter-active websites, emails, Apps, competent persons who can be found on site, etc.).
- **Clarity about complaint submission:** Clear information is needed on how to file a complaint. Does a form have to be used? Can the complaint be submitted informally? By what means must it be submitted? Is there a deadline? Ideally, complaints can be submitted informally at any time in any language through a variety of channels (telephone, email, post, direct submission, etc.).
- **Clarity on place of proceedings, language of proceedings, duration of proceedings/processing time, costs of proceedings:** The place of proceedings needs to be close to the claimant. Claimants should be allowed to articulate themselves in their own languages. If interpretation is needed, it needs to be paid by the company. The duration of the proceedings / the processing time should be clearly defined, long enough to ensure appropriate assessment of the case and quick enough to stop harm and provide remedy in time. There should not be any costs for the claimant(s). Exceptions can be made in the case of clearly unfounded complaints that are exclusively designed to harm the company without cause.
- **Acknowledgement of receipt:** Complainants should receive an acknowledgement of receipt within a reasonable period of time and information on how their case will be handled procedurally.



Figure 8: Complainant receiving an acknowledgement of receipt

- **Examination of the admissibility of the complaint and clarification of the facts:** After receipt of the complaint, its admissibility must be examined. The admissible subject matter of the complaint is any negative fundamental rights-related social or environmental impact emanating from the company. The subsequent clarification of the facts should be carried out with the participation of the complainants.



Figure 9: Company staff in charge of the grievance mechanism examining the admissibility of the complaint and verifying the facts in the field

