

Motion 65 Cut off date

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1. Background

The Directors Office, SMT, FSC secretariat, FSC global network and the national standard development groups have taken lots of efforts for implementing the Motion 65 for Intact Forest Landscapes. There are robust processes in place in the key IFL countries, whereby companies, Indigenous Peoples and NGOs are engaged to develop indicators for protecting the vast majority of IFLs within FSC certified forests.

Transferring the national standards has, however, taken much longer than expected (see the table below) and now it has already become evident that the given cut off date of M65 cannot be met in any of the IFL countries.

Table 1. Progress of transferring the NFSS in key IFL countries

Country	Predicted submission of National Standard to PSU	Predicted implementation of the standard
Brazil	October 2016	March 2018
Peru	December 2016	May 2018
Indonesia	February 2017	September 2018
Canada	April 2017	Nov 2018
Republic of Congo	March 2017	October 2018
Cameroon	March 2017	October 2018
Gabon	March 2017	October 2018
Russia	June 2017	Jan 2019

The cut off date is defined in the Motion as follows: If by the end of 2016 a relevant standard has not been implemented, a default indicator will apply that mandates the full protection of a core area of each IFL within the management unit. *For this purpose, the core area of the IFL will be defined as an area of forest comprising at least 80% of the intact forest landscape falling within the FMU.*



As the full implementation of the National Standard takes one and half years from the submission of the standard, the cut off date should be postponed as much as three and half years in order to avoid the default indicator triggering in most of the IFL countries – still being too early for Finland.

In this situation, the Motion 65 Advisory Team is planning to recommend the FSC Board of Directors to postpone the cut of date, in order to ensure the continuity of the encouraging negotiations in IFL countries. Terminating these negotiations with a top-down order could have dramatic adverse consequences in the IFL countries.

2. Challenge

2.1. Concerns by the companies and the Indigenous People

Serious concerns have raised among some forest companies regarding the impacts of the default 80%-indicator: for example in Congo basin, the production area has been estimated to decrease between 10% and 30% and in Russia the Motion affects some 50 companies, having altogether 4.2 million hectares of IFLs. A threat of the FSC certificate holders drifting to the competing, less demanding certification schemes has been reported in all key IFL countries.

The remarkable overlap between the Indigenous Peoples traditional lands and territories and the IFLs has been increasingly recognized, particularly in Canada, and the concept of Indigenous Cultural Landscapes (ICL) is being developed to provide an FPIC framework when planning the responsible management of these lands. Integrating this concept will take additional time from the standard development groups, while making the standards more robust. Indigenous People are present in each of the key IFL countries and are directly engaged in the standards development processes, as indicated above.

Some Indigenous Peoples groups have communicated that they will leave FSC unless FPIC is duly implemented in all standards addressing M65. SDGs in the key IFL countries have already managed to engage the Indigenous People and the companies to constructive discussions about the implementation of M65. Forcing the default 80%-indicator to over-rule the ongoing chamber-balanced processes would be a disaster for FSC certification in those countries.

2.2. Can the board decide to modify the implementation of a motion ?

In addition to M65, GA in Seville 2014 passed also a Statutory Motion 1, reaffirming the high standing of motions approved by the GA (see Annex 2): *...“Once a decision, motion or resolution has been accepted by the Members, it cannot be modified by the Board of Directors or the Secretariat.”* That Motion also pointed that *“...If the implementation of a decision, motion or resolution appears to be impossible or to have undesired side effects, the Board of Directors shall report this to the membership.”*

After the GA, the implications of the Motion 1 were analyzed by the FSC lawyers in Mexico. The analysis concluded that the board: (a) is obliged to faithfully implement the decisions of the general assembly,



including motions, and (b) is entitled to interpret such decisions as needed and to refrain from implementing decisions if they are impossible to implement or if their implementation would have undesired side effects.

2.3. Proposed way forward

Alternative 1: Recognizing the delay in transferring the National Standards, the M65 Advisory Team proposes the BoD to communicate to the membership that the cut-off date of the M65 is postponed to the June 2019 implying the latest submission date of the National Standard will be before the end of 2017 to avoid the 80% default indicator triggering in. This will enable the standard developers to go through a robust, transparent, chamber balanced and science-based process to develop nationally adapted indicators for protecting the vast majority of the cores of IFLs within the Management Units, without introducing the default indicator to their standards.

Alternative 1 is supported also by the involved network partners and regional offices.

Alternative 2: The authors of the Motion 65 oppose a global suspension of the cut-off date suggested in Alternative 1 and they recommend that the cut off be temporary, acting as a moratorium applied from the end of 2016 until such a time as strong indicators for protecting IFLs are in place. Thus all operations would be required to place all IFL core areas in a moratorium until robust indicators are adopted. This would allow negotiations of regional and national standards to continue, while maintaining an appropriate sense of urgency toward their implementation. Toward this aim, M65 wording could be refined to the following:

"If by the end of 2016 a relevant standard has not been implemented, a default indicator will apply that mandates the full protection of a core area of each IFL within the management unit until such a time as robust indicators are adopted. For this purpose, all actors operating within the FSC system will be required to (1) publish maps on Global Forest Watch of all FSC certified areas and Intact Forest Landscapes within these areas and (2) freeze all harvesting in the core area of the IFL, defined as an area of forest comprising at least 80% of the intact forest landscape falling within the FMU, until such time as strong indicators are implemented."

"Respect for "Free Prior and Informed Consent of Indigenous Peoples, traditional peoples and forest dependent communities in affected FMUs" is central to M65. As such, (3) if Indigenous Peoples, or traditional peoples and forest dependent communities in affected FMUs wish to engage in FSC certified low impact small-scale community forest use (not industrial logging with roads), in affected IFL cores, these activities may supersede the moratorium."

2.4. Enforcement of the Alternative 2

If the Board of Directors choose Alternative 2, a decision is needed to launch the appropriate indicators for the points (1), (2) and (3) to the current National Forest Stewardship Standards and the CB standards



in the IFL countries before the end of 2016. Those key IFL countries (Table 1), which can demonstrate strong progress in working with FPIC, might receive a short, time-bound extension in case by case basis.

3. Requested decision

The FSC Policy and Standards Committee is requested to make a recommendation regarding the choice between the two alternatives for implementing the Motion 65 cut off date:

Alternative 1 Postpone the M65 cut off date to June 2019

Alternative 2 Launch temporary protection of the 80% core area of each IFL within the management unit, until a robust national standard addressing Motion 65 becomes effective. This temporary protection is enforced by launching the appropriate indicators for the points (1), (2) and (3) (see Chapter 2.3) to the current National Forest Stewardship Standards and the CB standards in the IFL countries before the end of 2016.

4. Annexes (Attached)

Annex A Decision request to BoD

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