



Forest Stewardship Council®



Policy for the Association of Organizations with FSC

FSC-POL-01-004 V3-0 EN

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POLICY FOR THE ASSOCIATION OF ORGANIZATIONS WITH FSC

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The Forest Stewardship Council® (FSC) is an independent, not for profit, non-government organization established to promote environmentally appropriate, socially beneficial, and economically viable management of the world's forests.

FSC's vision is that the world's forests meet the social, ecological, and economic rights and needs of the present generation without compromising those of future generations.

Introduction

The Forest Stewardship Council (FSC®) is the world's most trusted and recognized brand in responsible forest management. Today, many multi-national businesses and governments choose FSC certification because it provides them with guaranteed label awareness, brand value, and reputational benefits.

At the root of our success is our three chamber governance system – economic, social and environmental chambers – and an international membership that brings together the world's leading environmental NGOs and campaigners; businesses and social organizations; forest owners, managers and processing companies; and individuals. Collectively, we share a firm commitment to the vision and mission of FSC, and have a responsibility to uphold the values expressed in the *Principles and Criteria* (FSC-STD-01-001) that detail the essential elements of environmentally appropriate, socially beneficial, and economically viable forest management.

In addition to our forest management, controlled wood and chain of custody certification standards, all organizations associated with FSC agree to avoid certain controversial activities – both in FSC-certified operations and in non-certified operations – that would represent a danger to the credibility of FSC, its members, and all entities associated with it. These controversial, or unacceptable, activities include:

- Illegal harvesting or trade in forest products;
- Violation of traditional and human rights and any of the ILO Core Conventions;
- Significant damage to high conservation values in forests;
- Significant conversion of forests to plantations or non-forest use; and
- Planting or growing of genetically modified trees for commercial purposes.

FSC Policy for Association: Protecting the FSC brand

The *Policy for the Association of Organizations with FSC* (FSC-POL-01-004) or *FSC Policy for Association*, protects the reputation of the FSC, and all entities associated with it, by acting as a safeguard against organizations involved in the unacceptable activities listed above. This policy is supplemented by procedural documents that describe how this policy is implemented.

Disassociation is a measure of last resort with organizations that are systematically violating the activities listed above. This can only take place once all efforts have been made to address concerns with the organization prior to lodging a complaint. Its implementation assumes that other attempts at mediation and/or other actions to stop the unacceptable activity or prevent it from occurring again have been exhausted or have failed.

FSC procedural documents: Policy implementation

To put the *FSC Policy for Association* into practice, two procedural documents are used at different stages of implementation:

1. Any organization seeking to associate with FSC must undergo a screening process in accordance with the *Due Diligence Evaluation for the Association with FSC* (FSC-PRO-01-004) for compliance with the *FSC Policy for Association*. This procedure is also implemented on an ongoing basis to monitor for changes.
2. If a potential violation of the *FSC Policy for Association* is brought to the attention of the FSC Secretariat, then the *Processing Policy for Association Complaints in the FSC Certification Scheme* (FSC-PRO-01-009) is applied. This procedure can be activated in two ways:
 - Reactively: When a stakeholder files a complaint against an organization related to a potential violation of the *FSC Policy for Association*.
 - Proactively: An investigation can begin when there is evidence or allegations of a potential violation of the *FSC Policy for Association* in order to evaluate and resolve the situation as an alternative to a complaint being filed.

NOTE TO STAKEHOLDERS: Currently, the *Processing Policy for Association Complaints in the FSC Certification Scheme* is only activated reactively, through a stakeholder complaint. The Working Group proposes to expand this procedure to enable FSC to proactively evaluate allegations of possible *FSC Policy for Association* violations as an alternative to a complaint being filed. If approved, it will be integrated into FSC-PRO-01-009. For more information, see the discussion paper on the proactive *FSC Policy for Association* evaluation prepared for this consultation.

Version History

As FSC evolves and grows, we face new challenges, and we improve the quality and strength of our policies through transparent and inclusive review processes. The *FSC Policy for Association* was first introduced in March 2007, and subsequently:

- V1-0 The FSC International Board approved the essential elements of the *FSC Policy for Association* in July 2009 – the six unacceptable activities in which organizations wishing to associate with FSC could not be directly or indirectly involved in – with recognition that further work was needed to describe the policy implementation process in more detail (see Part I).