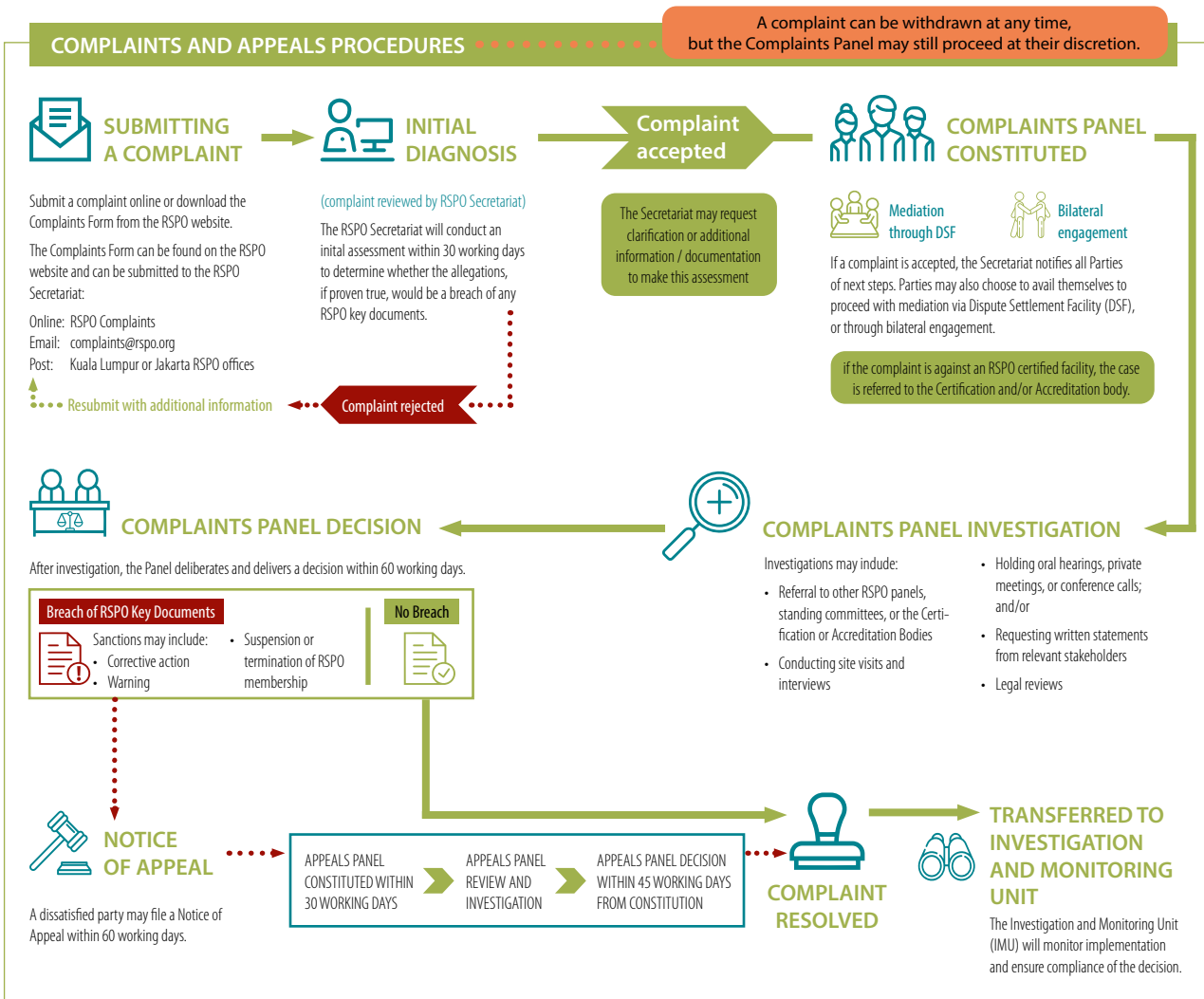
- **Obligation to process the complaint:** Every complaint has to be examined and dealt with.
- **Transparency of the process:** Companies should provide the public with anonymised information on complaints filed and the results of their handling.
- **Confidentiality of the identity of the complainant(s):** While companies should be transparent about the content of complaints and how they have responded to them, they must ensure that the identity of the complainant(s) remains anonymous.
- **Protection from disadvantage / punishment (whistle-blower protection):** Complainants must be safe from punishment, reprisals, intimidation, retaliation, etc.
- **Amicable settlement:** The procedure has to be chosen in such a way that it ensures a consensual resolution of the dispute. Accordingly, mediation is a particularly suitable procedure. Negotiation is also conceivable, unless power asymmetry speaks against it. The decisive factor is that both parties must agree to the outcome.
- **Clarity about redress:** Companies have to give a clear commitment to timely and adequate redress. They should elaborate and publish a detailed overview on the different forms of redress (compensation, reparation etc.) available and specify who is entitled to what type of redress and under what conditions.
- **Implementation of procedural results:** Agreements should be set out in writing, with clear deadlines and implemented as per agreement within the agreed timeframe.
- **Careful selection of those involved in the procedure:** Persons who are in direct contact with the reception of complaints must be able to act without instructions, be independent, act impartially and be discreet.
- **Review of the effectiveness of the grievance procedure/ Quality assurance and development:** Reviews should be done routinely once a year as well as on an ad hoc basis when an additional activity or other changes in the business occur. If a need for adjustment is identified, procedures can be optimised at any time, taking care that this does not invalidate ongoing procedures or otherwise hinder complainants.
- **Reporting:** Both quantitative and qualitative data related to grievances received and handled as well as to the grievance mechanism itself should be included in the company's (sustainability) reporting, and be available to the public.

3.5 Types of grievance mechanisms

Grievance mechanisms can exist at different levels - from the company level to the international level. The table below provides an overview.

Table 1: Grievance mechanisms at different levels

Level	Types of grievance mechanisms
Factory/Company level	<ul style="list-style-type: none"> a) Factory/company-based grievance mechanisms such as fixed contact persons or committees, hotlines and complaint boxes. Sometimes those enterprise-level mechanisms are particularly for workers or local communities. Ideally, such mechanisms are open for employees, suppliers, service providers, end-users as well as individuals and local communities affected by the company's operations b) Third-party service accessible to employees as well as to external persons and communities concerned
Sector/Industry/Branch level	<ul style="list-style-type: none"> a) Alliances and multi-stakeholder initiatives of actors from the same sector/branch/industry. b) Sectoral/Industry-related standard or certification organisations (see below: international level; some international certification schemes have representations at national level)
Multi- Sector/Industry/Branch level	<ul style="list-style-type: none"> a) Alliances and multi-stakeholder initiatives of actors from different sectors/branches/industries such as Fair Labour Organisation. b) Multi-sector standard or certification organisations (at either national or international level)
National level	<ul style="list-style-type: none"> c) Trade Unions d) Non-governmental organisations e) Governmental initiatives such as arbitration courts, legislative channel, and national human rights institutions
Regional level	<ul style="list-style-type: none"> – There is ASEAN GRM for consumer but unfortunately, no regional grievance mechanism is available
International level	<ul style="list-style-type: none"> a) Trade Unions b) International Non-governmental organisations (INGO) c) The Organisation for Economic Co-operation and Development (OECD) national contact points d) International Labour Organisation (ILO) e) Sectoral/Industry-related standard or certification organisations such as Roundtable for Sustainable Palm Oil (RSPO) or Global Platform for Sustainable Natural Rubber (GPSNR) which have systems in place providing for complaints to be raised against their members



