



Forest Stewardship Council®



Technical Working Group to revise FSC Policy for Association

Terms of Reference and Operating Rules

August 2020



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**Terms of
reference**

WORKING GROUP SUMMARY

Type of working group	Technical Working Group
Project supervisor	Lieske van Santen
Coordinator	Saija Hotti
Working language	English

PROJECT SUMMARY

Project title	Revision of FSC Policy for Association
Contact	FSC International - Dispute Management - Adenauerallee 134 53113 Bonn, Germany +49 (0)228 367660 dispute.resolution@fsc.org

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Project Information

1. Introduction and background

The Policy for the Association of Organizations with FSC (FSC-POL-01-004) defines FSC's position on unacceptable activities of organizations associated with FSC. It aims to identify organizations not committed to the fundamentals of responsible forest management and to prevent them from misusing their association with FSC. As a market-based approach to responsible forestry, FSC's brand integrity is fundamental to achieving its mission. The Policy for Association (PfA) is a core document in the FSC system and an important tool for safeguarding FSC's reputation.

Since the last approval of the PfA in 2011, the FSC community has witnessed what works well and what does not work so well. The implementation of the PfA laid bare inconsistencies in its application and a continuous need for case by case interpretations. Considering this and upon strong stakeholder requests the FSC Board of Directors mandated FSC to undergo a review and, if necessary, a revision of this important policy.

A chamber balanced working group was set up in 2014. After two rounds of consultation it emerged that further work was required to include issues concerning applicability and scope. In the meantime, FSC was involved in several PfA complaint processes that gave significant new insights and learnings, which had not been incorporated in the working group's mandate or considerations. Though a proposal was presented to the Board, it was decided to put on hold the process before full completion and the working group was discontinued.

FSC is now in a position to conclude the revision work and to align the policy with changes being developed to other PfA related FSC policies. The work will also follow the already ongoing revision of the procedure on processing complaints about Policy for Association (FSC-PRO-01-009).

In order to build strongly on the extensive work already put into the revision, FSC will set up a technical working group to finalize the revision carried out by the previous working group. The process will be complemented with membership engagement to collect feedback and input from members to ensure that the final product represents the current views of the membership.

2. Set up of the project

FSC will establish a technical working group (TWG) to deliver on the tasks and responsibilities outlined in the Terms of Reference (ToR) to complete the work of the previous chamber balanced working group. In addition to the TWG, the following roles will be assigned in the delivery of the project:

A drafter is appointed as agreed by the TWG.

A facilitator (if any) is appointed to support the working group for solving case specific concerns, if deemed necessary by the TWG.

A project and TWG coordinator who is an FSC staff member, is appointed to administer the process and to manage the TWG and the consultative forum. The

coordinator is responsible for ensuring that the TWG operates responsibly and in accordance with its terms of reference and the applicable procedures. The coordinator is also responsible for coordinating with FSC staff and seeking other expertise as necessary. The coordinator will send the invitations to online calls and meetings, draft agendas for the meetings, draft minutes of the meetings and maintain recordings of the process. The coordinator is responsible for the overall project management (timelines, agendas, minutes, workplan, communications and budget planning). The coordinator manages communication to the steering committee and plans and organizes consultations.

A project support is an FSC staff member, appointed to support the project and TWG coordinator with administration of the project.

A project supervisor is appointed to supervise the process and to support the working group in reaching its goals.

A steering committee is the permanent FSC Policy Steering Group consisting of FSC Director General, Chief Operations Officer, Director Policy Operations, Chief Policy Officer, Chief Marketing Officer, Global Network Director and two Regional Directors.

A consultative forum is a self-selecting group of interested/affected FSC members, certificate holders, certification bodies and other stakeholders interested in providing ongoing, direct and meaningful input into the process.

Liaisons from the FSC Board of Directors and the Policy and Standards Committee to the technical working group can be appointed by the Board of Directors but they will not have a decision-making role on the steering committee.