V2-0 The FSC International Board approved in September 2011 the policy implementation details (see Part II). This is the current version of the *FSC Policy for Association*.

V3-0 Proposed changes to the policy

Since the last approval of the *FSC Policy for Association* in 2011, there have been inconsistencies in its application and a continuous need for interpretations. In early 2014, after a careful review of the policy, the FSC International Board directed the Secretariat to establish a working group to revise the policy.

The review also discovered the need to significantly strengthen the existing *Due Diligence Evaluation for the Association with FSC* (FSC-PRO-01-004) (currently an internal procedure), to prevent organizations in breach of the *FSC Policy for Association* from associating with FSC and to form the basis for monitoring and evaluation activities.

A new mechanism is also being proposed - the *Proactive Policy for Association Evaluation* -- to be included within the *Processing Policy for Association Complaints in the FSC Certification Scheme* (FSC-PRO-01-009). This aims to address the issue that the FSC Secretariat does not currently have the means to proactively investigate potential violations of the *FSC Policy for Association*, or take action outside the formal and resource-intensive complaints process.

CONTENTS

- A Scope
- B Effective date
- C References
- D Terms and definitions

Part 1 Policy Elements

Part 2 Policy Implementation

A Scope

The *FSC Policy for the Association* applies to all organizations associated with, or seeking to associate with, FSC. This includes all organizations holding a contractual agreement with FSC, including a license agreement, cooperative agreement and a membership agreement. It states six unacceptable activities (see Part 1: Policy elements) that organizations associated with FSC must commit to avoid, and defines the consequences of a breach to this policy when such action is warranted.

For FSC certificate holders, this policy also covers the activities that do not fall within the scope of its FSC certificate.

This policy applies to situations where the unacceptable activity is occurring or has occurred. *Intent* to engage in an unacceptable activity is not sufficient grounds to trigger a complaint.

For the purposes of this policy, the term *organization* shall have the meaning as defined in Section D (Terms and definitions) below.

STAKEHOLDER INPUT REQUESTED: Please provide your perspective (including rationale) on the above Scope elements:

- Application of the *FSC Policy for Association* on activities that do not fall within the scope of the organization's FSC certificate (see Section 3, below).
- Whether 'intent' to engage in an unacceptable activity should or should not be sufficient grounds to trigger a complaint.
- Application of the *FSC Policy for Association* for all organizations holding a contractual agreement with FSC.

B Effective date

Approval date **TBD**
Publication date **TBD**
Effective date **TBD**

C References

The following referenced documents are essential for the application of this document. For undated references, the latest edition of the referenced document (including any amendments) applies.

- *Processing Policy for Association Complaints in the FSC Certification Scheme* (FSC-PRO-01-009)
- *Due diligence evaluation for the association with FSC* (FSC-PRO-10-004)
- *Guideline for Panels evaluating complaints against the Policy for Association* (FSC-GUI-01-004)

D Terms and definitions

For the purposes of this international document, the terms and definitions given in *FSC-STD-01-002 FSC Glossary of Terms* and the following apply:

Accountability

Accountability is defined to exist when the organization has/had *control* in the entity that engaged, or is engaging in, an unacceptable activity (see definition for control).

Association

An association with FSC is formally established through any of the following contractual relationships:

- FSC membership agreement
- FSC accreditation agreement
- FSC license agreement
- FSC cooperation agreement

Control

The possession of power to direct, restrict, regulate, govern, or administer the performance of a legal entity through authority, rights, contract, or other means.

Explanatory notes:

- To determine whether Control exists, FSC may consider all factual circumstances including, but not limited to, commercial relationships, financial links and managerial or Board relationships, and/or special relationships.
- A commercial relationship with a legal entity that has engaged, or is engaging in, an unacceptable activity does not, by itself, constitute Control. However, where an organization has a commercial relationship with another legal entity that is commercially equivalent to organizational Control, such commercial relationship may be used as evidence of Control. For example, if an organization has a commercial relationship whereby it is the sole or principle buyer of a supplier that committed an unacceptable activity and the legal entity could have prevented the activity from occurring (e.g. because it had the authority to approve or wrote the supplier's management plan or refusal to buy from the supplier would have meant that the activity would not have occurred) such organization may be held accountable for the unacceptable activity of its supplier.
- When applying this definition, Control shall be deemed to exist, unless it is determined to not exist based on evidence that is provided to the contrary, in corporate relationships that include, but are not limited to:
 - an organization owning more than 50% share interest in another legal entity, or
 - an organization owning the right to use all of the assets of another legal entity