Source: based on RSPO w/o year

Whereas some grievance mechanisms are only available for specific target groups, others are open for all type of complainants. Trade Unions, generally focus on complaints by workers. The Fair Wear Foundation Complaints Mechanism is also aimed only at employees. The Roundtable on Sustainable Palm Oil (RSPO) Complaints and Appeals Procedures, on the other hand, is open to anyone who has been negatively impacted by an RSPO member company.

Box 2: Good Practice – The RSPO Grievance Mechanism

The RSPO complaints system is an example of an international branch-wide grievance mechanism. The Roundtable on Sustainable Palm Oil (RSPO) is a global, not-for-profit organization with voluntary members. RSPO is bringing together stakeholders from across the palm oil supply chain to develop and implement global standards for sustainable palm oil. The RSPO complaints system is a fair, transparent and impartial process to duly handle and address complaints against RSPO members that is mainly palm oil producing and processing companies. Guided by the principles of accessibility, efficiency, impartiality, accountability and independence, the RSPO complaints and appeals procedures complement legal mechanisms.

The RSPO complaints system enables stakeholders to address complaints against an RSPO member who has allegedly breached the RSPO Principles and Criteria, Code of Conduct, or other key documents.

The Dispute Settlement Facility (DSF) is a part of the RSPO complaints system. It offers complainants, RSPO members, and relevant stakeholders who are involved in a complaint, the opportunity to resolve these matters through mutually agreed terms, with the help of mediation.

DSF mediation requires parties to mutually agree on an independent mediator to facilitate negotiations in a structured process.

Complaints can be submitted online. Alternatively, complainants may download the complaints form and submit it via email (see Annex A2 for further details on the procedure).

Source: RSPO 2022, RSPO w/o year

4. What can companies do?

This section provides specific guidance on what companies can actually do. Companies generally have three options: They can offer their own company-based complaints mechanism. They can join a multi-company grievance mechanism. Or they can combine the two. Both, company-based and multi-company grievance mechanisms, have advantages (see Tab. 3).

Table 3: Advantages of company-based vs. multi-company grievance mechanisms

Company-based grievance mechanisms	Multi-company grievance mechanisms (Gläßer 2021, p. 10f)
<ul style="list-style-type: none"> • Creation of a direct exchange between complainants and the company, thus increasing mutual understanding, • Creation of mutual trust, • Direct feeding of information from complainants into the monitoring of the company and thus rapid optimisation of processes and activities, • Direct contribution to the company as a learning system. 	<ul style="list-style-type: none"> • Higher degree of independence of individual grievance procedures and the entire grievance mechanism from the influence of individual companies, • Considerable efficiency gains within the framework of the institutionalisation and continuous implementation of the mechanism through a (possibly sector- and region-specific) bundling of resources of the participating companies, • Increased effectiveness of the complaints procedures through jointly financed training and faster professionalisation of the staff accompanying and managing the procedure, • Ensuring continued regional accessibility of grievance mechanisms through their long-term implementation on the ground, • Greater bundling of access to redress for those affected and, as a result, strengthening their confidence in the predictability and quality of the complaints procedure, • Facilitating the establishment of a comprehensive learning system that promotes learning processes at different levels, interweaving the grievance mechanism with other impact mechanisms (especially social dialogue, social auditing).

As many companies in Lao PDR are currently facing the challenge of having to set up grievance mechanisms, it may be a good idea to join forces and set up a joint inter-company grievance mechanism, for example within a sector or within a geographical unit.

The same criteria and elements mentioned in 3.3 and 3.4 apply to an inter-company grievance mechanism as to a company-owned mechanism. In the case of multi-company grievance mechanisms, particular attention should be paid to ensuring that they are locally accessible. Involved companies should therefore also accept complaints locally and then forward them.

