

A Stakeholder's Guide to the FSC Policy for Association

Purpose

FSC's Policy for Association (PfA) (FSC-POL-01-004) defines FSC's position on unacceptable activities and the mechanism for cutting ties with organizations associated with FSC that are engaged in such activities. It has become a core element of the FSC system and an integral tool for safeguarding the FSC brand.

The PfA is supplemented by two procedures: the *FSC Due Diligence Evaluation for Association with FSC* (PfA Due Diligence Procedure), and the *Procedure for Evaluating Compliance with the FSC Policy for Association* (PfA Evaluation Procedure). Together, these three documents comprise the FSC Policy for Association normative framework.

The purpose of this guide is to outline the key concepts found in these three technical documents and how they work together to put the FSC Policy for Association into practice.

A note on this public consultation: The revised draft PfA has completed two phases of public consultation and the final draft version is currently undergoing internal review by the PfA Working Group, the FSC Secretariat and Board of Directors. Comments on the PfA are therefore not being accepted. This current consultation is aimed at gathering stakeholder input specifically on the first drafts of the PfA Due Diligence Procedure and the PfA Evaluation Procedure. See Section 7 below for a summary of key changes proposed for these procedures.

1. The FSC Policy for Association: An Expression of Shared Organizational Values

The FSC Policy for Association is an expression of the values shared by organizations formally associated with FSC. The PfA defines six unacceptable activities that these organizations must commit to avoid. These are:

- illegal harvesting or trade in forest products
- violation of traditional or human rights within the forestry or forest products sector
- violation of any of the International Labour Organization core conventions within the forestry or forest products sector
- significant damage to high conservation values in forests
- significant conversion of forests to plantations or non-forest use
- use of genetically-modified trees for purposes other than research (including field trials), such as for commercial purposes

In addition to complying with FSC's forest management, controlled wood, and/or chain of custody certification standards, associated organizations further agree to uphold this policy, which extends to operations in forests and the forest product sector that are not covered under their FSC certificate. In that sense, the PfA speaks to core values and commitments at an organizational level and beyond the forests and facilities that undergo certification.

Aligned with FSC's mission and key area of influence, the intent of this policy is to address unacceptable activities that severely impact forests and people on-the-ground; FSC is developing other mechanisms for addressing unacceptable activities that fall outside this scope.

2. Organizations Covered By the FSC Policy for Association

A distinctive element of the PfA is its application to both the organization holding a contract with FSC (i.e., a member, certificate holder or certification body) as well as to all its affiliated legal entities (i.e., sisters, joint ventures, subsidiaries, parent). This differs from how standards within the FSC system define and use the term “organization”, which concentrates solely on the entity holding or applying for certification.

The PfA describes how both the associated organization and its affiliated group are accountable for avoiding the six unacceptable activities. In addition, disassociation from the associated organization means disassociation from all entities within the affiliated group holding a contract with FSC.

3. Determining Accountability for an Unacceptable Activity

The PfA recognizes that there are different ways in which an organization can be responsible for an unacceptable activity. Most evident is when the organization itself is directly involved in, for example, significantly damaging high conservation values or violating human rights. There are other situations, however, that are less direct yet fall within the boundaries of the PfA. To date, the PfA has referred to these as “indirect involvement”: an organization is indirectly involved in an unacceptable activity if it owns 51% or more of the entity engaged in the unacceptable activity.

The revised policy introduces the concept of “*accountability*” to more accurately define and determine responsibility rather than relying on majority ownership of a company as a proxy for responsibility. This is considered a significant expansion of the scope of the PfA, and a necessary one for achieving its desired impact.

The exact boundaries for determining “accountability” are currently under review by FSC. This includes consideration of whether “accountability” is defined as “control” or whether it should extend to actions of suppliers that are outside the control of the associated organization or its affiliated group. Examples of “control” can be found in the PfA.

4. The Consequences of a Breach to the FSC Policy for Association

The PfA stipulates two possible consequences for when an associated organization or its affiliated group is found to be in violation of the PfA. These are further elaborated in the PfA Evaluation Procedure:

- **Disassociation** - the termination of all contracts (membership and trademark license) between FSC and the associated organization and its affiliated group. Conditions are also established for ending the disassociation.
- **Probation** – a period of time during which a set of conditions must be met in order to remain associated. These are monitored, and failure to implement them within the agreed timelines is grounds for disassociation.

The conditions instituted in both situations generally include: a) resolution of all issues that led to the PfA violation; b) a compensation plan for addressing damages and impacts associated with

the violation; and, c) improved due diligence to prevent future unacceptable activities from occurring.

The PfA Evaluation Procedure lists a set of factors for deciding between disassociation and probation. It should be noted that the option for probation was added to the revised PfA to align the policy with FSC's strategic direction, to engage organizations in a positive and constructive manner.