STAKEHOLDER INPUT REQUESTED: The policy's current use of the terms 'direct involvement' and 'indirect involvement' has led to confusion on what they mean and also does not necessarily represent an indication of actual accountability for the occurrence of an action. The Working Group therefore proposes that the concept of actual control be considered, as defined above. The Working Group acknowledges that eliminating the 51% ownership threshold for determining involvement may result in some grey areas that will need to be evaluated on a case-by-case basis. The Working Group requests input from stakeholders on this aspect of the policy and if there are specific recommendations for improvement.

Specifically with respect to including commercial relationships in this definition of 'control', the Working Group requests stakeholder input on: a) the implications of the second bullet of the explanatory notes, as written; and b) whether control should be further expanded to include situations where the organization knowingly purchased from a supplier engaged in an unacceptable activity regardless of whether the organization itself had control over the unacceptable activity.

Forest

See FSC-STD-01-002 FSC Glossary of Terms for the definition of 'forest'

Genetically modified (trees)

See FSC-STD-01-002 FSC Glossary of Terms for the definition of 'Genetically Modified Organism'; this policy is specific to organisms that are trees.

Illegal harvesting or trade in forest products

Harvesting of timber and non-timber forest products in violation of any laws applicable in that location or jurisdiction including, but not limited to, laws related to the acquisition of harvesting rights from the rightful owner, the harvesting methods used and the payment of all relevant fees and royalties.

The term 'trade' refers to both 'illegal trade in forest products' as well as 'legal trade in illegal forest products'.

ILO Core Conventions

These are as defined in the ILO Declaration on Fundamental Principles and Rights at Work. See also *FSC-STD-01-002 FSC Glossary of Terms for the definition of 'ILO Declaration on Fundamental Principles and Rights at Work'*

Organization

The individual or entity holding/applying for association with FSC and therefore responsible for demonstrating conformance with the requirements upon which that association is based.

For the purposes of this policy, the term *Organization* refers to the totality of legal entities to which the entity applying for association is affiliated, including subsidiaries/affiliates, parent companies, and joint ventures.

Significant conversion

Conversion is considered significant in any case of:

- Conversion of High Conservation Value Forests
- Conversion of more than 10% of the forest areas under the organization's control within a national jurisdiction in the past 5 years
- Conversion of more than 10,000 ha of forests under the organization's control within the national jurisdiction in the past 5 years

Explanatory Notes:

- The threshold represents the total percentage or area of the organization and all entities over which it has control
- The 10,000 ha and 10% thresholds are meant as triggers for determining whether forest conversion is considered to be significant. Conversion that is less than these percentage and numeric thresholds, or that exceeds them, does not lead to disassociation per se, but will lead to a case by case investigation according to the Complaints Procedure. In judging cases, other factors will be taken into account, including but not limited to:
 - Regional ecological and social impacts;
 - Plans for continued conversion;
 - Repeated conversion in other national jurisdictions;
 - Past conversion (over a 10-year period);
 - Restoration efforts; and
 - Responsible and planned conversion with corresponding environmental and social impact assessments and mitigation measures versus reckless conversion.
- The establishment of ancillary infrastructure necessary to implement the objectives of responsible forest management (forest roads, skid trails, log landings, etc.) is not considered conversion.

See FSC-STD-01-002 FSC Glossary of Terms for definition of 'conversion'

Significant damage to high conservation values in forests

Damage is considered significant if the attributes that constitute high conservation values no longer exist or cannot be repaired.

Explanatory Note:

- It is not expected that the organization will conduct HCV assessments to determine the existence of HCVs and the threats to them; rather, it is expected that the organization makes use of available tools such as FSC National or Centralized Risk Assessments and has mitigation strategies in place in situations where potential risk to HCVs exist.

See *FSC-STD-01-002 FSC Glossary of Terms* for the definition of the six 'high conservation values'.