Regardless of whether a company wants to set up its own company-based grievance-mechanism or not, in case there already is an appropriate multi-company grievance mechanism at industry or multi-industry level, by trade unions, Non-Governmental Organisations (NGOs) or the government, the company should inform their employees about this mechanism and how it functions and also make this information available to other stakeholders such as individuals and communities potentially adversely affected by their activities, suppliers, service providers, customers and end-users of their products.

4.1 Take stock of what already exists

As a first step, companies need to look at what grievance mechanisms already exist for employees as well as individuals and communities potentially affected by their activities and how neutral and effective they are.

External grievance mechanisms:

- In Lao PDR, there are three government mechanisms that people or communities affected can use to raise a grievance: the executive, the judiciary and the legislative mechanism. However, as outlined in chapter 2.2 these mechanisms do not always meet the usual requirements.
- In Lao PDR, there are the following two additional types of government grievance mechanisms that deal with conflicts between companies and villagers:
 - Investment Promotion Committee: This is the government committee consisting of all relevant sectors that also approves investments proposals.
 - Committee on Economic Dispute Resolution: an arbitrary committee.
- In Lao PDR, there is the following tri-partite grievance mechanism for conflicts between employers and employees:
 - Committee on Labour Conflict Resolution: a tri-partite committee composed of a representative from the Labour Administration Authority who serves as the chair, a representative of employers and a representative of employees who serves as vice chair.
- Trade Unions in Lao PDR have the mandate to participate in tri-partite dialogues on issues and disputes related to rights and interests of workers.
- Lao Bar Association and Legal Aid Office can also provide legal counselling and assistant to villagers.
- There is no OECD national contact point in Lao PDR providing a mediation and conciliation platform since the country, like most Asian countries, is not a member of the OECD.

Companies who are members of a (multi-)industry-standard or certification scheme that offers a grievance mechanism should analyse its accessibility for their employees as well as individuals and communities potentially adversely affected by their activities in Lao PDR.

Company-based grievance mechanisms:

The following questions can be helpful in an analysis/mapping of the status quo:

- What formal procedures already exist?
- Which informal ways have already been established?
- Who uses these channels? How frequently are they used?
- What issues are covered through these channels?
- How effective are these formal and informal grievance channels? The criteria of the UN principles on business and fundamental rights mentioned under 3.3 can be used for evaluation.
- What is the level of satisfaction with these grievance channels and processes among staff as well as individuals and communities that have been affected by negative impacts in the past?
- What are the requirements that have not been taken into account so far?
- What are the suggestions for improvement from staff and local communities?

4.2 Set up and improve the company's own grievance mechanisms

When companies set up their own grievance mechanisms, they should make sure that it will be accessible to all potential complainants and that complaints concerning all their interests and fundamental rights are allowed. These include employees, suppliers, service providers, end-users as well as individuals and local communities affected by the company's operations.

If companies want to improve their company-based grievance mechanisms or set up a mechanism for the first time, they should be guided by the following principles (see 3.3 and 3.4 for details):

- Legitimacy,
- Accessibility,
- Predictability,
- Equity (incl. non-discrimination and gender equality),
- Transparency (on complaints and outcomes),
- Confidentiality (on the identity of claimants),
- Stakeholder participation (engagement and dialogue),
- Human rights compatibility,
- Continuous learning and improvement.

When revising or designing grievance mechanisms, the following aspects should be clearly defined (see 3.4 for further details):

- **Target group:** Who can submit a complaint?
- **Scope of validity/range of subject matters:** Which complaints are admissible?
- **Complaint submission** – format, channels, language: How can complaints be submitted?
- **Procedure:** What is the procedure?
 - When designing the procedure, the following elements need to be included:
 - Acknowledgement of receipt
 - Examination of admissibility of the complaint

- Information to complainant on how the case will be handled
- Clarification of the facts
- Amicable settlement
- Implementation of the procedural result
- **Monitoring:** How can the effectiveness of the mechanism be monitored?
- **Reporting:** For what purposes will the reporting be done and how will it be done?

Both in the improvement of an existing mechanism and in the establishment of a new one the stakeholder groups for whose use they are intended should be consulted and involved in (re)designing the mechanism (see **Box 3**).