5. Re-associating with FSC

The process for re-associating with FSC, and subsequent re-certification, is broken into five essential steps that the disassociated organization must agree to meet:

1. Setting of **prerequisites** that demonstrate the organization's commitment to remedy past actions and to comply with the PfA;
2. A **roadmap** that defines the conditions, actions, timelines and methodologies for ending the disassociation. The roadmap is built off the conditions developed during the decision to disassociate;
3. **End of disassociation** with FSC, during which time FSC provides the organization with formal indication that the conditions detailed in the roadmap have been fulfilled and an agreement (trademark or membership) can be signed.
4. **Re-association** with FSC, once the roadmap is complete, by applying for an FSC trademark license or membership agreement.
5. **Re-certification** through pursuing FSC certification with an accredited certification body.

These steps are further detailed in the PfA Evaluation Procedure.

6. Policy Implementation: The PfA Due Diligence and Evaluation Procedures

Two procedures – the PfA Due Diligence Procedure and the PfA Evaluation Procedure – are used to put the PfA into practice.

Both are under revision as part of the broader revision of the PfA normative framework, and both are included in this public consultation. Below is an overview of the main elements proposed for each of these procedures, followed (in Point 7) by a summary of revisions made to the existing procedures.

A. The PfA Due Diligence Procedure (FSC-PRO-10-004) - Under this procedure, organizations seeking to associate with FSC are screened for compliance with the PfA. Its purpose is to minimize the risk to FSC of establishing an association with an organization in violation of the PfA.

Following a risk management framework, this procedure includes the following proposed essential steps (summarized for the purpose of this guide):

Step 1: Applicant self-assessment and disclosure – Prior to taking FSC membership or entering into a contract with the certification body, the organization will fill out a self-assessment form that requests information such as its corporate structure, the countries where it has

forest/forest product operations, and verification that procedures exist for not engaging in any of the six PfA unacceptable activities.

Step 2: *Risk screening* – Organizations without forest/forest products operations or whose forest/forest products operations are in countries considered “low risk”, will not need to undergo further screening and will be given their trademark license or membership agreement. Remaining organizations will proceed to Step 3 for additional screening.

Step 3: *Verification and validation* – Two methods will be used to further screen applicants:

- a) *Stakeholder input* – Stakeholders will have the opportunity to provide input on the applicant organization’s compliance with the PfA. The applicants will be listed on the FSC website on a weekly basis.
- b) *FSC internal review* – FSC will review the applicant’s self-assessment and stakeholder input.

Step 4: *Evaluation of results* – FSC will evaluate the above information and determine whether or not to move forward with association. If so, then the organization will be given its trademark license or membership agreement. If there is concern that the organization may be in violation with the PfA, then a more robust evaluation may be initiated according to the PfA Evaluation Procedure.

For applicant organizations not automatically screened out as “low risk” (Step 2), the timeframe between beginning and completing this procedure will normally not exceed 20 days.

B. The PfA Evaluation Procedure (FSC-PRO-01-009) – Potential violations to the PfA are investigated and addressed according to this procedure. Key principles and elements in this procedure include:

- It is used specifically for evaluating possible PfA violations, and not allegations related to certification.
- A PfA evaluation can be triggered through a formal stakeholder complaint or through other means whereby evidence of a possible violation is made known to FSC. The evaluation process is essentially the same, although some steps are different if the evaluation was triggered by a stakeholder complaint.
- Frivolous allegations are not accepted; substantiated evidence of a possible violation is needed.
- Dialogue and mediation with all affected parties, and with the aim of resolving cases through less formal means, is a cornerstone of this procedure.
- The standard of certainty “clear and convincing evidence” is used as the minimum threshold for making decisions on whether there is a PfA violation.

There are nine essential steps outlined in the evaluation procedure:

Step 1: FSC is notified of a possible violation.

Step 2: FSC reaches out to the affected parties to discuss the issues raised against the organization with the aim to mediate and resolve the situation without initiating a full evaluation.

Step 3: An ad-hoc Investigator (or team of investigators) is selected based on the case and initiates an in-depth investigation of the potential violation.

Step 4: The affected parties are asked to respond and comment on the findings.

Step 5: The permanent and chamber-balanced evaluation panel makes a final recommendation.

Step 6: A summary of the evaluation report is provided to the affected parties for any final responses.

Step 7: The FSC Board of Directors makes a final decision, based on the evaluation report and the responses provided by the affected parties.

Step 8: The FSC Director General first communicates the decision to the adversely affected party and then to the non-adversely affected party (where applicable).

Step 9 (if applicable): In case of disassociation, action to terminate the contractual relationship is normally taken within 30 days after public communication of the decision.

The PfA Evaluation Procedure provides further details on the actions taken in case of probation and disassociation.

