



## Frequently Asked Questions (FAQ) Global Witness v. Dalhoff Larsen and Horneman (DLH)

22 December 2017

How were the FSC Policy for Association procedures applied in the DLH case?

FSC has a dedicated and publicly available procedure for the processing of Policy for Association complaints: "Processing Policy for Association Complaints in the FSC Certification Scheme" (FSC PRO-01-009). This procedure was applied in the DLH case as follows:

1. A complaint was filed by Global Witness to FSC International on 10 February 2014, accepted on 24 February 2014, and a complaints panel was proposed on 7 April 2014. Global Witness and DLH rejected some proposed members, but a complaints panel was finally approved by both parties on 11 June 2014.
2. The first DLH complaints panel meeting took place in London on 1 July 2014. The complaints panel held more than 10 conference calls, conducted in-person meetings, and interviewed a large number of stakeholders, including both parties to the complaint. The panel conducted a desk-based evaluation of the complaint, in which a vast amount of documentation was analyzed.
3. On 11 November 2014 the panel concluded the evaluation with a unanimous recommendation to the Board of Directors that FSC disassociate from the DLH Group.
4. The FSC Quality Assurance Unit reviewed the complaints panel Evaluation Report and produced a quality assessment of the report. Both parties submitted a statement of their position regarding the final recommendation of the complaints panel. The FSC Quality Assurance Unit further developed a briefing paper on the social and environmental impacts of the incorrect issuance of Private Use Permits (PUPs) in Liberia, and an analysis of DLH's due diligence system.
5. All the above mentioned documentation was submitted to the FSC Board of Directors who held two conference calls on 10 December 2014 and 8 January 2015. The final decision to disassociate from DLH was taken on 8 January 2015. DLH and Global Witness were informed of the final decision by FSC Director General, Kim Carstensen, on 30 January 2015 and 9 February 2015, respectively. The final decision to disassociate from the DLH Group was publically announced on 12 February 2015.



## What are Private Use Permits (PUPs)?

PUPs are one of six types of forest use license allowed in Liberian forestry. Four of these, including PUPs, are detailed in the Forest Reform Law of 2006. PUPs are designed to allow private landowners to practice forest management and timber harvesting on their land. It is intended that PUPs should be small. It is also clear from the law that private reforestation is to be promoted, since there are reduced stumpage charges for artificially regenerated trees.

The core legal requirements for PUPs are set out in Section 5.6 of the Forest Reform Law. These include demonstrated private land ownership, a demonstrated technical and financial capacity to manage the forest, completion of an Environmental Impact Assessment (EIA) acceptable to the Liberian Environmental Protection Agency (EPA), and the completion of a management plan acceptable to the Forestry Development Authority (FDA), amongst others.

The PUP is essentially an agreement between the landowner and the FDA to permit commercial forestry activity on private land. The Community Rights Law of 2009 makes it clear that private ownership in this case refers only to land that is individually owned, and not to land that is communally owned.

In most cases, the owners of the PUPs do not have the capacity to carry out operations according to the Forestry Code of Practice or section 5.6 of the Forest Reform Law. In these cases, the PUP owners negotiate a separate agreement with a commercial forest operator to carry out harvesting and management.

## How was DLH involved in illegal timber trade?

A complaints panel was established in July 2014 to conduct an independent evaluation of the complaint, and determine whether DLH had been involved in the trade of illegal timber harvested under the Liberian Private Use Permits.

The complaints panel concluded there was clear and convincing evidence that DLH and its subsidiaries repeatedly purchased illegal timber in Liberia in 2012.

The purchase of illegal timber in Liberia by DLH was in violation of a large number of forest, and other laws of the country, and had serious impacts on the rights and livelihoods of landholding communities in Liberia. It posed a serious threat to the stability of the country and to the future of globally important forests.