Box 3: Establishing a grievance mechanism based on engagement and dialogue

Companies need to include the community when establishing a grievance-mechanism to ensure that it will respond to their needs. Therefore, companies should:

- **Agree with the community on how to receive and register grievances.** This could be through a panel or committee of key representatives and independent advisors, periodic interviews with community members by independent entities, a collection box for written and anonymous feedback, and so forth. Where customary grievance mechanisms exist and the communities choose to follow them, this should be respected by the other parties. Drawing from customary grievance processes to inform the grievance mechanism will make it relevant and meaningful to the communities.
- **Agree with the community on how to review and investigate grievances.** This should include grievance tracking and response systems, and relevant time frames for the grievance-resolution process.
- **Agree on resolution options satisfactory to all parties.** These may include forms of compensation, sanctions or restitution.
- **Agree on how grievance resolution will be monitored,** evaluated and agreed to by all parties.
- **Inform communities about government adjudication processes and access to justice,** in case the grievances cannot be resolved without outside assistance.
- **Formalize, document and publicize the grievance process.** Agree with the community on how the grievance mechanism can be formalized according to customary norms, and/or through its declaration and registration at an official institution (e.g. a regional or local government office). Document the grievance process in forms and languages accessible to all parties, and publicize it.

Source: Food and Agriculture Organisation (FAO) 2014, p. 37

4.3 Set-up a multi-company grievance mechanism

When setting up a multi-company grievance mechanism, the same aspects have to be considered as when setting up a company-based grievance mechanism. The additional challenge is to join forces with other companies, agree on a procedure and clarify the distribution of costs. This means a considerable additional workload in setting up the grievance mechanism. In the long run, however, the costs are compensated by the fact that not every company has to provide, train, finance, etc. the corresponding personnel.

4.4 Improve access to external grievance mechanisms

Companies who are members of a (multi-)industry-standard or certification scheme that offers a grievance mechanism can promote this mechanism and improve access to it for their employees, individuals and communities potentially adversely affected by their activities, suppliers, end-users etc. This requires investigations on how well these stakeholders are informed about the existence and functioning of the grievance mechanism. It is crucial to talk to all different stakeholders to be able to assess the effectivity of the mechanism and to ensure that the way it is functioning corresponds to stakeholders' needs. The different stakeholder groups should first be contacted individually and later join a joint workshop to identify concrete measures for improving access to and functioning of the grievance mechanism.

Companies should also provide information to their employees as well as to surrounding communities on the existing government grievance mechanism (see 4.1 for details). It is recommended companies to first do or commission an analysis of the committees' legitimacy, neutrality, independence, equity/non-discrimination, transparency, confidentiality, accessibility, predictability and effectiveness. If the relevant committees prove to be neutral and effective, access to them should be promoted. For instance, in relation to labour issues, companies should promote access to conflict resolution mechanism of Lao Trade Unions and provide their employees/workers with all relevant information in this respect.

In promoting access to the external grievance mechanism, companies have to facilitate the process and cover the cost.

4.5 Communicate to potentially affected parties

Grievance mechanisms can only be effective if their existence is known, they are trusted and easily accessible. Potential claimants therefore need to be continuously informed about the existence, the trustworthiness, the accessibility and the effectivity of the mechanism. Potential claimants therefore need specific information via various channels.

Type of messages to be delivered:

- Information on the purpose of the grievance mechanism
- Information on its target groups
- Information on the accessibility
- Information on procedures: steps and time for taking each step: starting from receiving complaints until informing results.
- Information on confidentiality and non-retaliation of complaints
- Information on the effectivity (e.g. statistics, examples, etc.)

Communication channels:

a) For the public and employees:

- Village meeting
- Village information boards and speakers
- Signs informing about the company's activities on the spot
- Company website, facebook

- Company newsletter
- Local media such as local newspaper, local radio, and television

b) *For employees:*

- On employment contracts and pay slips
- In the canteen
- At staff meetings
- At training sessions

Companies should also inform local administration about the existence and functioning of their grievance mechanisms as those bodies can disseminate the information within the community when it is needed.

