



Forest Stewardship Council®



Second Consultation Report on FSC-POL-01-004 V3-0

Summary of comments received on the second revised draft of FSC-POL-01-004 V3-0 *Policy for the Association of Organizations with FSC*

Consultation period: 1 December 2015 – 29 January 2016

This document provides an overview of the second consultation of the *FSC Policy for Association (PfA)*. It includes:

- An analysis of the number and range of stakeholders who participated in the process
- A summary of the issues raised in the comments
- An indication of how the working group considered and addressed these issues

A compilation of all the comments received, and observations provided for each of them, is available on the [PfA webpage](#) or through the Quality Assurance Unit.

This document follows the requirements of FSC-PRO-01-001 (V 3-0) *The development and revision of FSC normative documents*.

1. The number and range of stakeholders who participated in the process

In total 36 stakeholders participated:

- Seven stakeholders represented environmental interests
 - Five stakeholders were Environmental North members
 - Two stakeholders were Environmental South members
- Three stakeholders represented social interests
 - Two stakeholder were Social North members
 - One stakeholder was a Social South member
- 22 stakeholders represented economic/forest industry interests
 - 10 stakeholders were Economic North members
 - Five stakeholders was an Economic South member
 - Seven stakeholders were either certificate holders, members of industry associations, or other companies involved in the forest products industry
- Three certification bodies
- One Network Partners (Global North)

See Annex A for a full list of stakeholder who submitted comments

2. Summary of issues raised and how they were addressed

A. *Policy structural issues*

Background and salient comments: This revision has aimed to strike a balance between providing more detail within the policy so that it is clear and consistently applied while also maintaining the simplicity that is needed of a policy rather than a prescriptive and auditable standard. Stakeholder comments pointed to structural issues and offered diverging perspectives:

- The policy is getting too complex, too prescriptive
- Rather than have two separate procedures, all information should go within the policy itself. Too confusing to have a policy that refers to procedures
- The draft is still unclear, so have another consultation before finalizing
- This policy is a disincentive to become a certificate holder. Too complex.
- Good additions

Working Group recommendation: It is believed that the right balance between simplicity and prescriptiveness was found, as well as adding reference to the Complaints Procedure and the Due Diligence Procedure (DDP) where necessary without providing all the details that are (and should be) in those respective procedures. Separately, an overview/guidance document of the PfA Normative Framework should be developed so that users and stakeholders understand and apply the policy more clearly.

B. *Introductory section that provides background on when/how the PfA is meant to be applied*

Background and salient comments: The first draft of the policy included preamble text to clarify when/how the PfA was intended to be used, mostly attempting to clarify that it is a defense mechanism for FSC, and, as a measure of last resort, enables FSC to cut ties with

organizations that create reputational risk to FSC. However, stakeholder comments pointed to certain aspects of the text that were not articulated properly. This section was revised based on comments from the first consultation in order to articulate these points more clearly. Stakeholder feedback included:

- The added text is helpful in clarifying when and how it is applied, and that substantiated evidence is needed, that disassociation is a last resort, other measures can be taken, etc.
- There is still a need to further define ‘substantiated evidence’
- The text incorrectly describes that disassociation only happens if the organization does not have appropriate systems in place
- Clarify that the PfA is investigated by FSC and not the CB (this is a huge point of confusion)

Working Group recommendation: This was not a controversial issue, and the working group agreed with all stakeholder comments raised. Additional revisions will be made accordingly, as well as to more clearly cross-reference this policy with the PfA Complaints Procedure.

C. Application of PfA Complaints Procedure for activities that fall ‘within the scope’ of the certificate

Background and salient comments: The first revised draft PfA proposed that PfA unacceptable activities that fall ‘within the scope of the certificate’ (e.g., that are covered by the certification standard to which the organization is certified) should NOT be addressed through the PfA Complaints Procedure process and rather should be addressed by the Certification Body complaints procedure. This is because it would effectively mean that there are two parallel processes going on at the same time which is confusing and also goes against FSC’s dispute resolution framework of addressing complaints at the ‘lowest level possible’. The second revised draft made the same proposal; however, it further recommended that the CB accreditation standard (FSC-STD-20-001) be revised so that PfA unacceptable activities within the scope of the certificate would result in an automatic suspension, which could then allow a PfA complaint to be followed in succession. This elicited the following stakeholder comments:

- Agree that the PfA process is for situations outside the scope of the certificate and that 20-001 should be revised as proposed – make sure it is consulted upon before finalizing.
- Agree to not have complaints within the scope of the certificate. However, the revised 20-001 already says that a Major NC (correction within 3 months or suspension) must be issued when a non-conformity affects the integrity of the FSC system. This may be enough, with no further addition needed.
- The proposed change to 20-001 would be problematic because it will need clear guidance and thresholds for determining when, for example, illegal harvest, really is a PfA violation and when suspension is warranted (not complying with the buffer zone is a minor issue and not a reason to disassociate).
- Don’t agree with proposal - PfA complaints need to be allowed in certified operations. There have been cases where they occurred and were not addressed properly, were too slow and ineffective, etc.

