



Forest Stewardship Council®



# Revision of FPIC Guidelines FSC-GUI-30-003 V1-0 Working Group

Terms of Reference and Operating Rules

December 2017

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## WORKING GROUP SUMMARY

<b>Type of Working Group:</b>	Subchamber-balanced Working Group
<b># of Working Group members:</b>	6 (2 Social, 2 Environmental, 2 Economic)
<b># of Technical Experts:</b>	1 (Certification Body Representative)
<b>Manager:</b>	Joachim Meier-Dörnberg
<b>Technical Drafter:</b>	Pamela Perrault
<b>Working language</b>	English (Spanish on request)

## PROJECT SUMMARY

<b>Project Title:</b>	Drafting of the FSC Operational FPIC Guidelines (FSC-PRO-30-003 Version 2.0)
<b>Project Manager:</b>	Joachim Meier-Dörnberg
<b>Contact:</b>	FSC International Center GmbH - Performance and Standard Unit - Charles-de-Gaulle-Str. 5 53113 Bonn, Germany



joachim.meier.doernberg



[j.meier-doernberg@fsc.org](mailto:j.meier-doernberg@fsc.org)

## 1 Introduction and Background

The right to Free, Prior and Informed Consent (FPIC) was incorporated in five separate criteria in the FSC Principles & Criteria (Version 5) – 3.2, 3.3, 3.6, 4.2, 4.8 – with respect to operational planning and the use of traditional knowledge. These new FPIC requirements are more explicit than before, and FSC is aware of concerns from Communities, Certificate Holders and Certification Bodies about the need to support the transfer from existing practice to compliance with the Principles & Criteria (Version 5) as of 2018 in revised National & CB Standards.

Version 1 of the FSC FPIC Guidelines was released in November 2012 (FSC-GUI-30-003 (V1-0) FSC guidelines for the implementation of the right to free, prior and informed consent (FPIC)). The core of the document set out a six-step methodology produced from a combination of practical experiences from various sectors and a comprehensive literature review. During 2014-2015, this methodology was field tested on diverse sites around the world. The main objective of the field tests was to gather practical experiences and case studies within the context of FSC responsible forest management with which to illustrate and update a second version of the Guidelines. Participants were provided with an introductory training workshop on FPIC and the methodology as specified in the FSC Guidelines and led through a participatory gap analysis of their current practice and certification requirements against the new requirements. An Action Plan was then developed from the gap analysis results to be implemented as far as possible by the end of 2016.

Concurrently during 2016, a Technical Working Group (TWG) was established to bring together a group of experts to critique Version 1 of the FPIC Guidelines, review the results of the field tests, and help to identify a structure and key issues to be addressed in the 2<sup>nd</sup> version of the Guidelines.

The TWG has produced an FPIC Background Document that describes in detail key concepts and general operating principles of FPIC that will serve all FSC Stakeholders to introduce the topic and explain the approach to upholding the right to FPIC that FSC advocates.

In October 2017, the mandate of the Technical Working Group ended with the release of a comprehensive discussion paper designed to serve as base for the development of the FPIC Guidelines Version 2.0, which will address the specific needs of the three engaged target groups: affected communities, Certificate Holders and Certification Bodies. A new chamber-balanced Working Group will build on the experiences of the previous one, to carry on the mandate and to produce revised guidelines by the first quarter of 2020.

## 2 Structure

The **Working Group (WG)** will consist of six (6) members: one member from each of the 6 FSC Sub-chambers. Additionally there will be one seat for a Certification Body (CB) as a technical advisor to the Working Group. The Working Group will have the following members:

- Social South (1)
- Social North (1)
- Environmental South (1)
- Environmental North (1)
- Economic South (1)
- Economic North (1)

Additionally the technical expert is:

- Certification Body Representative (1)

When selecting WG members, field-level experience in the implementation and verification of FPIC processes will be more highly valued than academic qualifications. The WG will advise and provide content-related input to the development of the FPIC Guidelines V2.0. The WG is expected to ensure equal levels of participation from all members in the process and to provide quality assurance to both the process and final products. – The guidelines shall be divided into three separate parts for the different target groups being one for Indigenous and local communities, one for Certificate Holders and one for Certification Bodies. While the guideline for the Certificate Holders and Communities shall give applicable instructions how to set up and implement a solid FPIC process, the document for Certification Bodies shall give orientation how to verify the FPIC process versus standard requirements.