To allow for **two-way communication** and for the **submission of complaints**, companies need to offer another set of **communication channels**:

- Contact persons on every site
- Telephone hotline
- Mobile App
- Inter-active website
- Email address
- Letter boxes

4.6 Provide remedy

In the event of justified complaints, a company should

- a) Take immediate action to stop the negative effects promptly
- b) Take action to remedy and redress the situation
- c) Facilitate the appeal to higher level in case of e.g. local communities are unsatisfied with the results of resolution
- d) Improve monitoring to avoid similar incidents in the future
- e) Introduce preventive measures, if necessary

4.7 Monitor the effectiveness of grievance mechanisms

Grievance mechanisms need to be regularly reviewed for their effectiveness. A company should develop performance indicators to monitor key aspects. Table 4 provides examples of such indicators.

Table 4: Key performance indicators

Indicator	Interpretation
Number of complaints filed within the first 5 years.	Indicating both awareness of the mechanism's existence and confidence that it provides a credible first avenue of recourse.
Number of complaints filed in the further course.	Indicating both awareness of the mechanism's existence and confidence that it provides a credible and effective first avenue of recourse. In the long run, however, this can also mean that complaints do not improve the situation to the desired extent. Therefore, the next indicator should be collected additionally.
Number of grievances of the same or similar nature over time.	Indicating if company/staff is learning from past mistakes and adapting practices and/or operating procedures where appropriate.
Number of confirmations of receipt sent (as a percentage of complaints received).	Indicating that commitments to provide a predictable process and to act with appropriate transparency are being met in practice.
Number of information sent about the intended course of the complaints procedure (measured as a percentage of the complaints received).	Indicating that commitments to provide a predictable process and to act with appropriate transparency are being met in practice.
Number of complaints processed, i.e. up to a joint search for a solution - regardless of whether this was successful (in total number and %).	Indicating how effective the system is.
Duration of the procedure / duration of finding a mutually agreed solution to complaints submitted.	Indicating how effective the system is.
Resolution rate of complaints submitted (% of complaints solved out of those that have been filed).	Indicating how effective the system is.
% of complainants who describe the procedure as fair.	Indicating the degree of complainants' satisfaction.
Development of staff turnover and productivity indicators since the establishment of the complaints mechanism.	Indicating the degree of employees' satisfaction.
Number of adapted practices and standard operating procedures (SOPs) as a result of complaints or root cause analyses.	Indicating whether stakeholders have learned from previous mistakes and grievance procedures and whether experiences have been integrated into management systems.
Number of stakeholder actions that aim to disrupt corporate operations whether by peaceful or other means.	Indicating if individuals feel they have an effective channel for addressing their grievances in a non-confrontational way.

Sources: John F. Kennedy School of Government 2008, p. 39; Bündnis für nachhaltige Textilien 2018, p.19f

4.8 Create transparency on the effectiveness of grievance mechanisms

To ensure transparency on the issue of grievance and redress, companies are required to report regularly on actual negative impacts and redress measures taken. Companies can either publish statistics or provide detailed information on specific cases. Statistical data can be obtained, for example, through the indicators mentioned in 4.7. In the case of more detailed information, the confidentiality of the identity of the persons as well as other personal rights must be protected.

When reporting, at least the following information is expected:

- Number of complaints received
- Information on the nature of the complaints
- Number of complaints resolved (by complaint type).
- Level of satisfaction of complainants

Should processes within the company be adapted to exclude such negative effects in the future, this is certainly worth reporting.

With regard to external reporting, the **GRI** specifies under disclosure 103-2-c-vi what must be reported as a minimum (see **Box 4**). The GRI standard distinguishes between two types of information. The first set of information is about the type of grievance mechanism. The second set of information is about the mechanism's effectiveness. Disclosure 413-1 then specifically addresses local community grievance processes. However, it does not specify which information should be documented.

Box 4: GRI Disclosure 103-2-c-vi on grievance mechanisms

When reporting on grievance mechanisms as specified in Disclosure 103-2-c-vi, the reporting organisation should explain for each grievance mechanism reported:

1. The ownership of the mechanism;
2. The purpose of the mechanism and its relationship to other grievance mechanisms;
3. The organisation's activities that are covered by the mechanism;
4. The intended users of the mechanism;
5. How the mechanism is managed;
6. The process to address and resolve grievances, including how decisions are made;
7. The effectiveness criteria used.