Further, the complaints panel considered that DLH was negligent by failing to carry out an adequate due diligence process. When the DLH Group first began trading in Liberia, information was available about the growing risks of corruption and illegality in the country. Specifically, information regarding



PUPs, issued by the Forestry Development Authority, found that the incorrect issuance of PUPs often leads to illegal activity. At that time, DLH only had a very basic due diligence system in place, lacking key aspects of responsible procurement, and not taking account of the high risk source that Liberia constituted.

Was the timber purchased by DLH in Liberia FSC certified?

No. Timber purchased by DLH in Liberia was not FSC certified.

What were the main social impacts of the incorrect issuance of PUPs in Liberia?

Poor social agreements and lack of proper consultation with local communities

In many cases – as was found through the investigation by Global Witness, Save My Future Foundation, and Sustainable Development Institute, in 2012 – resident communities and land holders were not provided with sufficient information, nor with sufficient time for proper consideration, to make decisions to allow harvesting on their property. The fact that PUP holders failed to negotiate adequate social agreements deprived the community of potential benefits from their forest resources.

Communities were uninformed about their land rights during the social negotiation process

Local communities were largely ignorant of their rights in relation to forest land, and were, therefore, easily persuaded to give up these rights to outsiders in exchange for inadequate compensation.

Agreements were signed by individuals who did not have the right to sign on behalf of the land owner, or did so without his/her consent

In a number of cases individuals claimed rights to land which they were not entitled to. They were either acting 'on behalf' of absent relatives, or 'on behalf' of communities who had not actually delegated these rights to them. On many occasions, PUPs were issued and activated where the PUP holder was not the landowner and/or did not have permission from the landowner.

Also, individuals who acted as fronts for the PUP owners, received payments on behalf of communities and then failed to pass the payments on.



Poor payments were received by communities from forestry companies in exchange for their land concessions

Initially, PUPs were seen as a promising way for landowning smallholders to generate income, and that it would enable them to sell timber. But the lack of or poor negotiations led to very low payments to the communities, and therefore generated very little income for the local people.

PUP operators pay no rental taxes on land to the Liberian government, which considerably reduces the revenue that the government can receive in exchange for its forests. Instead, operators are supposed to pay the land owners with whom they have agreements, at a rate they both agree. However, the rate of compensation to land owners is usually very low.

The proliferation of PUPs has the potential to incite land conflict

The process required in order to receive a permit, and subsequent harvesting activities, can uncover overlapping deeds, led to conflicting claims of land ownership, and rekindle latent traditional land conflicts.

Social promises to build infrastructure for the local communities were not fulfilled by forestry companies

In most cases, the PUP operator also promises to construct certain public buildings, such as a clinic or schools. However, the legal wording in these agreements does not specify the location of these facilities – in one case, a building was constructed within the logging company's workers' compound rather than in the local community – and allows a delay of two to three years before they must be constructed.

What were the main environmental impacts of the incorrect issuance of PUPs in Liberia?

Destruction of High Conservation Value (HCV) forests

Illegal harvesting had actual and potential consequences leading to the destruction of HCV forest in Liberia. Globally important forests were threatened as a consequence.

It is estimated that the area issued to PUPs in Liberia covered 46% of the country's intact rainforest.

PUPs issued for areas significantly larger than the area of the underlying deeds

There was a considerable disconnect in some PUPs between the area to which a land owner is entitled under a deed, and the area ultimately assigned as available for harvesting.



No management plans nor Environmental Impact Assessments (EIAs) certificates issued

On many occasions PUPs were issued, but no management plan had been submitted, nor had an EIA certificate been issued by EPA. PUPs were, therefore, issued in Liberia with no evaluation of the potential impacts on the environment, and without considering possible mitigation actions to reduce such environmental impacts.

PUPs were issued with the purpose of clearing large areas of forest and covered 50% of the remaining forest in Liberia

It is estimated that known PUPs cover 25,800 km<sup>2</sup> of Liberia's territory, or 23% of the entire country. PUPs also cover over one third of Liberia's remaining primary forest. Because Liberian law currently contains very few restrictions on harvesting in PUPs, they can be classified as clearance permits. This means that over one-third of Liberia's best forests are at risk of being flattened.

