



Forest Stewardship Council®



FSC Policy for Association Revision

Meeting No. 3 Summary and Next Steps

Dear FSC Colleagues,

Many thanks to all who provided comments during the first consultation of the *FSC Policy for Association* (PfA) and related procedures. We very much appreciate the time invested in reviewing these documents and the perspectives shared. Attached please find a compilation of the comments received, along with responses. A Spanish version will be available shortly.

The third PfA Working Group meeting was held in Bonn in October, and your comments were carefully considered in the deliberations. I felt it was a highly productive and successful meeting – an informed and spirited conversation, with decision-making based on shared values and a common understanding of the purpose of the PfA in the FSC system. Consensus was reached on almost all issues and we are now working to address the remaining ones so that a final version can be released. The meeting summary is attached, providing details of how certain issues (and your comments) were addressed and the rationale behind decisions.

From your comments, I noted some misunderstanding on certain elements of the PfA, the Due Diligence Procedure, and the ‘Proactive PfA evaluation’ mechanism – I have attempted to clarify these in both the responses to your comments and in the meeting report. While we strived (very hard!) to make these documents as concise and coherent as possible, the reality is that we are grappling with complex and challenging issues, and these are hard to articulate in a user-friendly fashion. Your comments were extremely helpful in pointing out where we need to do better, so thank you! Please also know that the final version of the PfA will be accompanied by a companion ‘laypersons’ guidance document with the aim of making the technical details of the policy more understandable.

Finally, you will see that we have done some re-thinking on the direction of the ‘Proactive PfA evaluation’ and the Due Diligence Procedure. While their intent has not changed – as both are critical procedures for putting the PfA into effective practice – we are now looking at a more comprehensive review of the PfA complaints procedure, which will better streamline ‘proactive’ evaluations; and, we are considering immediate steps towards improved due diligence and establishing a technical group to consider the longer-term approach (more information available soon).

We will have additional updates on the next steps in this process shortly. In the meantime, please do not hesitate to contact me with any questions or comments.

Again, thank you!

Karen Steer, External Coordinator, FSC PfA revision process

FSC Policy for Association Revision Face-to-Face Meeting No. 3

Meeting Summary and Next Steps – for public distribution –

The Policy for Association (PfA) Working Group held its third face-to-face meeting in Bonn from 29 September to 1 October 2015. This document presents the main issues discussed and recommendations made by the group. These will be incorporated into the final draft of the PfA.

Participants: All PfA Working Group members and technical experts participated with the exception of Maria Tysiachniouk. See Annex 1 for a complete list of meeting participants.

Meeting goals and main outcomes:

- Consideration of comments received from stakeholder consultation and how to address them
- Development of recommendations on key issues within the PfA still needing to be resolved in preparation for a final draft, with action plans in case of impasse issues
- Advancement made on the Due Diligence Procedure and Proactive PfA evaluation mechanism, including possible expansion of PfA Working Group terms of reference (ToR) to include comprehensive revision of the PfA complaints procedure
- Sense of accomplishment, that the process honoured all perspectives, and that the next drafts of the documents reflect the mandate of this group.

This meeting built on the discussions held during the first two PfA Working Group face-to-face meetings, subcommittee conference calls, and the comments received from stakeholders.

The meeting kicked off with an overview of the PfA Normative Framework (the PfA, the Due Diligence Procedure, and the Complaints Procedure) and the key issues within each of these that are being addressed as part of this revision process. An overview of the activities since the last meeting was also presented, including stakeholder outreach conducted during the consultation period.

To guide the group in decision-making, a list of ‘objective criteria’ was presented and discussed. These objective criteria were meant to serve as filters so that agreements could be reached based on principles rather than position bargaining. The objective criteria included the following:

- strategic focus (does the policy meet its intended purpose and alignment with the FSC global strategy?);
- fit with the group’s ToR (mid-level modification and refinement rather than policy overhaul; clarification of misunderstandings; learning from implementation to date);
- impact/implications of a recommendation (environmental, social, economic, admin/managerial);
- chamber-balanced and stakeholder/membership support.