Violation of traditional and human rights

See *FSC-STD-01-002 FSC Glossary of Terms* for the definition of 'traditional rights' and 'human rights'

PART I - POLICY ELEMENTS

- 1 FSC aims to associate with organizations aligned with the FSC mission and values and does not want to be associated with organizations accountable for the following unacceptable activities:
 - a. Illegal harvesting or trade in forest products;
 - b. Violation of traditional and human rights;
 - c. Violation of any of the ILO Core Conventions;
 - d. Significant damage to high conservation values in forests;
 - e. Significant conversion of forests to plantations or non-forest use;
 - f. Planting or growing of genetically modified trees for commercial purposes.

NOTE TO STAKEHOLDERS: Activity c (Violation of any of the ILO Core Conventions) is outside the scope of this revision process, and a separate FSC Working Group has recently been established to address this issue. This policy will be aligned with the outcome of that Working Group process.

NOTE TO STAKEHOLDERS: Regarding activity f (Planting or growing of genetically modified trees for commercial purpose), the mandate of the Working Group was to clarify the ambiguity of the term 'introduction' that is found in the current text of the *FSC Policy for Association*, and have proposed the interpretation, 'planting or growing for commercial purposes'. Their mandate was not to review or revise the FSC system-wide policy on GMOs. Moreover, the Working Group recommends that the FSC Secretariat establish a focused and meaningful process to discuss and seek resolution on the GMO policy.

STAKEHOLDER INPUT REQUESTED: Under the current version of the policy, activity b is limited to violations of traditional and human rights that occur on *forestry operations*. The Working Group proposes to expand the scope to include violations of these rights irrespective of where they occur. The rationale includes the following: a) alignment of the scope of this activity with that of the other activity related to social violations, c, violation of ILO Core Conventions; b) alignment of the scope of this activity with activities relevant to Chain of Custody certificate holders; and c) a violation of societal rights may cause reputational risk to FSC in any situation. Please share your perspective on this proposed revision and the impact that such a change might bring to the implementation of this policy.

PART II - POLICY IMPLEMENTATION

2 Due Diligence

- 2.1 FSC will only enter into an association, or maintain association, with an organization that has passed the due diligence evaluation, conducted by the designated entity according to FSC-PRO-10-004.

NOTE TO STAKEHOLDERS: This revision process also includes a revision of the Due Diligence Procedure and a discussion paper (pre-draft) of that procedure is available for comment as part of this consultation period.

3 Investigations of allegations

- 3.1 Any stakeholder, including FSC, can call for an investigation if an organization is suspected to be involved in a breach of this policy as listed in Part 1.
- 3.2 Two mechanisms are available for investigating an allegation: a) a **proactive** evaluation of an organization; and, b) a **reactive** complaint against the organization. Both are detailed in the document *FSC-PRO-01-009, Processing Policy for Association Complaints in the FSC Certification Scheme*.

NOTE TO STAKEHOLDERS: This revision process also includes a proposal to enable FSC to evaluate allegations of possible Policy for Association violations as an alternative to a complaint being filed. A draft of this proposal is available for your comments as part of this consultation process.

NOTE: These two mechanisms are intended for use in addressing allegations that do not fall within the scope of the organization's certificate (i.e., the FM, Controlled Wood or CoC standard) (See 'Scope', above); however, these mechanisms may be used in succession to suspension or termination of the organization's certificate.

4 Consequences of a breach of this policy

- 4.1 An organization found to be in breach of this policy will face one of two consequences:
- a. Disassociation from FSC, with specified pre-conditions for renewal of association. Actions to terminate the contractual relationship are taken within a 30-day period upon the decision to disassociate.
 - b. Conditional Association, with time-bound conditions that must be met in order to maintain association with FSC. The organization must agree to meet these conditions, and failure to agree and implement the conditions within the agreed timelines will be grounds for disassociation (option 4.1.a, above).

STAKEHOLDER INPUT REQUESTED: This second consequence that offers an alternative to disassociation is a new option being considered by the Working Group. While there is strong support for the inclusion of this option, consensus was not reached by the Working Group. This issue will again be deliberated at the next Working Group meeting and your input will be taken into consideration. Please see the FAQ prepared for this consultation for more information on this option and which also describes the types of conditions that would be implemented in order to maintain association, such as:

- a. compensation for damages;
- b. a time-bound action plan for resolving the issues that led to the violation;
- c. improved due diligence procedures and systems in place to ensure that future violations do not occur.