3. Objective

The technical working group (TWG) will collaborate to carry out a revision of the PfA. TWG participants will provide technical, scientific and strategic advice and develop recommendations focusing on clarifying and updating the expectations, directions and conditions for association with FSC.

4. Tasks and responsibilities of the technical working group (TWG)

The participants of the TWG work together to complete the draft PfA produced by the previous working group and to shepherd the draft through consultation and other FSC membership engagement up to submission for approval to the FSC Board.

TWG participants shall

- Provide detailed input on the issues (needs, challenges, opportunities) that need to be incorporated into the revision process/development of the PfA;
- Review and propose revisions to the PfA considering input from the technical experts, the previous working group, the discussions held between board and secretariat and the consultative forum;
- Review and consider stakeholder comments received during and outside the formal public consultations;
- Review and consider FSC membership feedback gathered through various membership engagement activities, including interviews, webinars and online discussions;

- Decide when a draft is ready for public consultation;
- Decide when the final draft is ready for review and approval by the FSC Board of Directors.

The scope of work is

- To review the work products of the previous PfA working group
- To analyse whether any motions approved at FSC General Assemblies put limitations to what can or cannot be changed in the PfA revision
- To review and if needed revise the unacceptable activities currently included in the PfA and analyze whether and if yes, how FSC should best address other controversial activities outside the scope of the PfA
- To review and if needed revise the terms and definitions, the scope of application, and the implementation of the PfA, including but not limited to:
 - The terms 'involvement', 'direct involvement' and 'indirect involvement', and the extent to which a company is responsible for a violation;
 - Situations of involvement, direct involvement and indirect involvement that do not involve ownership but are based on contractual agreements related to wood supply, or provision of management services, or any other activities, including joint ventures, that can be considered as 'involvement' in unacceptable activities;
 - The threshold of ownership considered under 'indirect involvement';
 - Concept of 'control' as a possible alternative to the concepts of involvement used currently and feasibility of tracking and investigating of any concept proposed;
 - The time dimension associated with how far back a violation is relevant for the PfA;
 - The cross FSC alignment of definitions of introduction of GMOs, conversion and what constitutes illegal trade;
 - The scope of application and whether unacceptable activities are limited to those associated with forests/forest products/forest operations or are broader to include other types of products and operations;
 - The term 'unacceptable activities' and the definitions and interpretations of those activities.
- Alignment of the PfA with other FSC policies, standards and strategic directions, including but not limited to Policy on Conversion, FSC Core Labor Requirements and any related decision at the General Assembly 2021.
- Review of the decision-making structure for deciding on disassociation based on violation of Policy for Association.
- Guidance on the implementation of the revised procedures for addressing PfA complaints, FSC-PRO-01-009.
- The development of any additional instruments to improve the implementation and effectiveness of the PfA.

NOTE: FSC will provide TWG participants with all materials developed by the previous working group, background documents on key issues, lessons learned and other information to help guide completion of the revision process.

News items, and other communications will be drafted by the FSC secretariat.

5. Selection of technical working group participants

A call for expressions of interest supported by Curriculum Vitae is published to identify candidates for the TWG.

The TWG will be a technical working group comprised of five participants. The composition of the TWG will be based on following criteria:

- Expertise and experience working with:
 - timber legality,
 - traditional and human rights,
 - workers' rights
 - forest conversion and HCVs
 - corporate law,
 - reputation management
- Experience with, and understanding of, the application of the PfA
- Up-to-date knowledge of and experience with FSC system
- Understanding and support of FSC's mission and values
- Desire to seek and reach consensus on controversial issues
- Ability to review and comment on documents in English
- Confirmed availability to actively participate in the revision process
- Gender and geographical balance where possible

Staff of FSC Secretariat and network partners, and ASI are not eligible to participate on the TWG but may be invited to meetings of the TWG as observers or contributors in areas where they have experience or expertise.