Issue 1: Purpose of the PfA

The preamble of the policy included text to clarify when and how the PfA was intended to be used, mostly attempting to clarify that it is a defence 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 parts of the text that were not articulated properly.

“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.”

- Only systematic? What about serious non-systematic violations?
- Only once all efforts have already been made? What about a more timely process?
- Do we need protection against frivolous complaints?

There was agreement that these points needed to be addressed, and that the focus of the paragraph should not be about disassociation, but rather about when and how an evaluation is triggered. It was affirmed that violations do not need to be systematic, that it is not up to the stakeholder to exhaust all efforts, and that frivolous complaints will not be accepted.

Revised text being considered is (draft, still to be refined): “Allegations of breaches to the *FSC Policy for Association* against organizations will be accepted and evaluated only upon presentation of substantiated evidence that the organization violated, or is violating, the *FSC Policy for Association*. Disassociation will be considered as a measure of last resort against organizations that violate the *FSC Policy for Association*, and that do not have the appropriate systems and protocols in place to avoid practicing the unacceptable activities. The policy also allows FSC to impose other, less punitive, consequences for violations depending on the gravity of the violation. Stakeholders should engage in all reasonable efforts to address concerns before presenting an *FSC Policy for Association* complaint.”

Issue 2: Association – to whom does the PfA apply?

A. Do we need to make it even clearer that this policy also applies to members (NGOs)?

There were many stakeholder comments regarding the need to make it clear that the PfA applies to all members, including NGOs. That said, the draft policy does clearly describe in both the introductory section and in the ‘definitions’ section that ‘association’ includes members and therefore there is already sufficient clarity that the policy applies to members. The group recommended that no additional clarification is needed in the policy itself. A companion, user-friendly PfA guidance document will be developed upon approval of the policy, and it can be made even more clear in that document that FSC members must also comply with the PfA.

It was further discussed that these stakeholder comments may actually be more directed at the need to make the PfA more ‘relevant’ to NGO members, meaning that the unacceptable activities should relate to activities in which NGO members may be involved rather than focus on forests and forest products. This discussion was picked up during Issue 5 (see below).

B. Does the policy apply to non-certificate holder licence holders?

In the current PfA, the definition of “association” states “FSC licence agreements”, with the assumption therefore that it includes non-certificate holder licence holders (i.e. those who hold a Trademark Licence Agreement [TLA] for promotional purposes). The PfA Working Group had not up to that point discussed whether there should be an exception for this sector, as it was not previously noted as an issue in the review. Over the past few months, however, it has become clear through discussions with FSC staff who implement TLA agreements that, in fact, it was always assumed that this sector was exempt from the PfA and that it would be problematic to include them. The rationale was as follows.

- TLAs do not currently refer to the PfA, although TLAs do currently include the clause: *“The Licensee commits to promote the environmentally appropriate, socially beneficial and economically viable management of the world’s forests and endeavors to engage in acceptable forest practices and to dissociate and abstain from unacceptable forest practices and the violation of the FSC Principles and Criteria (FSC-STD-01-001).”* This, therefore, gives FSC a means for cancelling contracts if there is reputational risk.
- There are potential legal arguments and challenges with including this sector, and it would be politically difficult to take actions against these types of companies.
- It would greatly increase the cost of due diligence and bear the risk of overstressing the whole system.
- These companies are to a great extent not remotely involved in the production chains of forest products.
- This would pose a major barrier to the current Trademark Service Programme, based on their experience of negotiating dozens of these agreements.
- This would expand the scope of the mandate of our already overburdened dispute-resolution system.

Considering the above, the PfA Working Group agreed that non-certificate holder licence holders should not be included in the definition of “association” and that it should be made clear in the policy that any ‘unacceptable behaviour’ from these entities can be addressed in their respective contracts, which could result in a termination of the contract (though not disassociation).