Where relevant, the organisation can report the following for each mechanism:

- The total number of grievances filed through the mechanism during the reporting period;
- The number of grievances that were addressed (or reviewed) during the reporting period;
- The number of grievances that were resolved during the reporting period;
- The number of grievances filed through the mechanism prior to the reporting period that were resolved during the reporting period;
- The number of grievances that were resolved by remediation, and how remedy was provided.

Source: GRI 103: Management Approach 2016

4.9 Costs for setting up a company-based grievance mechanism

The financial costs of a grievance mechanism are limited and represent a relatively small amount of money, especially compared to the costs that occur when a problem is not identified and resolved in a timely manner. This amount should be calculated as part of the risk management budget.

The costs are made up of:

1. **Costs for a study or concept by an external expert.** This study should show what structure should be set up in the company (which persons/positions should serve as contact persons and who should follow up complaints and how) and what training is necessary. Appropriate experts are available on the market. The study should correspond to the size of the company and can be kept very concise and simple for small and medium-sized companies.
2. **Training of the relevant staff.** If necessary, this can be done by the same external expert who prepared the study.
3. **Ongoing personnel costs.** Only in large companies is it worthwhile to set up a position or even a small team for this task. In small and medium-sized companies, complaints are rather rare, so that a person responsible for risk management can also take on this task.
4. **Costs in case of complaints.** In the event that a justified complaint is received, costs may be incurred for the following tasks: On-site meeting with the person making the complaint, damage assessment and, if necessary, mediation by a neutral mediator.
5. **Compensation and costs for re-planning the investment project to avoid further damage.**

There should be no additional costs for the reporting as this issue should simply be included in any already existing sustainability reporting. In case, no sustainability reporting is done so far, the company should check if it would be worth to start doing this (and maybe if it is required by certain partners) and treat this as an additional measure independent from the creation of a grievance mechanism.

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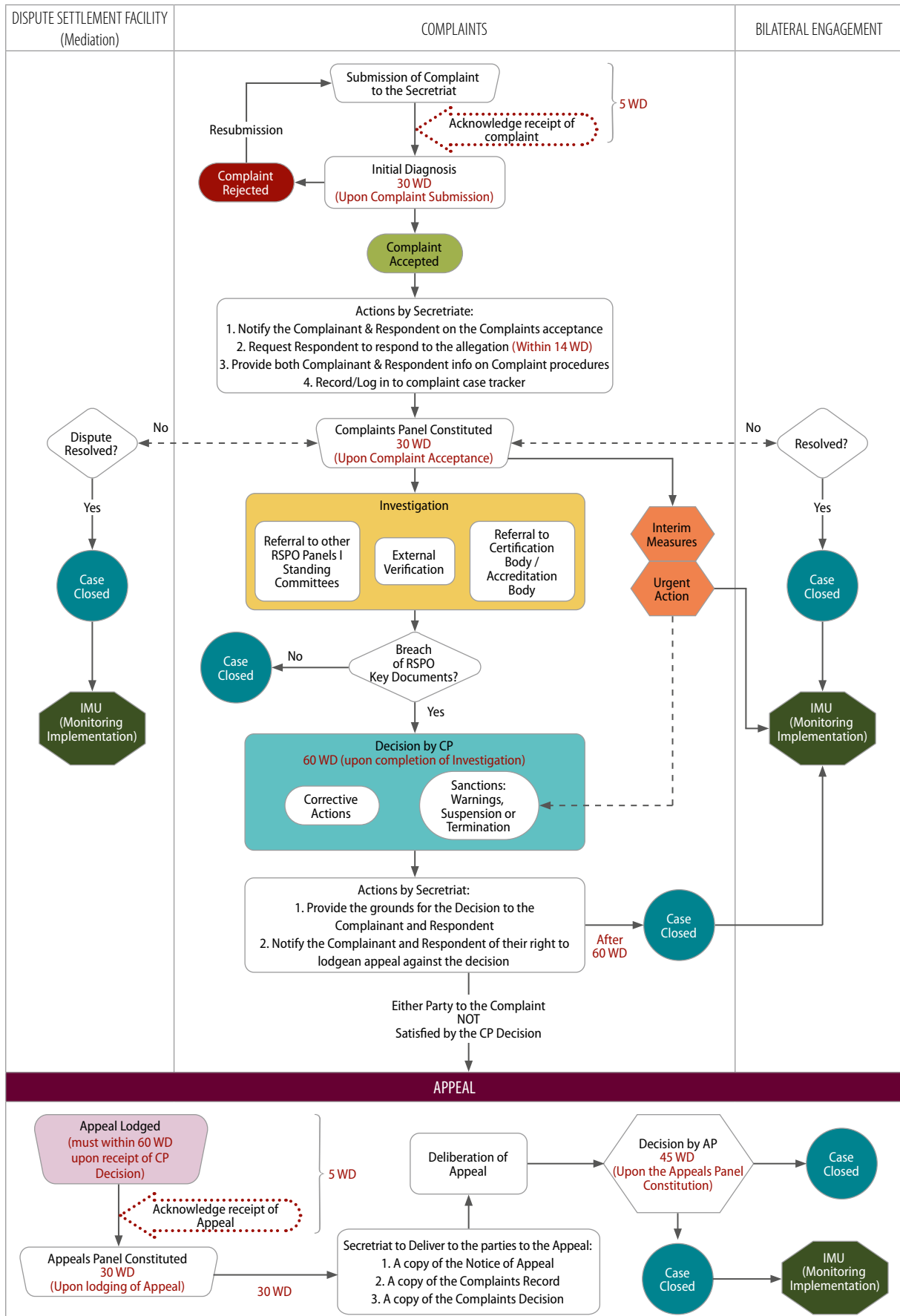
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Annex A1: Overview on international key instruments containing provisions on grievance mechanisms