Some PUPs were effectively unregulated harvesting permits for the establishment of agricultural plantations

A number of PUPs were issued for the purpose of clearing large areas of forest in order to establish agricultural plantations, which is in direct conflict with the objectives of the Liberia National Forest Policy.

**What are the specific consequences of FSC's disassociation from the DLH Group?**

FSC will terminate its license agreements entered into with the DLH Group. This will cause the termination of the four following certificates held by the DLH Group:

Certificate Code	CW	License Number	Organization Name	Country	Issue Date	Expiry Date
<a href="#">SW-COC-005747</a>	✔	<a href="#">FSC-C108371</a>	DLH Danmark A/S	DENMARK	2012-01-11	2017-01-10
<a href="#">SGSCH-COC-000946</a>	✔	<a href="#">FSC-C017991</a>	DLH France	FRANCE	2012-10-01	2017-03-03
<a href="#">RA-COC-002509</a>	✔	<a href="#">FSC-C020756</a>	DLH Sverige AB	SWEDEN	2012-07-23	2017-07-22
<a href="#">RA-COC-001521</a>	✔	<a href="#">FSC-C010556</a>	Dalhoff Larsen & Horneman A/S (DLH A/S) dba DLH Nordisk A/S	DENMARK	2010-06-08	2015-06-07

**How will the disassociation impact stocks of certified material held by DLH as well as sales contracts and deliveries?**

DLH is formally notified about the termination of its license agreements on the 12 February 2015. FSC is giving a three months' notice to the termination which becomes effective on the 12 May 2015.





Effective from...	DLH may still...	DLH must stop...
12 February 2015	Sell and ship FSC materials that have been ordered before this date or take new orders for FSC materials	
12 May 2015		Selling, shipping and taking any orders for FSC materials

What actions will FSC take with regard to divested operations of the DLH Group?

Divested operations of the DLH Group that were still part of the group at the time the unacceptable activities took place, and that are still, or again, associated with FSC, have three months to demonstrate, through third-party verification, that their current due diligence systems meet relevant best practice standards (both on paper and in practice).

This includes:

Certificate Code	CW	License Number	Organization Name	Country	Issue Date	Expiry Date
<a href="#">RA-COC-004607</a>		<a href="#">FSC-C041354</a>	DLH POLAND Sp. z o.o.	POLAND	2012-12-20	2017-12-19

What conditions must DLH meet in order to apply for re-association?

On 8 January 2015, FSC defined a set of conditions for re-association that, if satisfactorily fulfilled, would end the disassociation with the company. Conditions include:

- a. **an action plan** has been developed and implemented based on the free, prior and informed consent of the affected communities in Liberia, and monitored by a renowned NGO, to compensate the communities in Liberia affected by the Private Use Permits DLH was sourcing from, for the losses and lost income they incurred, and to restore potentially converted natural forest or destroyed high conservation values. The action plan shall be approved by the Board prior to its implementation.
- b. thorough **third party verification confirms that DLH due diligence systems are meeting relevant best practice standards**, both on paper and in practice, across a range of different operating high risk locations, to make sure that events like the ones in Liberia are not repeated.
- c. costs incurred by FSC for the establishment and work of the complaints panel are covered.

For more information, including a public summary of the complaints panel report, please click [here](#).





**The following questions and answers have been added following the December 2015 decision to end the disassociation with DLH.**

1. What kind of compensatory activities are being implemented by DLH through its action plan?  
When was the action plan approved by FSC?

DLH's compensatory activities include building nine hand pumps, six latrines, three basic maternity houses for midwives and doctors, and a school building across three Liberian communities. DLH is also expected to provide training to the communities on the use of the facilities and support for teachers.

These activities were agreed with the communities through a free, prior, and informed consent process conducted by the Sustainable Development Institute (SDI), a well-known, credible, and trusted local development organization.

The action plan was approved by the FSC Board of Directors on 12 November 2015.