Issue 3: Application of the PfA within the scope of the certificate

The PfA is, first and foremost, intended to address situations where the six unacceptable activities are occurring on operations that are not certified (i.e. ‘outside the scope of the certificate’). The question at hand is whether PfA complaints can also be raised when one of the PfA unacceptable activities is taking place within a certified operation, even if the unacceptable activity is covered under the ‘scope of the certificate’ (i.e. it is also a non-conformance within the P&C, controlled wood, or chain of custody standard). This is an issue because there are now situations where stakeholders are interested in lodging PfA complaints for activities that are within a certified operation in order to escalate the complaint so that it is addressed more efficiently and effectively than through the normal dispute process, or to more formally seal a suspension or termination when the activity is so egregious that suspension or termination is not enough.

The main reason for not using the PfA complaints process to address unacceptable activities within the certified operation is because it would mean that there are two processes going on in parallel: the normal dispute-resolution process (with the certification body) and also the PfA process (with a complaints panel, etc.). If there are concerns with the normal dispute-resolution process, then those should be addressed accordingly rather than selecting the PfA

complaints process. Moreover, it was recognized that the PfA complaints process will result in an issue taking longer to address than if the dispute-resolution process were used.

To address stakeholder concerns on this issue, the following were recommended.

1. PfA complaints cannot be lodged if the unacceptable activity is occurring 'within the scope of the certificate'.
2. The PfA can be used as a **successional tool**, meaning that once a certificate is terminated or suspended, then a PfA complaint could be filed because the operation is no longer certified. This could be done to seal a termination if the unacceptable activity had the potential to cause further reputational risk. It could also be done to ensure that a PfA violation does not lead to suspension of a single certificate in one case, and disassociation and suspensions of all company-owned certificates in another. This point will be made clear in the next draft of the PfA.
3. FSC-STD-20-001 (the certification body accreditation standard) can be revised to include that: non-conformities with criteria/indicators that overlap with the PfA unacceptable activities lead to an automatic suspension. This will help ensure that these unacceptable activities are handled effectively and efficiently when they occur within the scope of the certificate.

Issue 4: 'Intent' to engage in an unacceptable activity as a trigger for a complaint

It was reaffirmed that the intent to engage in an unacceptable activity is not enough to trigger a complaint. For example, if an organization has a management plan that includes logging in a high conservation value (HCV) forest and it shows there is a potential threat to the HCVs, yet no activities have yet taken place, then this cannot be considered a breach of the PfA and a complaint cannot be lodged. Stakeholder comments appeared to reinforce the recommendation that 'intent' is not enough.

Additionally, there was agreement that 'intent' should trigger other, proactive measures on the part of FSC to help ensure that the unacceptable activity does not actually occur. This should be made clear in the policy itself. Proactive measures that will be listed in the PfA include: a formal notice and warning that the organization may be on a trajectory to disassociation if it implements the unacceptable activity as per its intent; ongoing monitoring and evaluation of the situation.

Issue 5: Policy elements: the six unacceptable activities

One overarching issue related to the unacceptable activities had to do with its scope of application: Should the unacceptable activities be limited to those occurring in forests or the forest-products sector (as in the current PfA), or should they be expanded to include any operations (i.e. mining, agriculture, etc.)?

On the one hand, there was strong stakeholder interest to make the PfA more relevant to NGO members, meaning that activities outside of forests/forest products should be included (e.g. **all** illegal activities and not limited to illegal harvest/trade in forest products, and all worker rights). Moreover, that possibly other elements of the FSC Principles and Criteria (P&C) applicable to NGOs should be added to the list, such as social management planning and paying taxes.

On the other hand, many of these same stakeholders expressed the need to limit the scope of the unacceptable activities to those within the forest-products sector, as that is what FSC is about and what FSC should (and can) have an influence on.

There was general agreement that the scope of the unacceptable activities should be focused on forests and the forest sector – as that is the FSC mission and brand recognition; further, it is challenging enough for FSC to accomplish this scope of work and expansion into other operations or sectors would go beyond its capacity at this juncture.

A. *Illegal harvesting or trade in forest products*

The group reaffirmed agreement with both the category text and the related definition in the draft.