International instrument	Provision on grievance mechanisms
UN Guiding Principles on Business and Human Rights	<ul style="list-style-type: none"> Principles 29: To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted. Principle 30: Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available.
Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)	<ul style="list-style-type: none"> General principle 3.2 (extract): Business enterprises should provide for and cooperate in non-judicial mechanisms to provide remedy, including effective operational-level grievance mechanisms, where appropriate, where they have caused or contributed to adverse impacts on human rights and legitimate tenure rights.
ASEAN Guidelines for Responsible Investment in Food, Agriculture and Forestry	<ul style="list-style-type: none"> Guideline 8: Respect the rule of law and incorporate inclusive and transparent governance structures, processes and grievance mechanisms. Whereas guideline 8 is addressed to ASEAN member states' governments, the ASEAN Guidelines consider it a responsibility for all stakeholders in the food, agriculture and forestry sectors to "set up a consultative, publicized and transparent grievance resolution mechanism".
IFC Performance Standard 1 on Assessment and Management of Environmental and Social Risks and Impacts	<ul style="list-style-type: none"> Requirements for clients: Grievance Mechanism for Affected Communities: Where there are Affected Communities, the client will establish a grievance mechanism to receive and facilitate resolution of Affected Communities' concerns and grievances about the client's environmental and social performance. The grievance mechanism should be scaled to the risks and adverse impacts of the project and have Affected Communities as its primary user. It should seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate and readily accessible, and at no cost and without retribution to the party that originated the issue or concern. The mechanism should not impede access to judicial or administrative remedies. The client will inform the Affected Communities about the mechanism in the course of the stakeholder engagement process.
IFC Performance Standard 2 on Labour and Working Conditions	<ul style="list-style-type: none"> Requirements for clients: Grievance Mechanism: The client will provide a grievance mechanism for workers (and their organisations, where they exist) to raise workplace concerns. The client will inform the workers of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution. The mechanism should also allow anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.
IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement	<ul style="list-style-type: none"> Requirements for clients: Grievance Mechanism: The client will establish a grievance mechanism consistent with Performance Standard 1 as early as possible in the project development phase. This will allow the client to receive and address specific concerns about compensation and relocation raised by displaced persons or members of host communities in a timely fashion, including a recourse mechanism designed to resolve disputes in an impartial manner.
GRI Disclosure 413-1 on Operations with local community engagement, impact assessments, and development programs	<ul style="list-style-type: none"> Reporting requirements: a) Percentage of operations with implemented local community engagement, impact assessments, and/or development programs, including the use of: [...] viii) formal local community grievance processes.

Annex A2: RSPO Complaints and Appeals Procedure



Source: RSPO 2022



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