In addition to the WG, the following bodies are involved in the project, established in line with FSC-PRO-01-001 V3-0:

A **Project Manager**, appointed by the Performance & Standards Unit, to:

- manage the project;
- coordinate the WG and the Consultative Forum;
- compile the consultation responses;
- provide the WG and the Drafter with all necessary materials and information;
- ensure that the WG operates responsibly and in accordance with its Terms of Reference and applicable procedures;
- appoint the Steering Committee meetings and update its members regularly;
- ensure that all members of the Working Group have the opportunity to express their opinions and concerns;
- coordinate with other FSC staff and Programs related to the project; and
- manage communications.

A **Steering Committee** to provide oversight on all phases of the process until the final decision by the FSC Board of Directors. The Steering Committee will be composed of the FSC Director General, the Director Policy Operations, and the FSC Congo Basin Program Manager. The Board of Directors, the Permanent Indigenous Peoples Committee and the Policy & Standards Committee (PSC) will also each appoint a Liaison person.

A Technical **Drafter** to write up the Guidelines based on the input from the Working Group.

A group of **FPIC Field Test Participants** to provide feedback to targeted requests to the Working Group.

A **Consultative Forum** is a self-selecting group of interested/affected members, Certificate Holders, Certification Bodies and other stakeholders interested in providing ongoing, direct and meaningful input into the draft documents upon request by the Working Group. The forum is not a decision making body and has no formal responsibilities.

An Organogram is provided in **Appendix 2**.

### **3 Tasks and Responsibilities of the Working Group**

The members of the WG will work together throughout the process, discussing issues and interacting with each other as a group in and outside of meetings as necessary and/or required by the Project Manager.

In particular, the members of the WG shall:

- Agree on a Contact person for the Working Group to the Project Manager;
- Provide detailed input to the development of draft versions of the Guidelines in accordance with this Terms of Reference. The Guidelines shall serve to answer to the needs and perspectives of the three different target groups being for:
  - Communities
  - Certificate Holders
  - Certification Bodies
- Approve the final version of the Guidelines to be presented to the Steering Committee.
- Seek, and consider with equal weighting, advice on all aspects of the development of the FPIC Guidelines from the Consultative Forum members, FSC Global Network, FSC Board of Directors, FSC Permanent Indigenous Peoples' Committee, FSC accredited Certification Bodies, FSC Certificate Holders, other FSC stakeholders and/or relevant Technical Experts;
- Review the experiences from the field tests;
- Review and consider comments received in the public consultation round(s);
- Attend all conference calls and face-to-face meetings of the development process;
- Recommend when a draft is ready for public consultation;
- Indicate the need for any re-testing of the new Guidelines in the field;
- Recommend when the final draft is ready to be submitted to the FSC Board of Directors for decision-making.

#### **4 Selection of Working Group members**

Applications for WG membership will be received by the Steering Committee for selection. Members of the Working Group will be selected and recommended by the Steering Committee for board approval according to the following criteria:

- 1) Ability to provide specific technical input on:
  - Implementation of FPIC on the ground, from applied personal experience, within a forest management context.
- 2) Ability to provide specific technical input on one or more of the following:
  - The implementation of FPIC on the ground, within a non-forest management context;
  - Application of the FSC FPIC Guidelines version 1, via participation in the FSC FPIC field tests;
  - Knowledge of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) & ILO 169 as related to FPIC.
- 3) Up-to-date knowledge and experience of FSC's systems and procedures;
- 4) Up-to-date knowledge and experience of verifying FPIC in FSC or non-FSC contexts;
- 5) Understanding of the potential impact of the FPIC Guidelines on affected stakeholders;
- 6) Understanding of and support for FSC's mission and vision;
- 7) Desire to seek and reach consensus on controversial issues;
- 8) Ability to review and comment on documents submitted in English;
- 9) Confirmed availability to actively participate in the development process until approval of the Guidelines;
- 10) Availability to participate in all face-to-face meetings and webinars during the whole process;
- 11) Gender balance and balance of geographical regions;
- 12) Track record on successful chamber balanced working groups is an asset.

Applicants, who do not get chosen, will be invited to participate to the Consultative Forum.

The selected list of members of the Working Group will need final approval by the FSC Board of Directors.