B. *Violation of traditional or human rights*

Three issues were discussed:

- i. The need to change “or” to “and/or”, which was an inadvertent mistake in the draft and there was agreement to fix it.
- ii. The need to provide some type of reference as guidance on what are ‘traditional’ or ‘human’ rights. It was agreed that specific indicators and thresholds were not needed but that a reference to a universally accepted definition of these rights would be helpful.
- iii. The scope of application, and whether violations of these rights should be limited to forests and forest products, or whether they should be expanded to include violations anywhere they occur.

On this third point: the current PfA limits these violations to those taking place “in forestry operations.” This was seen as too limiting because it does not cover the chain of custody (CoC) and because there could be reputational damage to FSC if these rights were violated in other sectors. However, it was also seen as too great an expansion if the scope were to include anywhere and everywhere. While there was agreement that, morally, no organizations should be violating these rights anywhere, the practical implications of expanding the scope of this category were realized: demonstrating conformance would become too bureaucratic, it could overburden the complaints system, and would make the PfA practically challenging to implement. It was also clarified that the main intent of expanding this category was so that it cover the forest-products sector, similar to the CoC standard.

The group therefore agreed that the scope of the category would be forests and forest products only, with the text: “*Violation of traditional and/or human rights within the forest and forest-products sector.*”

It was also pointed out that FSC has other means of cancelling contracts with organizations that are damaging the system (see Issue 5g below), and therefore, if an organization were committing egregious activities in operations outside the forest sector, FSC has the means of acting on it outside the PfA.

c. *Violation of any of the ILO Core Conventions*

This category is outside the scope of the PfA revision; the outcomes of the International Labour Organization (ILO) Working Group will be aligned with the PfA once concluded. In the interim, text will be included in the PfA policy that makes it clear that organizations shall continue to use what is currently accepted as a means of demonstrating conformance to ILO Core Conventions until a final decision is made by the ILO Working Group.

d. Significant damage to high conservation values in forests

The issue here was with the definition of when “damage” is considered “significant”. According to the draft definition, “Damage is considered significant if the attributes that constitute high conservation values no longer exist or cannot be repaired.” This definition is essentially the same as the one in the current PfA.

It was agreed that this definition might be allowing for too much impact to occur and also that it is not aligned with the controlled wood definition that includes “threats” to HCVs. As such, it was agreed that the definition should be revised to: “damage to high conservation values is considered significant if the attributes that constitute these values no longer exist, or they cannot be repaired, or their survival is immediately threatened.”

e. Significant conversion of forests to plantations or non-forest use

Various issues were addressed concerning the definition and explanatory notes associated with this category.

- i. It was reaffirmed that, although the group would prefer to not use a definition of conversion that includes somewhat arbitrary thresholds, it was outside the mandate of the group to revise these thresholds and, in any case, these thresholds generally work. It was also emphasized that these thresholds were always meant to serve as triggers and not absolutes. Further, the Motion 12 (M12) Working Group will address issues related to conversion, and alignment with this policy will then take place as necessary.
- ii. There was agreement to keep “within the national jurisdiction” in order to have geographic boundaries for determining whether an organization, including all its related entities, has cumulatively hit the threshold.
- iii. There was agreement to delete the explanatory note related to “responsible and planned conversion”, as its substance is already included in the explanatory note related to “social impacts”.
- iv. There was agreement to delete the 10-year qualifier in the explanatory note related to “past conversion”, as it was not helpful as guidance and also the M12 WG will be more thoroughly working on dates.
- v. There was agreement to revise the explanatory note related to using the thresholds as a trigger for when conversion is “less than” or when it “exceeds” the thresholds. As currently worded, the note does not make sense because complaints can of course be filed if the threshold is exceeded. The note should separate out when a complaint can be filed from whether disassociation is a result. Meaning (bold text is new language): ***“Conversion that is less than these percentage and numeric thresholds may allow for a complaint to be filed. Conversion that is less than or***

exceeds these thresholds does not lead to disassociation per se, but will lead to a case-by-case investigation according to the Complaints Procedure ...”