Working Group recommendation: Stakeholder feedback was helpful for realizing that the proposal to include this provision in the CB accreditation standard was perhaps not the best approach. Upon further reflection, it seems that this entire issue/section from the PfA could be removed, as it has more to do with the complaints procedure than the policy itself (there is full agreement that the activity within the certified operation is a PfA violation, and the question is more about the process used to address it). This issue can be picked up again in

the revision of the PfA Complaints Procedure (proposed). In addition, the PfA should emphasize the importance of addressing complaints according to the FSC Dispute Resolution framework and at the 'lowest level possible'.

D. 'Intent' to engage in an unacceptable activity as a trigger for a PfA complaint

Background and salient comments: The first revised PfA draft proposed the clarification that 'intent' to engage in an unacceptable activity should not be considered a breach of the PfA, although it should trigger other proactive measures on the part of FSC to make sure that the activity does not, in fact, occur. Stakeholders generally agreed during the first consultation and again in the second consultation provided the comments:

- Agree with decision and also with other actions it might trigger
- Agree with decision but not with having it trigger other actions. If included, then the full set of proactive measures/actions needs to be developed and consulted upon

Working Group recommendation: Retain language that was in the first and second draft: 'Intent' to engage should not be considered a PfA breach, and the policy should state that it does trigger other proactive measures, such as monitoring and other actions. Further analysis on what these actions should be is not needed and there is no need to do more consultation on this. This needs to be kept simple and flexible to use.

E. The inclusion of non-certificate license holders in the definition of 'association'

Background and salient comments: The first revised draft proposed that non-certificate license holders should be excluded from this policy (and therefore from the definition of 'association'). FSC trademark and other staff have always assumed that this sector of license holders was exempt from the policy and, further, that including them would be politically, strategically, and legally extremely challenging. Stakeholder input during the first consultation was mixed, and upon analysis of all information, the working group offered the same proposal in the second draft. Comments were again mixed:

- Agree to not include non-certificate holder license holders.
- Agree to not include non-certificate holder license holders; however, there needs to be a known procedure in place for how their behaviors are dealt with, as well as other organizations that are a reputational risk and that are not covered in the policy.
- Do not agree to not include non-certificate holder license holders. How else do we deal with them if not through this policy and complaints procedure? If excluded, then develop something else for them.
- The issue is broader than this. The policy really only applies to certificate holders since the 6 unacceptable activities are only relevant to them. Need a policy with unacceptable activities that applies to all entities.

Working Group recommendation: Keep as proposed: to not include non-certificate license holders. Further, clarify that for non-certificate license holders, and other organizations with license agreements that are engaged in behavior that puts FSC's reputation at risk, the process for resolving it can follow FSC-PRO-01-008 (the complaints process for non-PfA complaints).

F. Definition of Control

Background and salient comments: In the first revised draft, the proposal was made to substitute the current concept of 'direct/indirect involvement' with 'control'. The rationale for this was that the current terms are not felt to be the most accurate way for determining responsibility for engaging in an unacceptable activity since it focuses on meeting a 51% ownership threshold. Comments on the first consultation were mixed, and after careful

consideration, the working group proposed the same definition of 'control' in the second draft. Comments again included:

- Control should not extend to any type of commercial relationships because it inserts FSC into determining relationships with entities not at all connected with FSC and is vague, etc.
- It is not clear how the degree of control will be determined since these types of companies are not transparent
- Agree with definition
- Agree with definition, but revise explanatory notes to not be so specific

Working Group recommendation: Maintain proposed definition for reasons previously discussed (see first consultation report for more information). Provide examples somewhere (annex, guidance doc, etc). Once this definition is put into practice, there will very likely be lessons learned and the need for tweaks, and this can be amended through interpretations, additional notes, examples, etc.