2. On what basis was the decision to end the disassociation with DLH decided, and when was it taken?

The decision to end the disassociation with DLH on a probationary basis was taken by the FSC Board of Directors on 21 December 2015. It was taken after FSC had analyzed the documentation provided by DLH on 16 December 2015 and concluded that the following FSC requests had been satisfactorily met by DLH.

- The full amount of the project budget had been transferred to a trustee such as SDI, and dedicated to the proposed project activities.
- There is a testimonial from SDI about the status and progress of project activities that demonstrates that activities are on schedule and can be achieved without major delays.
- The remaining conditions for ending the disassociation – a verified due diligence system, and the reimbursement of costs to FSC – are also met.

FSC concluded that there had been satisfactory progress made by DLH towards the fulfillment of the conditions to end the disassociation, and therefore ended the disassociation on a probationary basis.

3. What does an end to the disassociation on a probationary basis imply?

Because the compensatory activities of DLH's action plan are still being implemented, the disassociation is only probationary at this stage. Once the action plan has been fully implemented, the end of the disassociation will become definitive.

4. What happens if DLH does not fully implement the action plan?

The FSC Board of Directors may request additional efforts from DLH if the activities detailed in the action plan are not fully implemented. The FSC Board can also revoke the decision to end the disassociation altogether.



5. What must DLH still do to fully implement the action plan?

DLH, through the selected trustee SDI, must complete the construction of the nine hand pumps, six latrines, three basic maternity houses for midwives and doctors, and a school building, as well as provide training to communities, in order for the action plan to be fully implemented.

6. How will FSC monitor DLH's progress towards completing the action plan?

DLH will submit comprehensive progress updates on 1 February, 1 June, and 1 October 2016. Additionally, a final report will be submitted by SDI.

7. What will FSC do to confirm the formal end of the probation period?

In order to confirm and formally end the probation period, the FSC Secretariat will provide a final report of the satisfactory completion of the activities to the FSC Board of Directors.

8. When is the end of the disassociation effective?

The end of the disassociation on a probationary basis became effective on the 21 December 2015, the day the decision was taken. Since this date, it is possible for FSC to once again enter into trademark license agreements with DLH.





**NEW: The following questions and answers have been added following the December 2017 decision to lift the probationary status of the end the disassociation from DLH.**

1. What does the lifting of probationary status mean?

FSC disassociated from the DLH Group in February 2015. This meant that all the license agreements between FSC and DLH were terminated. DLH was also barred from entering into any new license agreements with FSC, or seeking certification under the FSC system.

At this time, the FSC Board of Directors defined a set of conditions that, if satisfactorily fulfilled, would end disassociation and allow DLH to seek once again to become certified under the FSC system. The conditions included compensation for affected communities.

In December 2015, the FSC Board of Directors decided to end disassociation on a probationary basis after DLH demonstrated significant progress towards fulfilling these conditions. The end of disassociation was probationary because it was dependent on the complete fulfilment of all of the conditions.

In August 2017, with the successful implementation of an action plan to compensate affected communities, DLH fulfilled all of the conditions defined by the FSC Board of Directors.

On this basis, the FSC Board of Directors decided, in December 2017, to lift the period of probation and end definitively the disassociation from DLH.

2. How did DLH compensate affected communities?

DLH worked in collaboration with development organizations Engineers without Borders, the Inclusive Development Consultancy, and the Sustainable Development Institute (SDI), as well as with the affected communities themselves, to design an action plan for providing compensation.

Communities were consulted through a free, prior, and informed consent process conducted on the ground by SDI. At the request of community members, the action plan focused on the construction of sanitary and educational infrastructure.

DLH fulfilled this request by funding the construction of two schools and a maternity waiting home. The construction was carried out by the communities themselves through not-for-profit community associations.

All buildings are equipped with water, sanitation and hygiene facilities, including hand pumps for drinking water, and communities have received training on use and maintenance of the buildings.

The two schools have now opened for the 2017-18 school year and the maternity waiting home is under the administration of the local health authorities. Evaluation surveys conducted by the Sustainable Development Institute illustrate a high level of satisfaction among the communities involved.