- vi. There was agreement that definitions for “forest” and “forest conversion” need to be included in the terms/definitions section to make it clear that “forest” includes semi-natural forest but that it does not include plantations.

f. Planting or growing of genetically modified trees for commercial purposes

While there was reaffirmation that the intent of this category is to prohibit commercial use of genetically modified (GM) trees (and to limit the scope to trees), it became clear that commercialization of GM trees is not always known at the point of planting or growing. That is, an organization could plant GM trees for commercial purposes, but then decide not to sell them. Conversely, an organization could plant GM trees for research purposes and then decide to sell the trees. Since ‘intent’ is not enough to trigger a breach of the PfA, planting/growing cannot be considered a breach. Therefore, this revised category essentially remains as vague as the existing one centred around “introduction” that the group was tasked with clarifying. Since the mandate of the group is not to revise the GMO policy but rather to clearly align the PfA category with the policy, there was agreement that the category text needed minor modification.

The recommendation was therefore made to more closely align this category with the GMO policy: *“Use of GM trees for purposes other than research or field trials, in accordance with the FSC GMO Policy”* (citation footnoted).

It was again recommended that FSC engage in meaningful dialogue to determine how to address GM trees within the FSC system.

g. Additional categories?

Stakeholder comments recommended that additional categories should be added to the PfA, including corruption, fraudulent activities, illegal tactics to protest against forest companies, activities that breach FSC policies/procedures, and activities that bring FSC or its members into disrepute.

It was reaffirmed that the PfA should not be expanded to include additional categories. This would go beyond the scope of the revision and the intent of the PfA (as per discussions at the previous two meetings). Moreover, it is not possible to make the PfA all-inclusive to address every activity that could come up and be damaging to FSC.

It was, however, agreed that FSC has other means of handling activities considered egregious and damaging to the system, such as cancelling TLAs or terminating contracts. There was agreement to include text in the policy to make it clear that the PfA does not preclude stakeholders from filing complaints or lawsuits against organizations, or preclude FSC taking action outside the PfA.

Issue 6: Definition of organization

As background, the draft PfA includes a definition of “Organization” that does not exist in the current version of the policy yet is the one that has been applied to date:

“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.”

While this is not a new concept, it is believed that many certificate holders have not understood that, upon agreeing to comply with the PfA, they were also committing their parent company and all subsidiaries of the parent company to comply with the PfA. If so, the unknown risks might deter certificate holders from signing up. Moreover, the practical challenging for FSC to understand complex corporate structures and then ensure full conformance with the PfA could be more than the system can currently bear.

With the concept and definition of “control” in the revised draft PfA, it was perceived that the concept of “organization” might no longer be necessary. That is, the PfA would still be applicable to all entities in control of the unacceptable activity even without the definition of ‘organization’, and the purpose of the PfA is to focus on where there is control and not just ownership. With this, it will be critical that organizations understand that ‘control’ can be upstream of the organization (i.e. parent companies that are in control of the activities of the subsidiary).

The group therefore recommended replacement of the definition of “organization” in the draft policy to align it with the definition used in other FSC standards (expanding beyond certificate holders): “The person or entity holding or applying for association with FSC and therefore responsible for demonstrating compliance with the requirements upon which FSC association is based.”

Issue 7: Definition and concept of “control”

Various issues were discussed here.

- i. Agreement on the definitions of ‘accountability’ and ‘control’ was reaffirmed, though a non-substantive change may need to be made now that the definition of ‘organization’ has been changed. This means that the scope of this policy is being expanded beyond the current ‘direct’ and ‘indirect’ involvement to include situations where the organization has or has had control of the unacceptable activity even in situations where there is no direct ownership of the entity engaged in the unacceptable activity.
- ii. Confusion over “special relationships” in the explanatory notes was noted, and will be changed to “familial relationships”. As this is not an exhaustive list, just examples, there is no need to create ambiguity with the term “special relationships”.
- iii. The need to clarify “50 per cent” in the explanatory note was noted, as some stakeholders did not understand that it was a safeguard to ensure that control was deemed to exist when this threshold was reached, and because of the definition of control, a lower threshold could also mean that control existed. As such, it does not make sense to lower this threshold.
- iv. The need to provide more detailed examples of ‘control’ was noted and will be included in an annex. All examples currently provided in the explanatory notes will be moved to the annex.