G. The definition of accountability

Background and salient comments: The revised first draft of the policy defined 'accountability' as having control (see issue F, above) of the unacceptable activity. This proposal did not have consensus from the entire working group – while there was full working group agreement to use the concept of 'accountability' rather than 'direct/indirect involvement' in this revision, a majority of the working group members expressed that accountability should be based on control while a minority of the working group members perceived that accountability should extend to any unacceptable activities in the supply chain where the organization knowingly had suppliers engaged in unacceptable activities.

This impasse issue was highlighted in the first revised draft and stakeholder comments were highly divergent (see first consultation report for more information). This was again deliberated in the second draft, again with no consensus, and again with diverging stakeholder perspectives:

- Use UN Guiding Principles on Business and Human Rights framework and definition of 'responsibility' that includes both 'control' as well as other impacts of suppliers. The implications may be different but the responsibility should be all-encompassing
- Limiting accountability to control does not address actions by minority shareholdings and joint ventures. It would mean that violations would be acceptable as long as it is done by an entity that the associated organization has no control over. All progressive corporate policies refer to 'irrespective of stake/share or location'
- Extend – the organization cannot control the services of a contractor but it can control whether it buys from them
- Restrict accountability to the forest/forest product sector
- Agree to limit accountability to control and not to extend the definition –it is understandable why this is wanted but it is not practical: too difficult to define, prove (allegation versus evidence), apply consistently and practically, and also to prove that the organization had prior knowledge of it. And what is the measure for 'control' in those situations? Is there a time element? The line for this policy needs to be drawn somewhere and this is not practical to include, and would overburden the FSC system and dilute what the PfA actually can achieve.
- Do not extend – the organization cannot control the services that a contracted company provides to other organizations.

Working Group recommendation: The working group previously determined that it would not be possible to reach consensus on this issue. The Board report will include both options, as well as the default option of maintaining the existing use of 'direct/indirect involvement' to determine accountability. The alternative concept of having different consequences for different levels of responsibility will also be proposed.

H. Definition of 'Associated Organization' and 'Affiliated Group'

Background and salient comments: The draft PfA provides a definition for the entities that must comply with the PfA and who are affected by a decision to disassociate. The first draft used the term 'Organization' and (for reasons elaborated in the first consultation report), the second draft breaks this into two terms: 'Associated Organization' and 'Affiliated Group'. The actual definitions had only minimal changes, which are also the same definitions that have always been applied to this policy though are not stated in the current version. Stakeholder shared the following perspectives (focused on the term 'affiliated group'):

- The proposed definition makes the policy a lot clearer
- Not clear what the limit of the affiliated group is
- Definition is too broad and all-encompassing. Won't work. Disincentive to become associated with FSC. Narrow the scope so that it applies to the organization's affiliates engaged in the forest/forest product
- Broaden the scope to specify 'or has a stake, share or financial interest in... If not then it won't cover minority shareholdings or JVs..
- Use the term 'material ownership interest' (it includes all subsidiaries and associated companies in the forests and forest products sector of the applicant organization'

Working Group recommendation: The definition is a fundamental element of the PfA itself (upstream accountability), and with needed parameters so that it focuses on entities within the corporate structure that have control or are controlled by the other entities. This issue has already been highly negotiated, and the above concerns were taken into account during those deliberations. While this definition makes the policy very broadly applicable, there are other sideboards in the policy (definition of control and accountability, scope of unacceptable activities) that make it acceptable. Recommend to maintain the language proposed in the revised draft and to carefully monitor application of this definition to make sure it is fit for purpose and having its intended impact.

I. The six unacceptable activities

a. Illegal harvest/trade: No substantive comments received. The working group re-affirmed that the text in the draft should be maintained.

b. Violation of traditional/human rights: Similar to the first consultation, stakeholder comments diverged between having the scope of this category defined as the forestry/forest sector versus having the scope be all-encompassing to consider these to be violations irrespective of where they occur, including to extend forestry to 'forest landscapes'. Also similar to the outcome of the first consultation, the working group acknowledged that, morally, no organization should be violating these rights anywhere; however, the practical implications of expanding the scope of this category would be challenging. They also felt that the main intent of the revision should be to cover the forest products sector so that CoC was covered (which is a deficiency in the current policy), yet further expansion of the scope may be a significant change to the policy. They recommended that the scope be 'forestry/forest products'.