## **5 Accountabilities**

### **5.1 Accountabilities**

Appointed WG members are expected to adhere to the rules and regulations of this ToR and are expected to donate sufficient time to thoroughly fulfill their duties. The WG is accountable to FSC. WG members may be asked to leave the group by the Steering Committee if they are not fulfilling their duties properly.

The term of WG members ends with the submission of the final draft of the Guidelines to the Board of Directors, after Policy & Standards Committee review and approval.

## **6 Work plan and time commitment**

The WG will be established after the approval of this ToR. The expected start-date for the Working Group is May 2018, with a targeted completion date for the Guidelines by March 2020.

An estimated timetable is provided in **Appendix 3**. The timetable and the detailed work plan will be updated as necessary.

The WG will conduct most of its work via e-mail or similar means of electronic communication (e.g. Go-to meeting conference), and through one-on-one calls with the Project Manager and/or Drafter when required. At least two face-to-face meetings are envisaged: an opening meeting to review Version 2.0 of the FSC FPIC Discussion paper and outline for FPIC Guidelines for Certificate Holders and a closing meeting after the first public consultation period to prepare the second draft. Approval to the final draft by the WG will be given at the third and last webinar.

## **7 Expenses and Remuneration**

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.

## **8 Language**

The working language of the WG is English. Language support to Spanish is provided on request.

All drafts for public consultation, as well as other documents, as requested and as possible, should be translated into Spanish. Documents may also be translated into other languages if requested by the Working Group and depending on resource availability.

## **9 Confidentiality and conflict of interest**

Working Group members shall sign a confidentiality and non-disclosure agreement with FSC upon appointment.

WG Members 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 of relevant issues.

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

The WG operates according to Chatham House Rules. So, while members of the WG have full authority to share the non-confidential substance of discussions and papers, they shall not report or attribute neither the comments of individuals nor their affiliations outside of meetings, whether conducted face-to-face or virtual.

## **OPERATING RULES**

### **10. Deliberations and Decision Making**

In order for the WG to meet and deliberate, there must be quorum, defined as a minimum of four WG members, including at least one member per Chamber. The Project Manager will strive to select meeting dates and venues that allow for full participation of all Working Group members.

NOTE: In case it is seen as necessary, a neutral facilitator may be appointed for each working group meeting to support the Working Group in running a successful meeting.

All WG members must participate in each point of decision-making. If member(s) are not present for a decision, a provisional decision may be made subject to participation by the absent member(s). Quorum is required for any provisional decisions, and full member participation is preferred, but the necessary number for reaching quorum is four members and each chamber must be represented.

The WG shall strive and make every effort possible to take decisions by consensus, (see Appendix 1; Glossary). If a decision cannot be achieved by consensus, outstanding concerns shall be documented and presented to the Steering Committee (and if needed to PSC) for resolution, or, in the last instance, to the FSC Board of Directors in the final report that accompanies the document presented for decision.

Technical experts (if invited to the WG) shall have a fully participating voice within the meeting but shall not participate in decision-making. The Coordinator, FSC Staff, Steering Committee members and any other supportive personnel shall also not participate in any decision-making.

The Working Group shall make the decision to recommend the final draft of the normative document to the FSC Board of Directors for approval. Formal decision-making authority on the approval of FSC normative documents rests with the FSC Board of Directors.

The Project Manager, FSC Staff, Steering Committee members, liaison persons and any other supportive personnel shall not participate in any decision-making.

If the WG is not able to agree on a final draft within six (6) months after the final round of public consultation, the Steering Committee shall take a decision on how to move forward with the process.

### **11 Effective Working Group meetings**

- Established solid foundation at the start (objectives, roles, timetable, etc.).
- Agreed meeting protocols.
- Detailed agendas provided before and at meetings; meeting materials provided well in advance of meetings whenever possible to ensure that members have sufficient time to review.
- Clear decision-making structures, e.g., use of decision-making matrix based on criteria that need to be considered and scenario testing.



- Simple, logical discussion format, e.g., commencing with clarifying the issue(s) the requirement is meant to address before starting to comment on the specific requirement.
- Regular, ongoing temperature checks on points-of-agreement.
- Decision point, end of day and end of meeting summaries.
- Development of work plan during the first meeting to guide process.
- Use of PSU and technical experts in drafting the documents to support WG's role and task.
- Decision on use of sub-groups, breakout groups in meetings, etc.
- Temperature check from stakeholder groups before a final draft is recommended to the FSC Board for approval.
- When impasse issues arise that cannot be resolved by the WG, they will be addressed through the consultative process, with options and perspectives circulated for consultation to the Consultative Forum. The WG will then work to resolve the issues based on comments received. If the issue is highly technical in nature, additional research/investigation on that issue might also be called upon to provide additional information for making informed decisions.
- Straw poll of the WG before going to decision-making.