- v. Separate from issue i, above, there was no agreement reached on whether “accountability” should be expanded to include situations where an organization’s supplier is involved in an unacceptable activity when the organization does not have control over the activity yet purchased from the supplier knowing that it was involved in an unacceptable activity.

This was the only issue in the PfA where consensus could not be reached (meaning: no support **and** no sustained objection), despite multiple attempts to do so.

We therefore summarize the two perspectives/options on the table.

A. *Expand the PfA to include “knowingly”*: With respect to commercial relationships, expand ‘accountability’ to situations where organizations **knowingly** purchased from suppliers involved in unacceptable activities even when the organization had no control over the activity.

- **Knowingly** purchasing from a supplier involved in an unacceptable activity is unacceptable – if an organization knows that its supplier is, for example, using child labour, or that it is buying wood from a war zone that is helping to fund the war, then it should not be purchasing from that supplier. The entity is thereby directly benefiting from the unacceptable activity in its supply chain.
- If an organization has supply chains that are not responsible then that is a reputational risk to FSC. ‘Dirty’ supply chains of FSC companies can cause reputational damage to FSC because FSC is all about trade chains and fair and responsible trade. Customers will see if the companies they buy their responsible products from are involved in, and take money from, (e.g.) child labour or HCV destruction.
- There is no reason why we should not expect organizations to do this – this is already being done and is globally acceptable as the way to do business. In the case of illegal timber, it is already required of companies through the European Union Timber Regulation (EUTR)/Lacey, and also with ILO. It is well-recognized that clean supply chains are within the responsibility of companies. If FSC does not expand the PfA to address this, then it is falling behind the times. This would be a fundamental flaw in the revised policy, and for some stakeholders would decrease the FSC role in protecting forests and safeguarding people’s rights globally.
- The burden of proving “knowingly” is not so difficult if the unacceptable activity of the supplier is brought to the attention of the company that, despite this advice, persists in buying from the offending source. It is therefore not “too challenging to prove”.
- The previous version of the controlled wood standard had a clause related to having a written policy commitment to implement best efforts to avoid trading or sourcing wood from unacceptable activities. This sets a precedent for having such a clause in the PfA.

An alternative to this Option A was also proposed, seen as a way to meet the intent of Option A while not adding a ‘knowingly’ clause. This alternative was to add a clause similar to what was in the previous version of the controlled wood standard: *The organization shall have a publicly available written policy commitment, endorsed by the most senior management level of the company, to implement its best efforts to avoid trading and sourcing wood from the 6 unacceptable activities.* There was no agreement on this alternative, as it was perceived to be effectively the same as Option A in terms of holding the organization accountable for actions of its suppliers,

with the possibility of disassociation if it was found that the organization knowingly purchased from a supplier engaged in an unacceptable activity.

B. Do not further expand the PfA to include 'knowingly': With respect to commercial relationships, focus 'accountability' on situations where the organization has control of the unacceptable activities of its suppliers.