- c. Violation of ILO core conventions:** Stakeholder comments mostly pointed to issues outside the scope of this revision and that are instead being addressed by the ILO Working Group. There was a request to make it clear that the application of this category remain the same until the ILO Working Group produces a recommendation. The working group agreed that such a clarification could be put in the policy.
- d. Significant damage to High Conservation Values in Forests:** Similar to category b, some stakeholders perceived that this category should extend beyond forests. Other comments appreciated the link to National/Centralized Risk Assessments, though some wanted clarification that the mitigation strategies might not be those that were listed in these assessments. The working group recommended to maintain the text as that in the draft. HCVs and HCV assessments are based on FSC's framework for assessing HCVs and therefore do not extend beyond forests.
- e. Significant conversion:** Stakeholder comments were generally in favor of this category, though with several comments focused on the fact that the numeric and percentage thresholds were considered triggers, and that the complaints process would evaluate on a case-by-case basis whether meeting (or exceeding) the conversion thresholds should lead to disassociation. For example: *'Disagree with 'triggers' and that these thresholds could be met without disassociation. If conversion exceeds these thresholds then it automatically lead to disassociation.'* The working group felt that it was important to maintain these numeric and percentage thresholds as triggers, yet observed that all six of the unacceptable activities are evaluated on a case-by-case basis during the complaints process to determine whether disassociation should occur, and it was therefore not clear why this is specifically being called out in the category of significant conversion. They recommended deletion of this clause from the definition.
- f. GM trees:** Some stakeholders expressed that the proposed category went too far in allowing GM trees to be introduced since the bar was set at 'commercialization'. Others felt that the category was too limiting and that the use of GM trees should be allowed up to the point of actual sale. The working group felt it was appropriate to focus on the intent of this category, which was to allow for research and field trials, though that it should be further clarified that field trials were for the purpose of research and that these trees could not be commercialized. Separately, they again recommended that FSC initiate an informed dialogue to discuss its policy on GM trees.
- g. Additional categories:** Similar to the first consultation, stakeholders proposed other categories to be added as unacceptable activities: use of illegal tactics to protest an issue; activities that breach policies and procedures established by FSC and that bring damage to FSC or bring FSC or its members into disrepute; corruption; activities more applicable to NGO members. The working group felt that additional activities would go beyond the scope of the policy, particularly those that were not focused on on-the-ground environmental/social damage. Further, they acknowledged that it would not be possible to make the PfA all-encompassing to all risks and that FSC had other means of addressing unacceptable behavior outside this policy. The group recommended to make that clearer in the policy.

J. Consequences of a breach: Probation

Background and salient comments: In the current policy, there are only two options for resolving a PfA complaint: immediate disassociation (with timelines and conditions for re-association) or no disassociation (with no implications). This revision aimed to determine whether a third option should be made available as an alternative to disassociation: probation (called 'conditional association' in the first revised draft). This would provide an organization found in breach of the PfA with a means to maintain association along with putting certain actions in place to correct and prevent further unacceptable activities from occurring. It would allow the PfA to be used more constructively and solution-oriented, having a more positive impact and more leverage for immediate corrections, rather than cutting ties which may mean that change never happens or takes a longer time to happen. Further, a decision to disassociate affects the entire affiliated group, even if the breach was confined to the actions of one small entity, and it is a decision that is hard to make. Probation would allow corrective actions to be placed where needed and in cases where the Board would have likely decided to not disassociate. The second draft specified that there would be factors for determining whether the option of probation should be selected, and also a set of conditions which the organization would have to meet during the probation period.

Similar to the first consultation, stakeholders offered diverging perspectives:

- Disagree with this option. It is new, will lead to more challenges, gray zones, costs, lack of transparency, lobbying, an unnecessary additional stage in the disassociation process.
- Disagree with this option. If an organization is in breach, then disassociation is warranted. There isn't 'partial compliance' with the policy. Simple as that. Don't see what grounds there are for leniency.
- Agree with option and time-bound conditions. The ones outlined in the FAQ are sufficient. Add to policy text
- Agree with applying it to affiliated orgs (and situations where the organization might be responsible but not in control of its suppliers) but not to the organization's own operations
- Agree with option, but don't try and prescribe conditions/factors. Need flexibility and this will be built up through case law
- Agree with option, and need to specify the conditions/factors (with additional ones provided)

Working Group recommendation: Although not all working group members fully supported this option, they agreed that it should be included in the policy as long as there are specific conditions placed on the organization and that there are specific factors for determining whether this option should be selected. These should be added to the PfA Complaints Procedure as guidance, and further assessed and vetted during the revision of the PfA Complaints Procedure (proposed). The Board report (and/or other communiqué) should also provide more detailed justification for why this option is being added to the policy.