TWG participants must not have conflicts of interest with the outcome of the revision process.

The TWG composition is approved by the FSC Board of Directors.

6. Accountability

Appointed TWG participants are expected to adhere to the rules and regulations of this TOR and are expected to donate sufficient time to thoroughly fulfill their duties as outlined in the work plan (Annex 3).

Appointed TWG participants shall sign a service and confidentiality agreement with FSC upon appointment.

The TWG is accountable to FSC. The term of TWG participants ends with the submission of the final draft of the deliverables to the Board of Directors, after the Policy and Standard Committee's review and recommendation for approval.

7. Workplan and time commitment

The work of the working group will start January 2021. The policy revision is foreseen to be completed Q1 2022.

An estimated timetable is provided in Annex 3. The timetable and detailed work plan will be updated as necessary. It is foreseen that there will be monthly calls and draft

reviewing with related email discussions in between calls. At least two face-to-face meetings are envisaged for 2021.

8. The working language

The working language of the TWG is English. Language support for Spanish is provided on request.

All drafts for public consultation, as well as other documents, as requested and as possible, shall be translated into Spanish.

9. Expenses and remuneration

FSC is an international not-for-profit organization with limited funds.

Participation in the TWG is on voluntary unpaid basis. If required, FSC will cover reasonable travel and accommodation expenses related to the work plan upon submission of the respective invoices and receipts, and if expenses are agreed upon in advance.

If required, a stipend can be granted by FSC on a case-by-case basis, if a participant's employer is not covering the costs.

10. Confidentiality and conflict of interest

TWG participants shall sign a confidentiality and non-disclosure agreement with FSC at the beginning of their work.

Per default, non-attributable content of discussions and papers prepared by or presented to the TWG are not considered confidential, unless otherwise specified.

Participants are expected to declare any conflicts of interest where they arise. This will cause the person(s) to be excused from the discussion and to abstain from participating in decision-making.

11. Deliberation and decision making

For the TWG to meet and deliberate, there must be a quorum, defined as minimum of 4 out of 5. The project coordinator will strive to select meeting dates and venues that allow for full participation of all TWG participants.

All TWG participants must participate in each point of decision-making. If any of the participant(s) is not present for a decision, then a provisional decision may be made, subject to participation by the absent participant(s). Quorum is required for any provisional decisions, and full participant participation is preferred.

The TWG shall strive and make every effort possible to take decisions by consensus. If consensus cannot be achieved, outstanding concerns shall be documented and presented to the FSC Board of Directors in the final report that accompanies the document presented for decisions.

The coordinator, FSC staff, steering committee participants and any other supportive personnel shall not participate in any decision-making. If the TWG is not able to agree on critical discussion points within six months after the final round of stakeholder consultation, the steering committee shall take a decision on how to move forward with the process.

Annex 1: Glossary

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

Consensus: General agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests. NOTE: Consensus should be the result of a process seeking to consider the views of the interested parties, particularly those directly affected, and to reconcile any conflicting arguments. It need not imply unanimity (adapted from ISO/IEC Guide 2:2004).

Dispute: Umbrella term for all complaints and appeals in the FSC system.

Annex 2: Organogram

Policy steering group:

FSC Policy Steering Group

Project supervisor:

Lieske van Santen, Global Alignment and Integrity Director

Project team:

Saija Hotti, Coordinator

Alexander Green, Project Support

Technical working group:

Five expert participants

Annex 3: Estimated work plan

PFA REVISION TIMELINE

	2020					2021												2022		
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Terms of Reference approved	█																			
Call for TWG candidates		█	█	█																
TWG participants selected				█	█															
First TWG meeting						█	█													
Second TWG meeting								█	█											
Public Consultation									█	█	█									
Third TWG meeting												█	█							
Public Consultation														█	█	█				
Fourth TWG meeting																█	█			
Finalization of the policy																	█	█		
Approval of the policy																				█