- This takes the purpose of this policy too far beyond its intent and is, moreover, beyond the scope of this revision process. The Working Group ToR, affirmed by the Working Group, were for "minor revisions", and a revision such as the one being proposed would constitute a major revision. This would be a fundamental change to the policy (and a fundamental change in FSC).
- The implication is that, to ensure compliance with the PfA, all certificate holders would need to purchase controlled wood in all their product streams (i.e. including for their uncertified products). This is quite an expansion of existing requirements placed on them.
- This goes beyond the scope of the revision process in the sense that this policy would become more rigorous than existing standards.
- This revised PfA is already expanding the scope of the existing PfA to look at commercial relationships where there is control and this should be recognized in itself as a strengthening of the policy to better meet its intent.
- Adding 'knowingly' would deviate from the otherwise agreed and new concept of control and thereby threaten the consensus reached within the group on this point.
- While there is agreement that, morally, organizations should have responsible supply chains and should not knowingly source from suppliers engaged in unacceptable activities, it goes beyond what should be expected in this policy as it is not currently part of the FSC system or strategy. This would go above and beyond what FSC is set up to deliver and what it is able to govern. The focus and mission of FSC is about getting forests certified. All else is meant to ensure that it meets that mission. We need to do all we can to make sure that mission is achieved, and that the bar for certification is set high, but not to impose additional requirements that go above what the policy is meant to achieve – it cannot solve all problems related to responsible sourcing. Again, this is not an issue of whether companies should be responsible for having clean supply chains – it is about the role of FSC and this policy in doing so. This is where NGOs such as Greenpeace come in, using tactics to change companies' performance and even using FSC as a tool to encourage a move towards certified supplies, but not as a tool to disassociate if the company doesn't do so.
- This would be inserting FSC in the role of determining commercial relationships, which goes beyond the scope of FSC. It would also mean that FSC would need to evaluate activities of companies (suppliers) that are not associated with FSC, which it may not be realistic to do.
- This would overburden the system, lead to a higher volume of complaints, and would therefore dilute FSC's ability to effectively deliver on its primary purpose and on the purpose of the PfA. It is not practical to implement.
- It is too challenging to prove 'knowingly'.
- As a rough impact analysis, it appears that adding on this requirement would have significant implications for companies wanting to associate with FSC and would be a strong deterrent against doing so.

This will be discussed with the PfA Steering Committee to determine how to proceed towards a final draft given this impasse.

Issue 8: Consequences of a breach: conditional association/probation

The issue at hand was whether there can be an alternative to disassociating with an organization if it is found to be in breach of the PfA. In the current policy, there are only two options for resolving a PfA complaint: immediate disassociation (with timelines and conditions for reassociation) or no disassociation (with no implications). This third option of 'conditional association' (or probation) would allow an organization found in breach of the PfA the means to maintain association along with putting certain actions in place to correct and prevent further unacceptable activities from occurring. This option would not be used in all cases, and its use would be based on the severity of the activity as well as the opportunity for immediate short-term change and resolution.

One member supported this provision because, as it was explained at the meeting, the Board technically already has the authority to give organizations a chance to rectify the unacceptable activity before moving to a disassociation. It is therefore not an entirely new concept, but rather more formally embeds in the procedure (with more safeguards) what may already be allowed.

Additionally, one member did not support the inclusion of this provision; however, there was no sustained objection to it and therefore there was consensus agreement to allow for 'conditional association' (probation). This was agreed upon with the understanding that certain factors would help determine whether this option would be selected in specific cases, and that the policy was prescriptive on the conditions that an organization would need to meet if using this option.

Factors to consider for determining whether probation can be granted instead of disassociation (draft, final text to be developed):

- first-time violation for any entity within the sphere of control;
- time dimension regarding how long the organization was involved in the unacceptable activity;
- cause of the unacceptable activity – systemic or oversight;
- number of unacceptable activities violated;
- if accountability is not completely clear;
- time span over which the conditions could be met (short term);
- reputational damage already done;
- if the unacceptable activity had already been stopped.

Conditions placed on the organization that must be met during the probation period (draft, final text to be developed; asterisk designates conditions that must be met for every case; others are case-specific, used as relevant):

1. compensation plan for damages/on-the-ground impacts;
2. *short-term and time-bound action plan for resolving the issues that led to the violation (the organization puts it together, in consultation with the complainant if willing, and it is approved by the Board);
3. *improved due diligence – preventive action;
4. certificate suspended, use of trademark suspended (depending on risk to brand);
5. *probation is made public;
6. others, as decided by the panel/Board.

Issue 9: Due diligence procedure

While there is general agreement that some form of due diligence is needed in order to screen applicant organizations prior to their association with FSC (and organizations currently associated with FSC), discussion of the approach and technique required to do so has not made much progress. The due diligence procedure (DDP) needs to be 'fit for purpose' while recognizing that there are 30,000+ certificate holders (not including members) that would need to undergo this procedure in order to identify the "handful of organizations" possibly violating the PfA. It is still not clear what a "risk-based approach" using the controlled wood national risk assessments (CW NRAs) would entail, or how the "software-based platform" would work.