## 12 Effective communications and representation of stakeholders

WG members are expected to consult with members of their sub-chamber to ensure a wide range of views are sought.

To support stakeholder engagement, the Project Manager will also:

- Implement a communications strategy to ensure ongoing and meaningful stakeholder engagement;
- Proactively push communication towards those who self-declare their interest, or otherwise may be affected by the procedure, via email news briefs to the self-selecting Consultative Forum as well as the FSC mailing lists (Network Partners, Members, etc.).
- Make available, when possible, for all interested parties via the FSC IC website:
  - Background documentation and references;
  - WG agendas;
  - WG minutes (non-attributable);
  - Signed off internal documents and drafts of the WG;
  - Attributable comments of stakeholders on draft documents (unless requested otherwise in writing).
- Use tracking/document handling software tools to facilitate dialogue amongst stakeholders as part of the consultation process.
- Seek FSC-related fora to provide updates and solicit input on the documents, for example at Network Partner meetings, regional FSC meetings, global meetings, etc.

## Appendix 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 apply:

**Chairperson:** a Working Group member, chosen by the other members, to act as a contact point and spokesperson for the Working Group. S/he brings together the shared concerns, suggestions and recommendations of the Working Group members and shares them with the other actors involved in the project.

**Chatham House Rule:** "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed". The Chatham House Rule has the aim to encourage openness and the sharing of information at meetings.

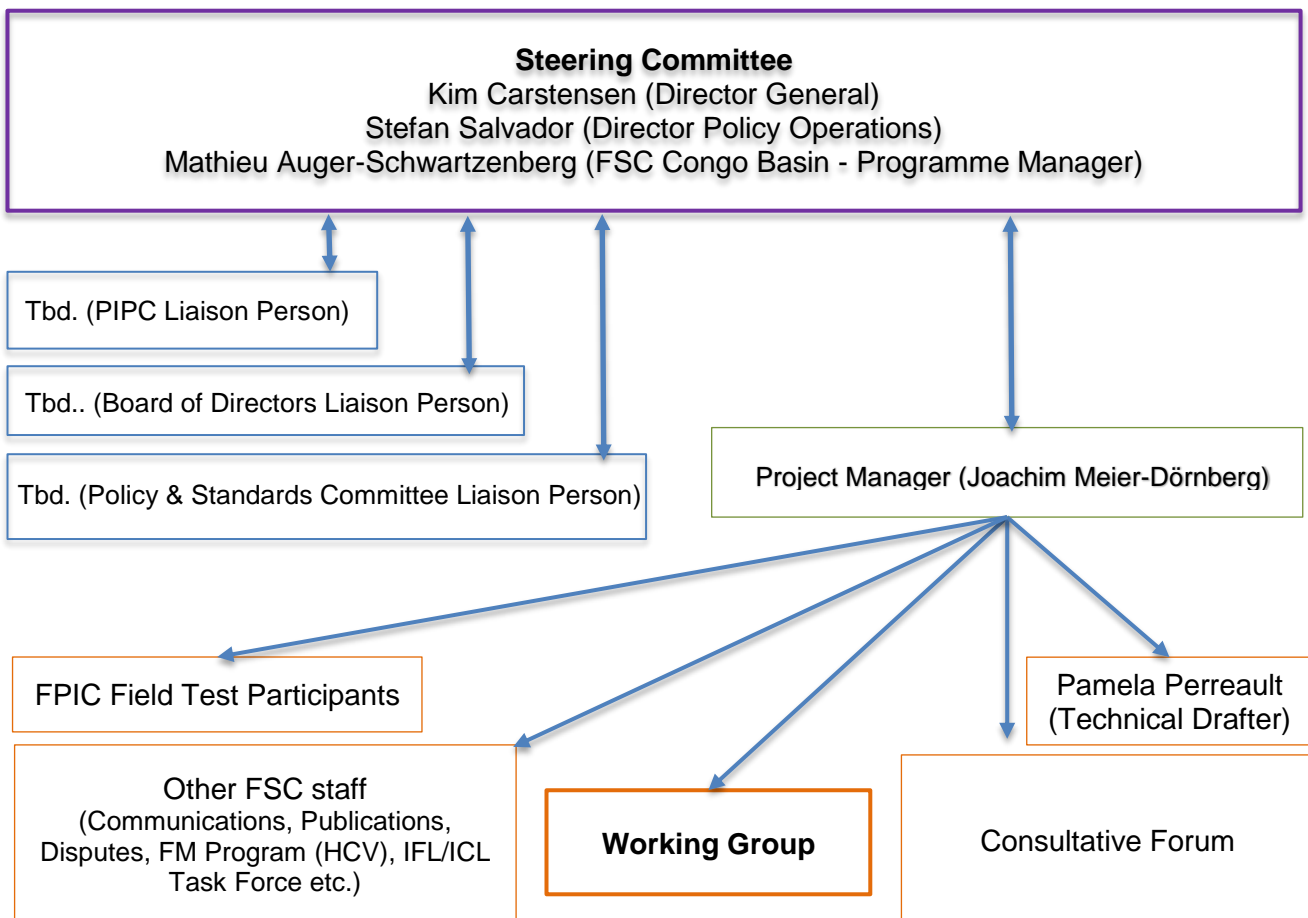
**Consensus:** general agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests.