7. Summary of Key Changes Proposed in the FSC PfA Due Diligence Procedure and the PfA Evaluation Procedure and a crosswalk from Draft 1 to Draft 2

PfA Due Diligence Procedure: The current version of FSC-PRO-10-004 *Due diligence evaluation for the association with FSC* is an internal procedure that has involved a “self declaration form” signed by the applicant organization. Proposed revisions to this procedure include:

Theme	Key changes: draft 1	Key changes: draft 2
Phase in of procedure	Implementation of the procedure would first be for applicant organizations, and then after a trial period (and any necessary modifications made), the procedure would be extended to existing organizations. One option for this would be at the point of re-association (for certificate holders) and at the GA (for members)	No substantive change made, though this is better described in the procedure, consistent with other FSC normative documents that have pilot and phase-in periods.
Self-reporting	Expansion of the self declaration to be a more detailed self-assessment, including: disclosure of corporate structure; countries of forest/forest products operations; and that policies/procedures exist, are known and implemented for not engaging in the 6 unacceptable activities	Added controlling relationships to the disclosure in order to align with scope of accountability in the PfA. Clarifying revisions made to self-assessment form.
Risk factors	Risk-based approach utilized, based on: forest/forest products activities; countries of operation; CPI index	Added deforestation (proxy for conversion and HCV), and suppliers in countries with low CPI in order to align with cat a (illegal trade)

		Clarifying revisions made so that the risk screening is better understood
Screening mechanisms	For organizations not automatically screened out as “low risk”, stakeholder crowdsourcing and FSC review used to verify for compliance	Minor revision made to stakeholder consultation method by adding a stakeholder notification email to the web-based notification. Risk factors (CPI, deforestation) were removed from the self-assessment because FSC itself will screen for these based on the disclosure of countries of operation provided by the applicant.
Alignment of PfA Normative Framework	Multiple revisions so that all docs in the PfA Normative Framework are aligned	Added declaration of commitment

PfA Evaluation Procedure: The current version of FSC-01-009 *Processing Policy for Association Complaints in the FSC Certification Scheme* has been used in a handful of cases, and lessons learned through its application have catalyzed the need for a revision. Proposed revisions to this procedure include:

Theme	Key changes: draft 1	Key changes: draft 2
Principles and general requirements	No substantive changes made, only clarifying revisions and additional emphasis provided on some principles, for example, alternative dispute resolution	Further clarification/definitions provided on certain principles, for example, “substantiated evidence”, and for putting qualifiers around alternative dispute resolution. Recommendation made that FSC can encourage stakeholders to refrain from public comment and maintain presumption of innocence (i.e., “should” statement), though cannot enforce it (i.e., “shall” statement)
Initiation of evaluation	Expansion to enable FSC to proactively evaluate allegations of a PfA violation. This would be an additional step to the existing entry-point, which requires a complaint to be filed to initiate an investigation. The process and timelines associated with formal complaints was largely been retained, with less definition given to evaluations that are triggered without a formal complaint	Revised to better meet the intent and without creating a ‘two-tiered’ system for evaluating potential violations.
Alternative dispute resolution	Allowance for FSC to attempt to resolve the situation before initiating a formal evaluation process and at multiple steps in the process	No substantive changes made beyond qualifiers on time spent on the process. This type of constructive, positive and solution-oriented approach is considered fundamental in the FSC system,

		and will allow for more efficient handling of cases.
Timeframes associated with evaluation process	No substantive changes made	No changes made to amount of time affected parties have to provide comments/concerns, though clarification provided that amount of time is in 'business days' and not 'calendar days'. Defendants also given same timeframes in cases where there is no formal complaint. For other timeframes associated with the process, these will be determined based on the case and defined at the initiation of the evaluation.
Role of Complaints Panel (Investigators and Evaluation Body)	Revised from one ad-hoc entity responsible for the whole evaluation process (the Complaints Panel) to two entities, with the Investigator(s) assigned on an ad-hoc basis to investigate the case, and a permanent and chamber-balanced Evaluation Panel responsible for oversight, evaluating the findings of the investigation, and making a recommendation to the FSC Board	No substantive changes made.
Probation	Expansion of the possible consequences of a PfA violation to include probation in order to allow for corrective and preventive actions from the defendant prior to a potential disassociation. Disassociation would be the consequence if those actions were not met successfully or timely.	No substantive changes made to the decision to offer probation. List of factors and conditions for selecting probation over disassociation was expanded, and other minor revisions made for clarity
Process for ending disassociation	Expanded to include more details on readiness to end a disassociation, the roadmap process, etc.	No substantive changes made

A note on the FSC Policy for Association: The draft PfA was released for this consultation for reference purposes only and with the intent to help stakeholders understand the proposed revisions to the two procedures that are part of the consultation. For a summary of the revisions made to this policy from draft 3 (the final consulted draft) and this draft 4, please see the Consultation Report that was released after the second consultation.