There was agreement that there are 'simple' measures that could be implemented immediately and that would be an improvement on organizations simply signing the self-declaration form. These immediate measures should be adopted while a more robust DDP is developed.

Immediate, simple measures include:

- user-friendly information on the PfA so that organizations understand the commitments they are making and how to honour them;
- guidance (template) to help organizations conduct their own due-diligence evaluation if they choose to do so;
- having the certification body (or FSC staff for member applicants) interview the applicant organization to make sure they understand the PfA and their commitments when they sign the self-declaration. This should be included in the certification body accreditation standard.

Over the longer term, a questionnaire will be developed to better evaluate risk. This may take the form of a software platform with questions that are filtered on the basis of risk, or it may be a simple survey/questionnaire that is administered. By early 2016 FSC will convene a technical body to support the development of this questionnaire. The PfA Working Group will continue to serve as the chamber-balanced Working Group that provides oversight to that process.

Issue 10: Proactive PfA evaluation

After an overview was presented of the proposed 'Proactive PfA evaluation' and the pros and cons of adding this mechanism to the PfA complaints procedure, the conversation switched to discuss why, after further analysis, a 'Proactive PfA evaluation' (as elaborated in the drafts) may not be the right approach for streamlining the complaints process. Rather, it is now being recommended that a more comprehensive revision of the PfA Complaints Procedure be implemented. This revision would still include the ability of FSC to evaluate allegations without needing a formal complaint to do so, yet it would not be called or structured like the 'Proactive PfA evaluation' previously recommended.

The reasons for this recommendation are threefold: (a) inclusion of a proactive evaluation would essentially lead to allowing stakeholders/companies to choose which process would work better for them; (b) the 'defendant' may often decide that it wants a chamber-balanced evaluation panel rather than an alternative evaluation panel selected by the Director General therefore resulting in the Proactive PfA mechanism not being used; and (c) other elements of the Complaints Procedure have been identified as needing revision.

Issues flagged to address in a comprehensive revision of the PfA Complaints Procedure were discussed and include the following.

- Expansion of procedure so that it isn't just about 'how to handle complaints', but rather 'how to evaluate/address potential violations'.
- Different entry points for evaluating allegations – one triggered by substantiated information brought to FSC (through the DDP or otherwise) and one triggered by a complaint
 - prioritization given to allegations that are brought to FSC as complaints
 - ability to mediate/resolve complaint once received.
- Permanent (3–5 year?) chamber-balanced evaluation panel appointed rather than having to select a panel for each complaint received.
- Evaluation, investigation, and analysis report is conducted by FSC staff/consultant experts rather than the evaluation panel.
- Conditions for reassociation are included in the evaluation/decision.
- Option to put organization on probation (conditional association).
- Others, as identified.

Since this would be a revision of a normative document, a working group is needed to provide oversight to the process. The PfA Working Group agreed to serve in this capacity, meaning that its ToR would be expanded to include a comprehensive revision of the Complaints Procedure rather than just guidance on the Proactive PfA element.

– End of meeting –

Annex 1: Meeting Participants

<i>Working Group</i>	Kanitha Krishnasamy (Env South, individual member) Danielle van Oijen (Env North, Greenpeace) Alan Smith (Soc North, individual member) Lineu Siqueria Jr. (Econ South, individual member) Ryan Dahl (Econ North, international paper)
<i>Technical experts</i>	Certification body: Gerrit Marias (SGS South Africa) ASI: Frank Katto (ASI), via Skype Network partner: Francois Dufresne (FSC Canada)
<i>Staff</i>	Stefan Salvador, part of the time (Director, QAU) Thomas Colonna (Dispute Resolution Manager, QAU) Amparo Arellano (Dispute Resolution Officer, QAU) Karen Steer (external consultant and PfA revision coordinator)