K. Re-association

Background and salient points: The revised draft proposed text related to re-association, which was new to the policy but not to its application. This was a non-controversial issue which received few comments, all supporting this addition. One comment suggested that the FSC Board should not be involved in working directly with the organization towards re-

association, though this was not its envisioned role in the process and the working group felt that the text was fine as-is.

L. Due Diligence Procedure

Background and salient comments: After the first consultation, it was recommended that more technical expertise was needed before the DDP can be further elaborated and therefore it was not included in this consultation. A few comments were nonetheless provided:

- Agree to not include in this revision
- Needs to be simple, straightforward, no increase costs, etc (software interface is not necessary)
- Need for 'full disclosure requirements'

Working Group recommendation: The above comments will be considered as part of the process to develop the DDP.

M. Proactive PfA Evaluation

Background and salient comments: After the first consultation, it was recommended that a more comprehensive review/revision of the PfA Complaints Procedure was necessary and was a better way of addressing the intent of the 'Proactive PfA Evaluation'. As such, this was not included in this consultation. A few comments were nonetheless provided:

- Strong support of Proactive PfA Evaluation – essential to make process more efficient and get ahead of complaints and reputational risk
- Agree with removing this from the current revision
- Not clear why a Proactive PfA Evaluation is needed (or a revision of the complaints procedure)

Working Group recommendation: The above comments will be considered as part of the process to revise the PfA Complaints Procedure, if approved by the FSC Board. Additional information regarding the rationale for this revision was provided in the first consultation report and in the minutes of the third meeting of the working group. They will again be provided in the initiation of the PfA Complaints revision process, if approved.

N. Other

- Add a timeframe for when a past activity is/is not considered a PfA breach. Suggestion: if it happened prior to association, then it is not a PfA breach.
- Regarding consequences, there needs to be actions taken on stakeholders when they file a complaint without substantiated evidence. It still causes damage to the organization, even if a violation is not found. There needs to be some sort of consequence for this type of action.

Working Group recommendations:

- Include language previously developed/agreed to by the working group related to the timeframe for considering whether a past activity could be considered a PfA violation. This timeframe should be based on a set of factors, yet should not be limited to the time of association with FSC.
- Issues related to substantiated evidence are further covered under the PfA Complaints Procedure, and it is not clear what else FSC could do except to not accept a complaint.

Annex A: Stakeholders who submitted comments for the second consultation of FSC-POL-01-004

Name	Affiliation	FSC Member
Environmental Interests		
Forest staff from multiple countries	WWF	Member Env North
Jens Kanstrup	Forests of the World	Member Env North
Bill Barclay	Rainforest Action Network	Member Env North
Grant Rosoman	Greenpeace (all members)	Member Env North
Alfredo Unda		Member Env South
Lincoln Quevedo		Member Env South
Leonie van der Maesen		Member Env North
Social Interests		
Paula Montenegro		Member Soc South
Chris van der Goot	Foundation Ecohout	Member Soc North
Hubert Kwisthout		Member Soc North
Economic/Industry Interests		
Kevin Gallagher, Guy Tremblay, Mike Maxfield	Resolute Forest Products	Member Econ North
Keith Moore	Consultant	Member Econ North
Jeffrey Bradley	AF&PA	
Ross Congo	International Paper	Member Econ North
Terry Cundy	Potlantch	Member Econ North
Sami Lundgren (1 st); Timo Lehesvirta (2 nd)	UPM	Member Econ North
Pekka Kallio-Mannila	Stora Enso Oyi (SE WSF)	Member Econ North
Deborah Baker	Georgia Pacific	Member Econ North
Maria Yoshioka	Aruaco	
Karoliina Neimi	Finnish Forest Industries	Member Econ North
Kaliana Tanganelli (1 st) Daniela Vilela (2 nd)	IPEF	Member Econ South
Eric Smith	KapStone	
Armi Purhonen	Metsa Group	Member Econ North
Maurxem Kayna Lima Alves	CMPC Celulose	
David Griswold	Verso Corp	
Ivone Namikawa	Klabin SA	Member Econ South
Andrew Heald	Confor	Member Econ North
Maria Ines Miranda	SSC Americas	Member Econ South
Ana Young		Member Econ South
Kathy Lynn Danzer	Danzer Holding AG	
Estevao do Prado Brago	Suzano Pulp & Paper (all 12 affiliated members)	Member Econ South
Saila Kettunen	Kotkamills Oy	
Certification Bodies		
Meriel Robson	Soil Association	
Gabe Bolton	Rainforest Alliance	
Tigran Martirosyan	NEPCon	
Network Partners/FSC staff		
Rosie Teasdale	FSC UK	