NOTE: Consensus should be the result of a process seeking to take into account the views of interested parties, particularly those directly affected, and to reconcile any conflicting arguments. It need not imply unanimity (adapted from ISO/IEC Guide 2:2004).

**Technical consultation:** targeted internal consultation to receive feedback on an FSC normative document during the drafting or re-drafting stage before the document is released for public consultation.

**Working Group (WG):** a group of experts appointed by FSC with professional experience in the field of question, to advise and provide content related input to the development or revision of an FSC normative document.

## Appendix 2: Organogram



### Appendix 3: Timeline and Responsibilities

Timeline		Activity
Q4 2017	<b>Preparation &amp; Planning</b>	
	December	Steering Committee approval of FPIC WG Terms of Reference
Q1/2018	January	Presentation to the PSC for approval
	March	Presentation to the BoD for approval
	March	Open call for WG (30 days)
Q2/2018	April	Selection and formal assignment of WG; Preparation, admin & logistics for face to face meeting
	May	WG Contracts and Confidentiality Agreements signed
	May	Preparation of FPIC Guideline structure & content proposal; WG review of background materials; 1 <sup>st</sup> WG kick-off meeting (Webinar meeting)
	June	WG 1 <sup>st</sup> face-to-face meeting 1 (structure, challenges etc.), (work plan (including question on field testing), introductions, timeline, methodology, structure)
Q3/2018	<b>Draft 1</b>	
	August	Writing of Draft 1 FPIC Guideline based on input from WG meeting
	September	Translation of Draft 1 FPIC Guideline (Spanish & French)
	September	Editing & graphic layout of Draft 1 FPIC Guideline
Q4/2018	<b>Presentation and Public Consultation</b>	
	September	Release Draft 1 FPIC Guideline for public consultation (60 days)
	December	French and Spanish contributions translated to English; Analysis of public consultation
Q1/2019	<b>Draft 2</b>	
	January	Writing of Draft 2 FPIC Guideline based on public consultation
	February	Circulation of Draft 2 FPIC Guideline to WG for review;
	March	2 <sup>nd</sup> Face-to-face meeting ; Final edits to Draft 2 based on WG review
Q2/2019	April	WG revision & approval of Draft 2
	May	Release Draft 2 FPIC Guideline for public consultation (60 days)
Q3/2019	July	French and Spanish contributions translated to English; Analysis of public consultation

	<b>Final Draft</b>	
	September	Writing of Final Draft FPIC Guideline based on public consultation
<b>Q4/2019</b>	October	Circulation of Final Draft FPIC Guideline to WG for review; 2 <sup>nd</sup> webinar meeting
	November	Final edits to Final Draft based on WG review;
	December	WG revision & approval; 3 <sup>rd</sup> webinar/face-to-face meeting
	<b>Approval of the Guideline</b>	
<b>Q1/2020</b>	January	Presentation/Approval by the Steering Committee
	February	Presentation/Approval by the Policy and Standards Committee
	March	Presentation/Approval by the Board of Directors